

1 SENATE BILL NO. 52

2 INTRODUCED BY M. TROPILA

3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE LEGISLATIVE AUDITOR FROM EMPLOYING
6 AN AUDITOR UNLESS A BACKGROUND CHECK IS MADE ON THE PROSPECTIVE EMPLOYEE;
7 PROHIBITING THE LEGISLATIVE AUDITOR FROM EMPLOYING A PERSON IF THE LEGISLATIVE AUDITOR
8 DETERMINES THAT THE PERSON IS NOT APPROPRIATE FOR EMPLOYMENT BY THE AUDITOR; AND
9 AMENDING SECTION 5-13-305, MCA."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 **Section 1.** Section 5-13-305, MCA, is amended to read:
14 **"5-13-305. Employees, consultants, and legal counsel -- background checks -- cure for**
15 **impairment.** (1) The legislative auditor may appoint and define the duties of employees and consultants who are
16 necessary to carry out the provisions of this chapter; within the limitations of legislative appropriations. The
17 legislative auditor shall set the pay for employees in accordance with the rules for classification and pay adopted
18 by the legislative council. The legislative auditor may employ legal counsel to conduct proceedings under this
19 chapter.

20 (2) (a) The legislative auditor may not employ a prospective employee without conducting or having
21 conducted a background check on the prospective employee. The background check must include a fingerprint
22 check by the Montana department of justice and the federal bureau of investigation. The purpose of the
23 background and fingerprint checks is to determine whether the prospective employee is an appropriate person
24 to audit the records of one or more state agencies or programs.

25 (b) If the legislative auditor determines, based upon the results of the background and fingerprint checks,
26 that a prospective employee is not an appropriate person to audit one or more state agencies or programs, the
27 legislative auditor may not employ the prospective employee.

28 (2)(3) The legislative auditor shall inform the legislative council and the legislative audit committee in
29 writing of an administrative policy or rule adopted under 5-11-105 that may impair the independence of the
30 division, along with a statement of the reasons for the opinion and suggested changes to cure the impairment.

1 The legislative council shall review the rule in question and adopt a revision that is generally applicable to the
2 legislative branch and that is designed to cure the impairment. While the impairment exists, the legislative audit
3 committee may adopt a specific exemption to the questioned rule that states the alternative rule to be employed
4 under the exemption."

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