

28 withhold funds from local substance abuse authorities, local mental health authorities, and
29 public and private providers for contract noncompliance or misuse of public funds, the division
30 shall:

31 (a) require each local substance abuse authority and each local mental health authority
32 to submit its plan to the division by May 1 of each year;

33 (b) conduct an annual program audit and review of each local substance abuse
34 authority in the state and its contract provider and each local mental health authority in the
35 state, and its contract provider; and

36 (c) provide a written report to the Health and Human Services Interim Committee on
37 July 1, 1999, and each year thereafter, and provide an oral report to that committee, as
38 requested. That report shall provide information regarding:

39 (i) the annual audit and review;

40 (ii) the financial expenditures of each local substance abuse authority and its contract
41 provider and each local mental health authority and its contract provider;

42 (iii) the status of each local authority's and its contract provider's compliance with its
43 plan, state statutes, and with the provisions of the contract awarded; and

44 (iv) whether audit guidelines established pursuant to Section 62A-15-110 and
45 Subsection 67-3-1[(2)(e)](11) provide the division with sufficient criteria and assurances of
46 appropriate expenditures of public funds.

47 (3) The annual audit and review described in Subsection (2)(b) shall, in addition to
48 items determined by the division to be necessary and appropriate, include a review and
49 determination regarding whether public funds allocated to local substance abuse authorities and
50 local mental health authorities are consistent with services rendered and outcomes reported by
51 them or their contract providers, and whether each local substance abuse authority and each
52 local mental health authority is exercising sufficient oversight and control over public funds
53 allocated for substance abuse and mental health programs and services.

54 (4) The Legislature may refuse to appropriate funds to the division upon the division's
55 failure to comply with the provisions of this part.

56 Section 2. Section **62A-15-712** is amended to read:

57 **62A-15-712. Responsibilities of the Division of Substance Abuse and Mental**
58 **Health.**

59 (1) ~~[It is the responsibility of the]~~ The division ~~[to]~~ shall ensure that the requirements
60 of this part are met and applied uniformly by local mental health authorities across the state.

61 (2) ~~[Since it is the division's responsibility,]~~ Because the division must, under Section
62 62A-15-103, ~~[to]~~ contract with, review, approve, and oversee local mental health authority
63 plans, and ~~[to]~~ withhold funds from local mental health authorities and public and private
64 providers for contract noncompliance or misuse of public funds, the division shall:

65 (a) require each local mental health authority to submit its plan to the division by May
66 1 of each year; and

67 (b) conduct an annual program audit and review of each local mental health authority
68 in the state, and its contract provider~~[-and]~~.

69 (3) (a) The division shall:

70 ~~[(e)]~~ (i) provide a written report to the Health and Human Services Interim Committee
71 ~~[on]~~ by July 1~~[-1996, and]~~ of each year ~~[thereafter,];~~ and

72 (ii) provide an oral report to that committee, as requested.

73 (b) That report shall provide information regarding:

74 (i) the annual audit and review;

75 (ii) the financial expenditures of each local mental health authority and its contract
76 provider;

77 (iii) the status of each local authority's and its contract provider's compliance with its
78 plan, state statutes, and with the provisions of the contract awarded; and

79 (iv) whether audit guidelines established ~~[pursuant to]~~ under Subsections
80 62A-15-713(2)(a) and 67-3-1~~[(2)(c)]~~(11) provide the division with sufficient criteria and
81 assurances of appropriate expenditures of public funds.

82 ~~[(3)]~~ (4) The annual audit and review described in Subsection (2)(b) shall, in addition
83 to items determined by the division to be necessary and appropriate, include a review and
84 determination regarding whether or not:

85 (a) public funds allocated to local mental health authorities are consistent with services
86 rendered and outcomes reported by it or its contract provider~~[-];~~ and

87 ~~[whether]~~ (b) each local mental health authority is exercising sufficient oversight and
88 control over public funds allocated for mental health programs and services.

89 ~~[(4)]~~ (5) The Legislature may refuse to appropriate funds to the division ~~[upon]~~ if the

90 ~~[division's failure]~~ division fails to comply with the ~~[provisions of this part]~~ procedures and
91 requirements of this section.

