

1 SENATE BILL NO. 73  
2 INTRODUCED BY T. MCGILLVRAY  
3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING AN AGENCY'S DUTY TO PERMIT INSPECTION,  
6 EXAMINATION, AND REPRODUCTION OF RECORDS FOR LEGISLATIVE AUDIT PURPOSES; PROVIDING  
7 THAT AUDIT MATERIALS ARE CONFIDENTIAL PRIOR TO PRESENTATION OF THE AUDIT REPORT TO  
8 THE LEGISLATIVE AUDIT COMMITTEE; PROVIDING THAT FAILURE TO COMPLY WITH DUTY  
9 CONSTITUTES OFFICIAL MISCONDUCT; AMENDING ~~SECTION~~ SECTIONS 2-18-816 AND 5-13-309, MCA;  
10 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
13

14 **Section 1.** Section 2-18-816, MCA, is amended to read:

15 **"2-18-816. Biennial audit of group benefit plans required.** (1) The state employee group benefit  
16 plans established under this part, whether established on a self-funded basis or not, must be audited every 2  
17 years. The audit must cover the 2-year period since the last audit and be conducted by or at the direction of the  
18 legislative auditor.

19 (2) Except for an audit of individual claims conducted at the direction of the legislative auditor by a  
20 third party, any plan claims records provided directly to the legislative auditor must be deidentified if the  
21 legislative auditor determines deidentification can be performed in a manner that maintains the integrity of the  
22 analysis for audit purposes and does not limit the auditor's ability to validate accounting transactions or to  
23 identify instances of fraud, waste, or abuse in group benefit plans in accordance with the provisions of 5-13-  
24 304, 5-13-308, 5-13-309, and 5-13-311.

25 (3) As used in this section, "deidentified" means that an individual's personally identifiable  
26 information, such as a first and last name, has been removed and replaced with the last four digits of the  
27 individual's social security number, the individual's date of birth, or a randomly generated number."

**Amendment - 1st Reading/2nd House-blue - Requested by: Denise Baum - (H) State Administration**

68th Legislature

Drafter: Rebecca Power,

SB0073.002.001

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**Section 2.** Section 5-13-309, MCA, is amended to read:

**"5-13-309. Information from state agencies.** (1) All state agencies shall have a duty to aid and assist the legislative auditor in the auditing of whenever the legislative auditor requires the inspection, examination, or audit of books, accounts, activities, and records.

(2) (a) The Except as prohibited by the Internal Revenue Code, the legislative auditor, or the auditor's designee, may have access to, examine, and reproduce at any time the books, accounts, activities, and records, confidential, privileged, or otherwise, in whatever format, including electronic data, of a state agency. This section may not be construed as authorizing the publication of information prohibited by law. THE EXAMINATION OR PRODUCTION OF ANY BOOKS, ACCOUNTS, ACTIVITIES, AND RECORDS IS NOT A WAIVER OF ANY PRIVILEGE PROVIDED BY LAW.

(b) Prior to the presentation of an audit report to the audit committee, all audit working papers, including communication, notes, memoranda, preliminary drafts of audit reports, and other data gathered in the preparation of audit reports by the division, are confidential and are not open to public inspection.

(c) SUBSECTIONS (2)(A) AND (2)(B) MAY NOT BE CONSTRUED AS AUTHORIZING THE PUBLICATION OR DISCLOSURE OF INFORMATION PROHIBITED BY LAW.

(e)(d) Failure or refusal by an elected or appointed official to provide or allow access to or the examination or reproduction of books, accounts, activities, or records THAT ARE IN THE POSSESSION, CUSTODY, OR CONTROL OF THAT OFFICIAL, or FOR THE OFFICIAL TO otherwise interfere with or obstruct these activities is considered official misconduct as specified in 45-7-401.

(3) The head of each state agency shall immediately notify both the attorney general and the legislative auditor in writing upon the discovery of any theft, actual or suspected, involving state money or property under that agency's control or for which the agency is responsible."

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

- END -