

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

SECOND REGULAR SESSION-1998

Legislative Document

No. 2136

H.P. 1514

House of Representatives, January 20, 1998

An Act to Ensure Access to Confidential Records.

Submitted by the Department of Audit pursuant to Joint Rule 204.
Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative AHEARNE of Madawaska.
Cosponsored by Representatives: LEMKE of Westbrook, O'NEAL of Limestone.

Be it enacted by the People of the State of Maine as follows:

2 Sec. 1. 5 MRSA §244-C is enacted to read:

4 §244-C. Access to confidential records

6 1. Definitions. As used in this chapter, unless the
8 context otherwise indicates, the following terms have the
10 following meanings.

12 A. "Department" means the Department of Audit.

14 B. "Audit working paper" means all documentary and other
16 information prepared or maintained by the department during
18 the conduct of an audit or investigation, including all
 intraagency and interagency communications relating to an
 audit or investigation and includes draft reports or any
 portion of a draft report.

20 2. Information available to the department. All
22 information in the files of any department, commission or agency
24 of the State, notwithstanding any statute relating to
 confidentiality of that information, must be made available to
 the department for use in connection with performance of its
26 official duties. Documentary and other information obtained by
 the department during the course of an audit or investigation
28 remains confidential to the same extent that information would be
 considered confidential by the department, commission or agency
 providing the information.

30 3. Confidentiality of audit working papers. All audit
32 working papers relating to any audit or investigation are
34 confidential pending release of the final audit or investigation
 report. Except as provided under subsection 2, audit working
36 papers become public records upon the release of the final audit
 or investigation report.

38 4. Exceptions. Notwithstanding subsection 3, during the
40 pendency of an audit or investigation, audit working papers may
 be disclosed under the following circumstances:

42 A. By a department employee designated by the State Auditor
44 when, and to the extent necessary, that disclosure
 facilitates an audit or investigation;

46 B. To other state or federal agencies as determined
48 necessary by the State Auditor to further an audit or
 investigation;

2 C. When the State Auditor determines that confidentiality
3 is no longer warranted due to general public knowledge of
4 the circumstances surrounding an audit or investigation and
5 when the audit or investigation would not be prejudiced by
6 the disclosure; or

7 D. To the department, commission or agency audited or
8 investigated upon that department, commission or agency's
9 request if, in the sole discretion of the State Auditor, it
10 is determined that disclosure would not prejudice the audit
11 or investigation.

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SUMMARY

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17 This bill allows certain documentary and other information
18 in the files of a department, commission or agency of the State
19 to be obtained by the Department of Audit during the course of an
20 audit or investigation by the department. It also provides for
21 the confidentiality of certain audit working papers and clarifies
22 the circumstances in which audit working papers may be disclosed.