

## 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 5-13-309, MCA; AND PROVIDING AN  
 10 IMMEDIATE EFFECTIVE DATE."

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

13  
 14 **Section 1.** Section 5-13-309, MCA, is amended to read:

15 **"5-13-309. Information from state agencies.** (1) All state agencies ~~shall have a duty to~~ aid and  
 16 assist the legislative auditor ~~in the auditing of~~ whenever the legislative auditor requires the inspection,  
 17 examination, or audit of books, accounts, activities, and records.

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

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

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

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

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

8

9           NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

10

- END -