

1 **IMPLEMENTATION AND AUDIT OF BEST**
2 **PRACTICES IN NEW PROGRAMS AND**
3 **AGENCIES**

4 2000 GENERAL SESSION

5 STATE OF UTAH

6 **Sponsor: Lloyd W. Frandsen**

7 AN ACT RELATING TO THE LEGISLATURE; AMENDING THE RESPONSIBILITIES OF
8 THE LEGISLATIVE AUDITOR GENERAL; REQUIRING A REPORT TO THE
9 APPROPRIATE LEGISLATIVE INTERIM COMMITTEE AND LEGISLATIVE
10 APPROPRIATION SUBCOMMITTEE; PROVIDING OVERSIGHT DUTIES TO THOSE
11 COMMITTEES; AND PROVIDING AN EFFECTIVE DATE.

12 This act affects sections of Utah Code Annotated 1953 as follows:

13 AMENDS:

14 **36-12-15**, as last amended by Chapter 228, Laws of Utah 1992

15 ENACTS:

16 **36-24-101**, Utah Code Annotated 1953

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

18 Section 1. Section **36-12-15** is amended to read:

19 **36-12-15. Office of Legislative Auditor General established -- Qualifications --**
20 **Powers, functions, and duties.**

21 (1) There is created an Office of Legislative Auditor General as a permanent staff office
22 for the Legislature.

23 (2) The legislative auditor general shall be a licensed certified public accountant or
24 certified internal auditor with at least five years' experience in the auditing or public accounting
25 profession, or the equivalent, prior to appointment.

26 (3) The legislative auditor general shall appoint and develop a professional staff within
27 budget limitations.

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28 (4) (a) The Office of the Legislative Auditor General shall exercise the constitutional
29 authority provided in Article VI, Sec. 33, Utah Constitution.

30 (b) Under the direction of the legislative auditor general, the office shall:

31 (i) conduct comprehensive and special purpose audits, examinations, and reviews of any
32 entity that receives public funds; [and]

33 (ii) prepare and submit a written report on each audit, examination, or review to the
34 Legislative Management Committee, the audit subcommittee, and to all members of the
35 Legislature within 75 days after the audit or examination is completed[-]; and

36 (iii) as provided in Section 36-24-101:

37 (A) monitor all new programs and agencies created during each Annual General Session
38 or Special Session of the Legislature;

39 (B) provide each new program and agency created with a list of best practices in setting
40 up their program or agency, including:

41 (I) policies;

42 (II) performance measures; and

43 (III) data collection;

44 (C) send each new program and agency:

45 (I) within one year after its creation, a survey instrument requesting a self evaluation that
46 includes policies, performance measures, and data collection;

47 (II) within two years after its creation, a survey instrument requesting a self evaluation that
48 includes policies, performance measures, and data collection; and

49 (D) (I) using the new program or agency's response to the self evaluation survey
50 instruments, recommend to the legislative audit subcommittee that the office conduct an audit of
51 those new programs and agencies created on which questions have arisen as a result of the
52 response to the survey instrument and provide a limited scope audit report on those new programs
53 or agencies on which it receives direction to audit to the legislative interim committee and to the
54 legislative appropriations subcommittee with oversight responsibility for that program or agency
55 on or before the November interim meeting; and

56 (II) include within this limited scope audit report a recommendation as to whether the
57 program or agency is fulfilling its statutory guidelines and directives.

58 (5) The audit, examination, or review of any entity that receives public funds may include

59 a determination of any or all of the following:

60 (a) the honesty and integrity of all its fiscal affairs;

61 (b) the accuracy and reliability of its financial statements and reports;

62 (c) whether or not its financial controls are adequate and effective to properly record and
63 safeguard its acquisition, custody, use, and accounting of public funds;

64 (d) whether or not its administrators have faithfully adhered to legislative intent;

65 (e) whether or not its operations have been conducted in an efficient, effective, and cost
66 efficient manner;

67 (f) whether or not its programs have been effective in accomplishing intended objectives;

68 and

69 (g) whether or not its management control and information systems are adequate and
70 effective.

71 (6) The Office of Legislative Auditor General may:

72 (a) obtain access to all records, documents, and reports of any entity that receives public
73 funds necessary to the scope of its duties, according to the procedures contained in Title 36,
74 Chapter 14, Legislative Subpoena Powers;

75 (b) establish policies, procedures, methods, and standards of audit work for the office and
76 staff;

77 (c) prepare and submit each audit report without interference from any source relative to
78 the content of the report, the conclusions reached in the report, or the manner of disclosing the
79 results of his findings; and

80 (d) prepare and submit the annual budget request for the office.

81 (7) To preserve the professional integrity and independence of the office:

82 (a) no legislator or public official may urge the appointment of any person to the office;
83 and

84 (b) the legislative auditor general may not be appointed to serve on any board, authority,
85 commission, or other agency of the state during his term as legislative auditor general.

