68th Legislature SB0073.3

| 1 | SENATE BILL NO. 73 |
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| 2 | INTRODUCED BY T. MCGILLVRAY |
| 3 | BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE |
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| 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." |
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| 12 | BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: |
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| 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." |
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| 1 | Section 2. Section 5-13-309, MCA, is amended to read: |
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| 2 | "5-13-309. Information from state agencies. (1) All state agencies shall-have a duty to aid and |
| 3 | assist the legislative auditor in the auditing of whenever the legislative auditor requires the inspection, |
| 4 | examination, or audit of books, accounts, activities, and records. |
| 5 | (2) (a) The Except as prohibited by the Internal Revenue Code, the legislative auditor, or the |
| 6 | auditor's designee, may have access to, examine, and reproduce at any time the books, accounts, activities, |
| 7 | and records, confidential, privileged, or otherwise, in whatever format, including electronic data, of a state |
| 8 | agency. This section may not be construed as authorizing the publication of information prohibited by law. THE |
| 9 | EXAMINATION OR PRODUCTION OF ANY BOOKS, ACCOUNTS, ACTIVITIES, AND RECORDS IS NOT A WAIVER OF ANY |
| 10 | PRIVILEGE PROVIDED BY LAW. |
| 11 | (b) Prior to the presentation of an audit report to the audit committee, all audit working papers, |
| 12 | including communication, notes, memoranda, preliminary drafts of audit reports, and other data gathered in the |
| 13 | preparation of audit reports by the division, are confidential and are not open to public inspection. |
| 14 | (C) SUBSECTIONS (2)(A) AND (2)(B) MAY NOT BE CONSTRUED AS AUTHORIZING THE PUBLICATION OR |
| 15 | DISCLOSURE OF INFORMATION PROHIBITED BY LAW. |
| 16 | (e)(D) Failure or refusal by an elected or appointed official to provide or allow access to or the |
| 17 | examination or reproduction of books, accounts, activities, or records THAT ARE IN THE POSSESSION, CUSTODY, OR |
| 18 | CONTROL OF THAT OFFICIAL, or FOR THE OFFICIAL TO otherwise interfere with or obstruct these activities is |
| 19 | considered official misconduct as specified in 45-7-401. |
| 20 | (3) The head of each state agency shall immediately notify both the attorney general and the |
| 21 | legislative auditor in writing upon the discovery of any theft, actual or suspected, involving state money or |
| 22 | property under that agency's control or for which the agency is responsible." |
| 23 | |
| 24 | NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval. |
| 25 | - END - |