92 Section 3. Section **63A-3-103** is amended to read:

93 **63A-3-103. Fiscal procedures provided by director of division -- Application to**
94 **institutions of higher education.**

95 (1) The director of the Division of Finance shall:

96 (a) define fiscal procedures relating to approval and allocation of funds;

97 (b) provide for the accounting control of funds;

98 (c) approve proposed expenditures for the purchase of supplies and services;

99 (d) promulgate rules that:

100 (i) establish procedures for maintaining detailed records of all types of leases;

101 (ii) account for all types of leases in accordance with generally accepted accounting
102 principles;

103 (iii) require the performance of a lease with an option to purchase study by state
104 agencies prior to any lease with an option to purchase acquisition of capital equipment; and

105 (iv) require that the completed lease with an option to purchase study be approved by
106 the director of the Division of Finance; and

107 (e) prescribe other fiscal functions required by law or under the constitutional authority
108 of the governor to transact all executive business for the state.

109 (2) (a) Institutions of higher education are subject to the provisions of Title 63A,
110 Chapter 3, ~~[Parts]~~ Part 1, General Provisions, and Part 2, Accounting System only to the extent
111 expressly authorized or required by the State Board of Regents under Title 53B, State System
112 of Higher Education.

113 (b) Institutions of higher education shall submit financial data for the past fiscal year
114 conforming to generally accepted accounting principles to the director of the Division of
115 Finance.

116 (3) The Division of Finance shall prepare financial statements and other reports in
117 accordance with legal requirements and generally accepted accounting principles for the state
118 auditor's examination and certification:

119 (a) not later than 60 days after a request from the state auditor; and

120 (b) at the end of each fiscal year.

121 Section 4. Section **67-3-1** is amended to read:

122 **67-3-1. Functions and duties.**

123 (1) (a) The state auditor [~~shall be~~] is the auditor of public accounts and [~~as such shall~~
124 ~~be~~] is independent of any executive or administrative officers of the state.

125 (b) [~~He~~] The state auditor is not limited in the selection of [~~his~~] personnel or in the
126 determination of the reasonable and necessary expenses of his office.

127 (2) The state auditor shall[~~-(a)~~] examine and certify annually in respect to each fiscal
128 year, financial statements showing:

129 (a) the condition of the state's finances[;];

130 (b) the revenues received or accrued[;];

131 (c) expenditures paid or accrued[~~, and~~];

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

134 (e) the cash balances of the funds in the custody of the state treasurer. [~~The Division of~~
135 ~~Finance shall prepare the foregoing financial statements and other reports in accordance with~~
136 ~~legal requirements and generally-accepted accounting principles for the state auditor's~~
137 ~~examination and certification, as requested and not later than 60 days following such requests~~
138 ~~or the end of each fiscal year. The auditor shall file the statements with the governor and the~~
139 ~~Legislature;~~]

140 [~~(b) (i)~~] (3) (a) The state auditor shall:

141 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of
142 any department of state government or any independent agency or public corporation [~~on a~~
143 ~~regular basis~~] as the law requires, as the auditor [~~shall determine~~] determines is necessary, or
144 upon request of the governor or the Legislature[~~. These audits are to be performed~~];

145 (ii) perform the audits in accordance with generally accepted auditing standards and
146 other auditing procedures as promulgated by recognized authoritative bodies[~~. The audits shall~~
147 ~~be conducted~~];

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

149 (A) honesty and integrity in fiscal affairs[;];

150 (B) accuracy and reliability of financial statements[;];

151 (C) effectiveness and adequacy of financial controls[;]; and

152 ~~(D) compliance with the law[, as the auditor shall determine necessary;].~~
153 ~~[(ii) in the event that]~~ (b) If any state entity receives federal funding, the state auditor
154 shall ensure that the audit [shall be] is performed in accordance with federal audit requirements
155 ~~[under the direction of the state auditor].~~

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

158 (ii) If an appropriation is not provided, or if the federal government does not
159 specifically provide for payment of audit costs, the costs of the federal compliance portions of
160 the audit shall be allocated on the basis of the percentage that each state entity's federal funding
161 bears to the total federal funds received by the state.

