

SENATE BILL NO. 228

INTRODUCED BY M. TAYLOR

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT ANY ENTITY THAT RECEIVES FUNDS FROM THE STATE SHALL, UPON REQUEST, PROVIDE A COPY OF THE MOST RECENT AUDITED FINANCIAL STATEMENTS OR OTHER FINANCIAL INFORMATION OF THE ENTITY TO THE FUNDING AGENCY; AMENDING SECTIONS 5-13-304, 18-1-118, 53-6-709, AND 87-4-601, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 5-13-304, MCA, is amended to read:

"5-13-304. Powers and duties. The legislative auditor shall:

- (1) conduct a financial and compliance audit of every state agency every 2 years covering the 2-year period since the last audit, unless otherwise required by state law;
- (2) conduct a special audit whenever the legislative auditor determines it necessary and shall so advise the members of the legislative audit committee;
- (3) make a complete written report of each audit. A copy of each report must be furnished to the department of administration, the state agency that was audited, each member of the committee, and the legislative services division.
- (4) report immediately in writing to the attorney general and the governor any apparent violation of penal statutes disclosed by the audit of a state agency and furnish the attorney general with all information available relative to the violation;
- (5) report immediately in writing to the governor any instances of misfeasance, malfeasance, or nonfeasance by a state officer or employee disclosed by the audit of a state agency;
- (6) report immediately to the surety upon the bond of an official or employee when an audit discloses a shortage in the accounts of the official or employee. Failure to notify the surety does not release the surety from any obligation under the bond.
- (7) have the authority to audit records of organizations and individuals receiving grants from or on behalf of the state to determine that the grants are administered in accordance with the grant terms and conditions.

1 Whenever a state agency enters into an agreement to grant resources under its control to others, the agency
2 shall obtain the written consent of the grantee to the audit provided for in this subsection. The legislative auditor
3 may review audited financial statements or other financial information that is provided to the funding agency by
4 an entity receiving funds from the state."

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6 **Section 2.** Section 18-1-118, MCA, is amended to read:

7 **"18-1-118. Access to records of contracting entities.** (1) Money may not be spent by a state agency
8 under a contract with a nonstate entity unless the contract contains a provision that allows the legislative auditor
9 sufficient access to the records of the nonstate entity to determine whether the parties have complied with the
10 terms of the contract. The access to records is necessary to carry out the functions provided for in Title 5,
11 chapter 13. A state agency may terminate a contract, without incurring liability, for the refusal of a nonstate entity
12 to allow access to records as required by this section.

13 (2) An entity that receives funds from the state shall, upon the request of the agency providing the funds,
14 provide a copy of the most recent audited financial statements of the entity or, if audited financial statements are
15 not available, a summary of financial operations, including but not limited to receipts, disbursements by type,
16 and cash balances."

17

18 **Section 3.** Section 53-6-709, MCA, is amended to read:

19 **"53-6-709. Legislative auditor -- oversight.** (1) In order to prevent, detect, and eliminate fraud, waste,
20 abuse, mismanagement, and misconduct and to determine that the program is administered fairly and
21 effectively, the legislative auditor shall oversee the managed care covered by this part.

22 (2) A medical provider may not be compelled to provide individual medical records of patients unless
23 the records are provided in accordance with the provisions of the Government Health Care Information Act. State
24 and local governmental agencies shall provide the requested information, assistance, or cooperation. The
25 legislative auditor may review audited financial statements or other financial information that is provided to the
26 funding agency by an entity receiving funds from the state.

27 (3) All activities conducted by the legislative auditor must be conducted in a manner that ensures the
28 preservation of evidence for use in criminal prosecutions. The legislative auditor may present for prosecution
29 the findings of any activity to the office of the attorney general or to United States attorneys in Montana.

30 (4) The legislative auditor shall report all convictions, terminations, and suspensions taken against

1 vendors, contractors, and health care providers to the department and to any agency responsible for licensing
2 or regulating those persons or entities.

3 (5) The legislative auditor shall make periodic reports, findings, and recommendations regarding its
4 oversight activities authorized by this section.

5 (6) This part does not limit investigations by the department that may otherwise be required by law or
6 that may be necessary in the department's capacity as the central administrative authority responsible for
7 administration of public aid programs in this state."
8

9 **Section 4.** Section 87-4-601, MCA, is amended to read:

10 **"87-4-601. (Temporary) Sale of fish or spawn unlawful -- exceptions.** (1) Except as provided in
11 subsections (2) and (3), a person may not, for speculative purposes, for market, or for sale, in any way, catch
12 any of the fish which in this title are classified as game fish or remove or cause to be removed the eggs or spawn
13 of any such fish. No person may sell or offer for sale any of the game fish of this state as defined in this title or
14 the eggs or spawn from any game fish.

