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GOVERNOR

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AUGUSTA, MAINE  
04333-0001

February 12, 2025

Hon. Anne Carney, Chair  
Hon. Amy Kuhn, Chair  
Joint Standing Committee on Judiciary  
Room 438, State House  
Augusta, Maine 04330

Re: Testimony in Opposition to L.D. 127, *An Act to Strengthen Legislative Oversight of Agencies and Programs by Reaffirming the Legislature's Access to Confidential Records*, and L.D. 196, *An Act Regarding Documents Obtained by Subpoena by the Government Oversight Committee*

Dear Sen. Carney and Rep. Kuhn:

Please accept this testimony on behalf of the Office of the Governor in opposition to L.D. 127, *An Act to Strengthen Legislative Oversight of Agencies and Programs by Reaffirming the Legislature's Access to Confidential Records*, and L.D. 196, *An Act Regarding Documents Obtained by Subpoena by the Government Oversight Committee*.

We understand these bills are designed to ensure that members of the Government Oversight Committee (GOC) have access to the information they need in order to properly fulfill GOC's oversight function. We respect that goal. We also believe, however, that proposals to expand access to confidential information should be carefully scrutinized for potential consequences for third parties, particularly private citizens who stand to be adversely affected.

Under current law, the staff of the Office of Program Evaluation and Government Accountability (OPEGA) have access to confidential and privileged information, but only in a manner designed to ensure those records are protected from public disclosure. OPEGA staff can review, analyze, and synthesize the contents of those records to support GOC's oversight functions, without disclosing highly sensitive information. If OPEGA staff mishandled confidential information, they would potentially be subject to professional discipline, in addition to sanctions provided by statute. This process has been in place for years and strikes an appropriate balance between the need for effective government oversight, and the privacy interests of Maine citizens.



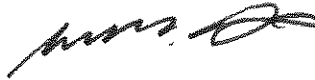
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L.D.s 127 and 196 are overbroad and contain no procedural safeguards to protect against public disclosure. Instead, they provide direct and unfettered access to the full range of confidential and privileged information. This includes child protective records, mental health records, tax returns, voter registration records, criminal investigations (both pending and closed), autopsy reports, medical records, potential immigration and naturalization information, criminal history information, and personnel records. All this material would be available with no showing of actual need, and no safeguards against further disclosure.

The Committee should also be aware that federal law provides independent protection from disclosure of child protection records in the possession of the Maine Department of Health and Human Services (DHHS). If legislation were enacted requiring DHHS to disclose these records to GOC, we run the risk of losing substantial federal funding critical to Maine's Child Welfare Services program.

L.D.s 127 and 196 are unnecessary, do not adequately consider the privacy interests of Maine citizens, and conflict with federal laws that protect children and families against the disclosure of sensitive information. We respectfully urge the Committee to oppose both bills. Thank you for your consideration.

Sincerely,



Gerald D. Reid  
Chief Legal Counsel



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