

STATE AUDITOR REVISIONS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions related to the state auditor's authority to conduct a performance and special purpose audit.

Highlighted Provisions:

This bill:

- authorizes the state auditor to conduct a performance and special purpose audit to determine whether an entity's management, control, and information systems are adequate, effective, and secure; and
- makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

67-3-1, as last amended by Laws of Utah 2012, Chapter 137

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 67-3-1 is amended to read:

67-3-1. Functions and duties.

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

30 (b) The state auditor is not limited in the selection of personnel or in the determination  
31 of the reasonable and necessary expenses of the state auditor's office.

32 (2) The state auditor shall examine and certify annually in respect to each fiscal year,  
33 financial statements showing:

34 (a) the condition of the state's finances;

35 (b) the revenues received or accrued;

36 (c) expenditures paid or accrued;

37 (d) the amount of unexpended or unencumbered balances of the appropriations to the  
38 agencies, departments, divisions, commissions, and institutions; and

39 (e) the cash balances of the funds in the custody of the state treasurer.

40 (3) (a) The state auditor shall:

41 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of  
42 any department of state government or any independent agency or public corporation as the law  
43 requires, as the auditor determines is necessary, or upon request of the governor or the  
44 Legislature;

45 (ii) perform the audits in accordance with generally accepted auditing standards and  
46 other auditing procedures as promulgated by recognized authoritative bodies;

47 (iii) as the auditor determines is necessary, conduct the audits to determine:

48 (A) honesty and integrity in fiscal affairs;

49 (B) accuracy and reliability of financial statements;

50 (C) effectiveness and adequacy of financial controls; and

51 (D) compliance with the law.

52 (b) If any state entity receives federal funding, the state auditor shall ensure that the  
53 audit is performed in accordance with federal audit requirements.

54 (c) (i) The costs of the federal compliance portion of the audit may be paid from an  
55 appropriation to the state auditor from the General Fund.

56 (ii) If an appropriation is not provided, or if the federal government does not  
57 specifically provide for payment of audit costs, the costs of the federal compliance portions of

58 the audit shall be allocated on the basis of the percentage that each state entity's federal funding  
59 bears to the total federal funds received by the state.

60 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit  
61 funds passed through the state to local governments and to reflect any reduction in audit time  
62 obtained through the use of internal auditors working under the direction of the state auditor.

63 (4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to  
64 financial audits, and as the auditor determines is necessary, conduct performance and special  
65 purpose audits, examinations, and reviews of any entity that receives public funds, including a  
66 determination of any or all of the following:

67 (i) the honesty and integrity of all its fiscal affairs;

68 (ii) whether or not its administrators have faithfully complied with legislative intent;

69 (iii) whether or not its operations have been conducted in an efficient, effective, and  
70 cost-efficient manner;

71 (iv) whether or not its programs have been effective in accomplishing the intended  
72 objectives; and

73 (v) whether or not its management, control, and information systems are adequate  
74 [~~and~~], effective, and secure.

75 (b) The auditor may not conduct performance and special purpose audits,  
76 examinations, and reviews of any entity that receives public funds if the entity:

77 (i) has an elected auditor; and

78 (ii) has, within the entity's last budget year, had its financial statements or performance  
79 formally reviewed by another outside auditor.

80 (5) The state auditor shall administer any oath or affirmation necessary to the  
81 performance of the duties of the auditor's office, and may subpoena witnesses and documents,  
82 whether electronic or otherwise, and examine into any matter that the auditor considers  
83 necessary.

84 (6) The state auditor may require all persons who have had the disposition or  
85 management of any property of this state or its political subdivisions to submit statements

86 regarding it at the time and in the form that the auditor requires.

87 (7) The state auditor shall:

88 (a) except where otherwise provided by law, institute suits in Salt Lake County in  
89 relation to the assessment, collection, and payment of its revenues against:

90 (i) persons who by any means have become entrusted with public money or property  
91 and have failed to pay over or deliver the money or property; and

92 (ii) all debtors of the state;

93 (b) collect and pay into the state treasury all fees received by the state auditor;

94 (c) perform the duties of a member of all boards of which the state auditor is a member  
95 by the constitution or laws of the state, and any other duties that are prescribed by the  
96 constitution and by law;

97 (d) stop the payment of the salary of any state official or state employee who:

98 (i) refuses to settle accounts or provide required statements about the custody and  
99 disposition of public funds or other state property;

100 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling  
101 board or department head with respect to the manner of keeping prescribed accounts or funds;  
102 or

103 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the  
104 official's or employee's attention;

105 (e) establish accounting systems, methods, and forms for public accounts in all taxing  
106 or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

107 (f) superintend the contractual auditing of all state accounts;

108 (g) subject to Subsection (8), withhold state allocated funds or the disbursement of  
109 property taxes from any state taxing or fee-assessing unit, if necessary, to ensure that officials  
110 and employees in those taxing units of the state comply with state laws and procedures in the  
111 budgeting, expenditures, and financial reporting of public funds; and

112 (h) subject to Subsection (9), withhold the disbursement of tax money from any county,  
113 if necessary, to ensure that officials and employees in the county comply with Section

114 59-2-303.1.