15 (2) The restrictions of subsection (1) do not apply to:

16 (a) the catching of fish in private ponds by the owners of private ponds;

17 (b) the taking of fish by state authorities for the purpose of obtaining eggs for propagation in state fish
18 hatcheries or by any person who receives a permit from the department to take eggs for propagation purposes;

19 (c) the catching of whitefish by the holder of a valid fishing license fishing with hook and line or rod in
20 specified waters designated by rules and regulations of the department;

21 (d) the taking of whitefish by nets or traps in the Kootenai River and in its tributary streams within 1 mile
22 of the Kootenai River, under rules and regulations as the fish, wildlife, and parks commission may prescribe; or

23 (e) the sale by the department of fish eggs produced from brood stock owned by the department but
24 determined to be in excess of the department's needs.

25 (3) (a) A person issued a paddlefish tag under 87-2-306 who legally takes a paddlefish from the
26 Yellowstone River between the Burlington northern railroad bridge at Glendive to the confluence of Cottonwood
27 Creek and the Yellowstone River during an authorized paddlefish season may donate the paddlefish roe, or
28 eggs, to a Montana nonprofit corporation as specified in subsection (3)(b) for processing and marketing as
29 caviar. A paddlefish may be brought only to the Intake fishing access site for donation to the paddlefish roe
30 donation program and must be a properly tagged, whole paddlefish. Roe separated from the paddlefish is not

1 acceptable for donation to the program. A paddlefish intentionally cut in any manner to identify its sex is also
2 unacceptable for donation to the program.

3 (b) The department shall develop rules for selecting one Montana nonprofit organization to accept
4 paddlefish egg donations and process and market the eggs as caviar. The department shall also develop rules
5 for the marketing and sale of caviar under this section.

6 (c) The department may enter into an agreement with the organization selected pursuant to the rules
7 provided for in subsection (3)(b) specifying times, sites, and other conditions under which paddlefish eggs may
8 be collected. The agreement must require the organization to maintain records of revenue collected and related
9 expenses incurred and to make the records available to the department and the legislative auditor upon request.
10 The legislative auditor may review audited financial statements or other financial information that is provided to
11 the funding agency by an entity receiving funds from the state.

12 (d) (i) Forty percent of the proceeds from the sale of paddlefish egg caviar products in excess of the
13 costs of collection, processing, and marketing must be deposited in a state special revenue fund established
14 for the department. The fund and any interest earned on the fund must be used to benefit the paddlefish fishery,
15 including fishing access, administration, improvements, habitat, and fisheries management, or to provide
16 information to the public regarding fishing in eastern Montana, which could include the design and construction
17 of interpretive displays.

18 (ii) Sixty percent of the proceeds from the sale of paddlefish egg caviar products in excess of the costs
19 of collection, processing, and marketing must be paid to the nonprofit organization that processes and markets
20 the caviar. The nonprofit organization's administrative costs must be paid from its share of the proceeds. An
21 advisory committee must be appointed by the commission and consist of one member from the organization
22 selected pursuant to the rules provided for in subsection (3)(b), two area local government representatives, and
23 two representatives of area sportsmen. The advisory committee shall solicit and review historical, cultural,
24 recreational, and fish and wildlife proposals and fund projects. The committee shall notify the commission of its
25 actions. Proceeds may be used as seed money for grants. (Terminates June 30, 2003--sec. 2, Ch. 196, L. 1993.)

26 **87-4-601. (Effective July 1, 2003) Sale of fish or spawn unlawful -- exceptions.** (1) Except as
27 provided in subsection (2), no person may, for speculative purposes, for market, or for sale, in any way, catch
28 any of the fish which in this title are classified as game fish or remove or cause to be removed the eggs or spawn
29 of any such fish. No person may sell or offer for sale any of the game fish of this state as defined in this title or
30 the eggs or spawn therefrom.

- 1 (2) The restrictions of subsection (1) do not apply to:
- 2 (a) the catching of fish in private ponds by the owners thereof;
- 3 (b) the taking of fish by state authorities for the purpose of obtaining eggs for propagation in state fish
- 4 hatcheries or by any person who receives a permit from the department to take eggs for such purposes;
- 5 (c) the catching of whitefish by the holder of a valid fishing license fishing with hook and line or rod in
- 6 specified waters designated by rules and regulations of the department;
- 7 (d) the taking of whitefish by nets or traps in the Kootenai River and in its tributary streams within 1 mile
- 8 of the Kootenai River, under such rules and regulations as the fish, wildlife, and parks commission may
- 9 prescribe; or
- 10 (e) the sale by the department of fish eggs produced from brood stock owned by the department but
- 11 determined to be in excess of the department's needs."

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13 NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2003.

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