162 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit
163 funds passed through the state to local governments and to reflect any reduction in audit time
164 obtained through the use of internal auditors working under the direction of the state auditor[;].
165 ~~[(c) present to the governor on October 1st of each year and to the Legislature on the~~
166 ~~first day of each annual general session, a statement of his appropriation expenditures~~
167 ~~segregated as to cost of salaries, travel, office and other expenses, and capital outlay for~~
168 ~~equipment, together with his recommendations as to new legislation and a complete record of~~
169 ~~the accomplishments of his office for the preceding year;]~~

170 ~~[(d) issue subpoenas requiring any person who has had financial transactions with the~~
171 ~~state to appear before him and to answer under oath, orally or in writing, as to any facts~~
172 ~~concerning these transactions; and for the purpose of obtaining any such facts the state auditor~~
173 ~~is empowered to administer oaths;]~~

174 (4) The state auditor shall, in addition to financial audits, and as the auditor determines
175 is necessary, conduct performance and special purpose audits, examinations, and reviews of
176 any entity that receives public funds, including a determination of any or all of the following:

177 (a) the honesty and integrity of all its fiscal affairs;
178 (b) whether or not its administrators have faithfully complied with legislative intent;
179 (c) whether or not its operations have been conducted in an efficient, effective, and
180 cost-efficient manner;
181 (d) whether or not its programs have been effective in accomplishing the intended
182 objectives; and

183 (e) whether or not its management, control, and information systems are adequate and
 184 effective.

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

189 ~~[(e)]~~ (6) The state auditor may require~~[, in his discretion,]~~ all persons who have had the
 190 disposition or management of any property of this state or its political subdivisions to ~~[render]~~
 191 submit statements regarding it ~~[to him, and each of these persons must render the statements]~~ at
 192 ~~[such times]~~ the time and in ~~[such]~~ the form ~~[as]~~ that the auditor ~~[may require,]~~ requires.

193 (7) The state auditor shall:

194 ~~[(f)]~~ (a) except where otherwise provided by law, institute suits in Salt Lake County in
 195 relation to the assessment, collection, and payment of its revenues against:

196 (i) persons who by any means have become entrusted with public monies or property
 197 and have failed to pay over or deliver ~~[the same]~~ those monies or property; and ~~[against]~~

198 (ii) all debtors of the state~~[, all of which suits of the courts of the county in which the~~
 199 ~~seat of government may be located shall have jurisdiction without regard to the residence of the~~
 200 ~~defendants];~~

201 ~~[(g)]~~ ~~authenticate with his official seal all copies of papers issued from his office as he~~
 202 ~~considers necessary,]~~

203 ~~[(h)]~~ (b) collect and pay into the state treasury all fees received by ~~[him]~~ the state
 204 auditor;

205 ~~[(i)]~~ (c) perform the duties of a member of all boards of which ~~[he]~~ the state auditor is
 206 ~~[or may be made]~~ a member by the constitution or laws of the state, and ~~[such]~~ any other duties
 207 ~~[as]~~ that are prescribed by the constitution and by law;

208 ~~[(j)]~~ (d) stop the payment of the salary of any state official or state employee who:

209 (i) refuses to settle ~~[his]~~ accounts or ~~[render such]~~ provide required statements ~~[as may~~
 210 ~~be required with respect to]~~ about the custody and disposition of public funds or other state
 211 property ~~[or who];~~

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

214 or ~~who~~

215 (iii) fails to correct any delinquencies, improper procedures, and errors brought to ~~his~~
216 the official's or employee's attention;

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

219 ~~(l)~~ (f) superintend the contractual auditing of all state accounts;

220 ~~(m)~~ (g) subject to Subsection (8), withhold state allocated funds or the disbursement
221 of property taxes from any state taxing or fee-assessing unit, if necessary, to ensure that
222 officials and employees in those taxing units of the state comply with state laws and procedures
223 in the budgeting, expenditures, and financial reporting of public funds~~[- Except as otherwise~~
224 ~~specified in the law, funds may not be withheld until a taxing unit has received formal written~~
225 ~~notice of noncompliance from the auditor and has been given 60 days to make the specified~~
226 ~~corrections;]; and~~

227 ~~(n)~~ (h) subject to Subsection (9), withhold the disbursement of tax monies from any
228 county, if necessary, to ensure that officials and employees in the county comply with Section
229 59-2-303.1. ~~[For purposes of this subsection, funds may not be withheld until a county has~~
230 ~~received formal written notice of noncompliance from the auditor and has been given 60 days~~
231 ~~to make the specified corrections; and]~~

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

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

239 ~~(o)~~ (10) The state auditor shall:

240 (a) establish audit guidelines and procedures for audits of local mental health and
241 substance abuse authorities and their contract providers, conducted pursuant to Title 17A,
242 Chapter 3, Parts 6 and 7, Title 62A, ~~[Chapters 8 and 12]~~ Chapter 15, and Title 51, Chapter 2~~[-~~
243 ~~Those]; and~~

244 (b) ensure that those guidelines and procedures ~~[shall be established for the purpose of~~

245 ~~providing~~ provide assurances to the state that:

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

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

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

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

256 (11) The state auditor may, in accordance with the auditor's responsibilities for political
257 subdivisions of the state as provided in Title 51, Chapter 2, Audits of Political Subdivisions,
258 Interlocal Organizations and Other Local Entities, initiate audits or investigations of any
259 political subdivision that are necessary to determine honesty and integrity in fiscal affairs,
260 accuracy and reliability of financial statements, effectiveness, and adequacy of financial
261 controls and compliance with the law.

262 [~~3~~] (12) (a) The state auditor may not audit work [~~he~~] that the state auditor performed
263 before becoming state auditor. [~~In the event that~~]

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

266 (i) designate how [~~such~~] that work shall be audited; and [~~shall~~]

267 (ii) provide additional funding for [~~such~~] those audits, if necessary.

268 [~~4~~] (13) (a) The following records in the custody or control of the state auditor [~~shall~~
269 ~~be~~] are protected records under Title 63, Chapter 2, Government Records Access and
270 Management Act:

271 [~~a~~] (i) records that would disclose information relating to allegations of personal
272 misconduct, gross mismanagement, or illegal activity of a past or present governmental
273 employee if the information or allegation cannot be corroborated by the state auditor through
274 other documents or evidence, and the records relating to the allegation are not relied upon by
275 the state auditor in preparing a final audit report;

276 ~~[(b)]~~ (ii) records and audit workpapers to the extent they would disclose the identity of
 277 a person who during the course of an audit, communicated the existence of any waste of public
 278 funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation
 279 adopted under the laws of this state, a political subdivision of the state, or any recognized entity
 280 of the United States, if the information was disclosed on the condition that the identity of the
 281 person be protected;

282 ~~[(c) prior to the time that]~~ (iii) before an audit is completed and the final audit report is
 283 released, records or drafts circulated to a person who is not an employee or head of a
 284 governmental entity for their response or information;

285 ~~[(d)]~~ (iv) records that would disclose an outline or part of any audit survey plans or
 286 audit program; and

287 ~~[(e)]~~ (v) requests for audits, if disclosure would risk circumvention of an audit[;].

288 ~~[(f) the]~~ (b) The provisions of Subsections ~~[(a), (b), and (c)]~~ (13)(a)(i), (ii), and (iii) do
 289 not prohibit the disclosure of records or information that relate to a violation of the law by a
 290 governmental entity or employee to a government prosecutor or peace officer[; ~~and~~].

291 ~~[(g) the]~~ (c) The provisions of this ~~[section]~~ Subsection (13) do not limit the authority
 292 otherwise given to the state auditor to classify a document as public, private, controlled, or
 293 protected under Title 63, Chapter 2, Government Records Access and Management Act.

294 Section 5. Section **67-3-5** is amended to read:

295 **67-3-5. Right of visitation and examination.**

296 ~~[The]~~ For the purpose of carrying out the duties of the state auditor, the state auditor
 297 shall have access to all ~~[state]~~ offices of public entities during business hours for the inspection
 298 of ~~[such books, papers and accounts thereof as may concern his duties]~~ their records, regardless
 299 of any general limitation on access to records provided in an entity's individual statute.

Legislative Review Note

as of 2-5-03 4:47 PM

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

Office of Legislative Research and General Counsel

State Impact

It is estimated that provisions of this bill can be implemented with existing budgets.

Individual and Business Impact

No significant fiscal impact.

Office of the Legislative Fiscal Analyst