115 (8) Except as otherwise provided by law, the state auditor may not withhold funds  
116 under Subsection (7)(g) until a taxing or fee-assessing unit has received formal written notice  
117 of noncompliance from the auditor and has been given 60 days to make the specified  
118 corrections.

119 (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has  
120 received formal written notice of noncompliance from the auditor and has been given 60 days  
121 to make the specified corrections.

122 (10) The state auditor shall:

123 (a) establish audit guidelines and procedures for audits of local mental health and  
124 substance abuse authorities and their contract providers, conducted pursuant to Title 17,  
125 Chapter 43, Parts 2, Local Substance Abuse Authorities and 3, Local Mental Health  
126 Authorities, Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal  
127 Organizations, and Other Local Entities Act, and Title 62A, Chapter 15, Substance Abuse and  
128 Mental Health Act; and

129 (b) ensure that those guidelines and procedures provide assurances to the state that:

130 (i) state and federal funds appropriated to local mental health authorities are used for  
131 mental health purposes;

132 (ii) a private provider under an annual or otherwise ongoing contract to provide  
133 comprehensive mental health programs or services for a local mental health authority is in  
134 compliance with state and local contract requirements, and state and federal law;

135 (iii) state and federal funds appropriated to local substance abuse authorities are used  
136 for substance abuse programs and services; and

137 (iv) a private provider under an annual or otherwise ongoing contract to provide  
138 comprehensive substance abuse programs or services for a local substance abuse authority is in  
139 compliance with state and local contract requirements, and state and federal law.

140 (11) The state auditor may, in accordance with the auditor's responsibilities for political  
141 subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political

142 Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or  
143 investigations of any political subdivision that are necessary to determine honesty and integrity  
144 in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of  
145 financial controls and compliance with the law.

146 (12) (a) The state auditor may not audit work that the state auditor performed before  
147 becoming state auditor.

148 (b) If the state auditor has previously been a responsible official in state government  
149 whose work has not yet been audited, the Legislature shall:

150 (i) designate how that work shall be audited; and

151 (ii) provide additional funding for those audits, if necessary.

152 (13) The state auditor shall:

153 (a) with the assistance, advice, and recommendations of an advisory committee  
154 appointed by the state auditor from among local district boards of trustees, officers, and  
155 employees and special service district boards, officers, and employees:

156 (i) prepare a Uniform Accounting Manual for Local Districts that:

157 (A) prescribes a uniform system of accounting and uniform budgeting and reporting  
158 procedures for local districts under Title 17B, Limited Purpose Local Government Entities -  
159 Local Districts, and special service districts under Title 17D, Chapter 1, Special Service  
160 District Act;

161 (B) conforms with generally accepted accounting principles; and

162 (C) prescribes reasonable exceptions and modifications for smaller districts to the  
163 uniform system of accounting, budgeting, and reporting;

164 (ii) maintain the manual under Subsection (13)(a) so that it continues to reflect  
165 generally accepted accounting principles;

166 (iii) conduct a continuing review and modification of procedures in order to improve  
167 them;

168 (iv) prepare and supply each district with suitable budget and reporting forms; and

169 (v) prepare instructional materials, conduct training programs, and render other

170 services considered necessary to assist local districts and special service districts in  
171 implementing the uniform accounting, budgeting, and reporting procedures; and

172 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices  
173 and experiences of specific local districts and special service districts selected by the state  
174 auditor and make the information available to all districts.

175 (14) (a) The following records in the custody or control of the state auditor are  
176 protected records under Title 63G, Chapter 2, Government Records Access and Management  
177 Act:

178 (i) records that would disclose information relating to allegations of personal  
179 misconduct, gross mismanagement, or illegal activity of a past or present governmental  
180 employee if the information or allegation cannot be corroborated by the state auditor through  
181 other documents or evidence, and the records relating to the allegation are not relied upon by  
182 the state auditor in preparing a final audit report;

183 (ii) records and audit workpapers to the extent they would disclose the identity of a  
184 person who during the course of an audit, communicated the existence of any waste of public  
185 funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation  
186 adopted under the laws of this state, a political subdivision of the state, or any recognized entity  
187 of the United States, if the information was disclosed on the condition that the identity of the  
188 person be protected;

189 (iii) before an audit is completed and the final audit report is released, records or drafts  
190 circulated to a person who is not an employee or head of a governmental entity for their  
191 response or information;

192 (iv) records that would disclose an outline or part of any audit survey plans or audit  
193 program; and

194 (v) requests for audits, if disclosure would risk circumvention of an audit.

195 (b) The provisions of Subsections (14)(a)(i), (ii), and (iii) do not prohibit the disclosure  
196 of records or information that relate to a violation of the law by a governmental entity or  
197 employee to a government prosecutor or peace officer.

198           (c) The provisions of this Subsection (14) do not limit the authority otherwise given to  
199 the state auditor to classify a document as public, private, controlled, or protected under Title  
200 63G, Chapter 2, Government Records Access and Management Act.

201           (15) If the state auditor conducts an audit of an entity that the state auditor has  
202 previously audited and finds that the entity has not implemented a recommendation made by  
203 the state auditor in a previous audit, the state auditor shall notify the Legislative Management  
204 Committee through its audit subcommittee that the entity has not implemented that  
205 recommendation.