86 (8) The following records in the custody or control of the legislative auditor general shall
87 be protected records under Title 63, Chapter 2, Government Records Access and Management Act:

88 (a) Records that would disclose information relating to allegations of personal misconduct,
89 gross mismanagement, or illegal activity of a past or present governmental employee if the

90 information or allegation cannot be corroborated by the legislative auditor general through other
91 documents or evidence, and the records relating to the allegation are not relied upon by the
92 legislative auditor general in preparing a final audit report.

93 (b) Records and audit workpapers to the extent they would disclose the identity of a person
94 who during the course of a legislative audit, communicated the existence of any waste of public
95 funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation
96 adopted under the laws of this state, a political subdivision of the state, or any recognized entity
97 of the United States, if the information was disclosed on the condition that the identity of the
98 person be protected.

99 (c) Prior to the time that an audit is completed and the final audit report is released, records
100 or drafts circulated to a person who is not an employee or head of a governmental entity for their
101 response or information.

102 (d) Records that would disclose an outline or part of any audit survey plans or audit
103 program.

104 (e) Requests for audits, if disclosure would risk circumvention of an audit.

105 (f) The provisions of Subsections (8)(a), (b), and (c) do not prohibit the disclosure of
106 records or information that relate to a violation of the law by a governmental entity or employee
107 to a government prosecutor or peace officer.

108 (g) The provisions of this section do not limit the authority otherwise given to the
109 legislative auditor general to classify a document as public, private, controlled, or protected under
110 Title 63, Chapter 2, Government Records Access and Management Act.

111 (9) The legislative auditor general shall:

112 (a) be available to the Legislature and to its committees for consultation on matters
113 relevant to areas of his professional competence;

114 (b) conduct special audits as requested by the Legislative Management Committee;

115 (c) report immediately in writing to the Legislative Management Committee through its
116 audit subcommittee any apparent violation of penal statutes disclosed by the audit of a state agency
117 and furnish to the Legislative Management Committee all information relative to the apparent
118 violation;

119 (d) report immediately in writing to the Legislative Management Committee through its
120 audit subcommittee any apparent instances of malfeasance or nonfeasance by a state officer or

121 employee disclosed by the audit of a state agency; and

122 (e) make any recommendations to the Legislative Management Committee through its
123 audit subcommittee with respect to the alteration or improvement of the accounting system used
124 by any entity that receives public funds.

125 (10) (a) Prior to each annual general session, the legislative auditor general shall prepare
126 a summary of the audits conducted and of actions taken based upon them during the preceding
127 year.

128 (b) This report shall also set forth any items and recommendations that are important for
129 consideration in the forthcoming session, together with a brief statement or rationale for each item
130 or recommendation.

131 (c) The legislative auditor general shall deliver the report to the Legislature and to the
132 appropriate committees of the Legislature.

133 (11) (a) No person or entity may:

134 (i) interfere with a legislative audit, examination, or review of any entity conducted by the
135 office; or

136 (ii) interfere with the office relative to the content of the report, the conclusions reached
137 in the report, or the manner of disclosing the results and findings of the office.

138 (b) Any person or entity that violates the provisions of this Subsection (11) is guilty of a
139 class B misdemeanor.

140 Section 2. Section **36-24-101** is enacted to read:

141 **CHAPTER 24. LEGISLATIVE REVIEW OF NEW PROGRAMS OR AGENCIES**

142 **36-24-101. Review of new programs and agencies.**

143 (1) When legislation is passed that creates a new program or agency, the legislative
144 sponsor shall consider providing that the funding for the first fiscal year should be nonlapsing, with
145 the option of continuing those nonlapsing monies for an additional year.

146 (2) The legislative interim committee with oversight responsibility for the new program
147 or agency:

148 (a) shall hear the limited scope audit report prepared by the Office of Legislative Auditor
149 General as provided in Section 36-12-15 on or before the committee's November meeting;

150 (b) shall review each new program or agency on which it receives a report to assure that
151 it is being implemented in a manner consistent with its statutory directive;

152 (c) shall determine whether the statutory directive is being followed and whether any
153 change in law is necessary and if a change in law is necessary, make that recommendation to the
154 Legislature; and

155 (d) may request the Office of Legislative Auditor General to conduct a more in-depth
156 review of the program or agency.

157 (3) The legislative appropriations subcommittee with oversight responsibility for the new
158 program or agency:

159 (a) shall hear the limited scope audit report prepared by the Office of Legislative Auditor
160 General as provided in Section 36-12-15 on or before the committee's November meeting;

161 (b) shall review each new program or agency on which it receives a report to determine
162 whether the agency is appropriately using the funds provided; and

163 (c) may request the Office of Legislative Auditor General to conduct a more in-depth
164 review of the program or agency.

165 **Section 3. Effective date.**

166 This act takes effect on July 1, 2000.

Legislative Review Note
as of 1-17-00 2:35 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel