

SB0136S01 compared with SB0136

~~deleted text~~ shows text that was in SB0136 but was deleted in SB0136S01.

inserted text shows text that was not in SB0136 but was inserted into SB0136S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Curtis S. Bramble proposes the following substitute bill:

LEGISLATIVE OFFICES AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions governing staff offices of the Utah Legislature.

Highlighted Provisions:

This bill:

- ▶ clarifies the authority of the legislative auditor general over a project entity, a taxed interlocal entity, the Utah Data Research Center, and an independent corporation;
- ▶ directs the Office of Legislative Research and General Counsel to return enrolled bills to the Senate or House of Representatives;
- ▶ amends certain duties and powers of the Office of Legislative Research and General Counsel;
- ▶ prohibits the Office of Legislative Research and General Counsel from providing services to an individual who is not qualified to serve or is expelled from the House

SB0136S01 compared with SB0136

of Representatives or Senate unless the services are approved by the Legislative Management Committee;

- ▶ modifies certain duties and powers of the legislative auditor general and the Office of the Legislative Auditor General;
- ▶ authorizes the legislative auditor general to issue a subpoena to financial institutions and other entities;
- ▶ modifies the professional qualifications an individual must have to act as the legislative auditor general;
- ▶ authorizes the Office of the Legislative Auditor General to conduct systemic performance audits of certain executive branch entities and local education agencies;
- ▶ clarifies issuers of legislative subpoenas;
- ▶ authorizes service of a legislative subpoena by electronic transmission;
- ▶ repeals sunset provisions that have expired; and
- ▶ makes other clarifying corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-13-316, as last amended by Laws of Utah 2022, Chapter 422

11-13-603, as last amended by Laws of Utah 2022, Chapter 422

36-3-306, as renumbered and amended by Laws of Utah 2020, Chapter 383

36-12-12, as last amended by Laws of Utah 2003, Chapter 92

36-12-15, as last amended by Laws of Utah 2021, Chapter 421

36-12-15.1, as last amended by Laws of Utah 2021, Chapter 331

36-14-2, as last amended by Laws of Utah 2014, Chapter 339

36-14-4, as enacted by Laws of Utah 1989, Chapter 174

36-14-5, as last amended by Laws of Utah 2013, First Special Session, Chapter 1

53B-7-708, as enacted by Laws of Utah 2017, Chapter 365

SB0136S01 compared with SB0136

53B-33-301, as renumbered and amended by Laws of Utah 2022, Chapter 461

63E-2-104, as last amended by Laws of Utah 2003, Chapter 8

63I-2-253, as last amended by Laws of Utah 2022, Chapters 208, 229, 274, 354, 370,
and 409

68-3-13, as enacted by Laws of Utah 1989, Chapter 16

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

Section 1. Section **11-13-316** is amended to read:

11-13-316. Project entity oversight.

(1) Notwithstanding any other provision of law, a project entity is a political subdivision that~~[(1)]~~

~~[(a)]~~ is subject to the authority of the legislative auditor general pursuant to Utah Constitution, Article VI, Section 33, [is subject to the authority of the legislative auditor to conduct audits of any funds, functions, and accounts in any political subdivision of this state;] and Section 36-12-15.

~~[(b) is subject to the requirement to provide the Office of the Legislative Auditor General with all records, documents, and reports necessary for the legislative auditor general or the office to fulfill the duties described in Subsection (1)(a).]~~

~~[(2) Subsection (1) takes precedence over Section 36-12-15.]~~

~~[(3)]~~ (2) A project entity shall comply with Title 63G, Chapter 6a, Utah Procurement Code, unless the governing board of the project entity adopts policies for procurement that enable the project entity to efficiently fulfill the project entity's responsibilities under the project entity's organization agreement.

~~[(4)]~~ (3) If a project entity does not adopt policies for procurement under Subsection ~~[(3)]~~ (2), then for purposes of Title 63G, Chapter 6a, Utah Procurement Code:

(a) the project entity is a local government procurement unit, as defined in Section 63G-6a-103; and

(b) the governing board is a procurement official, as defined in Section 63G-6a-103.

~~[(5)]~~ (4) A project entity shall comply with Title 52, Chapter 4, Open and Public Meetings Act.

Section 2. Section **11-13-603** is amended to read:

SB0136S01 compared with SB0136

11-13-603. Taxed interlocal entity.

(1) Except for purposes of an audit, examination, investigation, or review by the [~~Office of the Legislative Auditor General~~] legislative auditor general as described in Subsection (8) and notwithstanding any other provision of law:

(a) the use of an asset by a taxed interlocal entity does not constitute the use of a public asset;

(b) a taxed interlocal entity's use of an asset that was a public asset before the taxed interlocal entity's use of the asset does not constitute a taxed interlocal entity's use of a public asset;

(c) an official of a project entity is not a public treasurer; and

(d) a taxed interlocal entity's governing board shall determine and direct the use of an asset by the taxed interlocal entity.

(2) (a) A taxed interlocal entity that is not a project entity is not subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(b) A project entity is subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code, to the extent described in Section 11-13-316.

(3) (a) A taxed interlocal entity is not a participating local entity as defined in Section 67-3-12.

(b) For each fiscal year of a taxed interlocal entity, the taxed interlocal entity shall provide:

(i) the taxed interlocal entity's financial statements for and as of the end of the fiscal year and the prior fiscal year, including:

(A) the taxed interlocal entity's statement of net position as of the end of the fiscal year and the prior fiscal year, and the related statements of revenues and expenses and of cash flows for the fiscal year; or

(B) financial statements that are equivalent to the financial statements described in Subsection (3)(b)(i)(A) and, at the time the financial statements were created, were in compliance with generally accepted accounting principles that are applicable to taxed interlocal entities; and

(ii) the accompanying auditor's report and management's discussion and analysis with respect to the taxed interlocal entity's financial statements for and as of the end of the fiscal

SB0136S01 compared with SB0136

year.

(c) The taxed interlocal entity shall provide the information described in Subsection (3)(b) within a reasonable time after the taxed interlocal entity's independent auditor delivers to the taxed interlocal entity's governing board the auditor's report with respect to the financial statements for and as of the end of the fiscal year.

(d) Notwithstanding Subsections (3)(b) and (c) or a taxed interlocal entity's compliance with one or more of the requirements of Title 63A, Chapter 3, Division of Finance:

(i) the taxed interlocal entity is not subject to Title 63A, Chapter 3, Division of Finance; and

(ii) the information described in Subsection (3)(b)(i) or (ii) does not constitute public financial information as defined in Section 67-3-12.

(4) (a) A taxed interlocal entity's governing board is not a governing board as defined in Section 51-2a-102.

(b) A taxed interlocal entity is not subject to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

(5) Notwithstanding any other provision of law, a taxed interlocal entity is not subject to the following provisions:

(a) Part 4, Governance;

(b) Part 5, Fiscal Procedures for Interlocal Entities;

(c) Subsection 11-13-204(1)(a)(i) or (ii)(J);

(d) Subsection 11-13-206(1)(f);

(e) Subsection 11-13-218(5)(a);

(f) Section 11-13-225;

(g) Section 11-13-226; or

(h) Section 53-2a-605.

(6) (a) In addition to having the powers described in Subsection 11-13-204(1)(a)(ii), a taxed interlocal entity may, for the regulation of the entity's affairs and conduct of its business, adopt, amend, or repeal bylaws, policies, or procedures.

(b) Nothing in Part 4, Governance, or Part 5, Fiscal Procedures for Interlocal Entities, may be construed to limit the power or authority of a taxed interlocal entity.

SB0136S01 compared with SB0136

(7) (a) A governmental law enacted after May 12, 2015, and on or before November 10, 2021, is not applicable to, is not binding upon, and does not have effect on a taxed interlocal entity that is a project entity unless the governmental law expressly states the section of governmental law to be applicable to and binding upon the taxed interlocal entity with the following words: "[Applicable section or subsection number] constitutes an exception to Subsection 11-13-603(7)(a) and is applicable to and binding upon a taxed interlocal entity."

(b) A governmental law enacted after May 12, 2015, is not applicable to, is not binding upon, and does not have effect on a taxed interlocal entity that is an energy services interlocal entity unless the governmental law expressly states the section of governmental law to be applicable to and binding upon the energy services interlocal entity with the following words: "[Applicable section or subsection number] constitutes an exception to Subsection 11-13-603(7)(a) and is applicable to and binding upon an energy services interlocal entity."

(c) Sections 11-13-601 through 11-13-608 constitute an exception to Subsections (7)(a) and (7)(b) and are applicable to and binding upon a taxed interlocal entity.

(8) ~~[(a)]~~ Notwithstanding any other provision of law, a taxed interlocal entity that is a project entity is a political subdivision that ~~[:{ }]~~

~~[(i)]~~ is subject to the authority of the legislative auditor general pursuant to Utah Constitution, Article VI, Section 33, [is subject to the authority of the legislative auditor to conduct audits of any funds, functions, and accounts in any political subdivision of this state;] and Section 36-12-15.

~~[(ii) is subject to the requirement to provide the Office of the Legislative Auditor General with all records, documents, and reports necessary of the legislative auditor general or the office to fulfill the duties described in Subsection (8)(a)(i):]~~

~~[(b) Subsection (8)(a) takes precedence over Section 36-12-15:]~~

Section 3. Section **36-3-306** is amended to read:

36-3-306. Enrolling of bills.

All bills ordered enrolled by the Legislature shall be delivered to the Office of Legislative Research and General Counsel, who shall without delay enroll the bills and return them to ~~[the secretary of]~~ the Senate or ~~[chief clerk of]~~ the House of Representatives.

Section 4. Section **36-12-12** is amended to read:

36-12-12. Office of Legislative Research and General Counsel established --

SB0136S01 compared with SB0136

Powers, functions, and duties -- Organization of office -- Selection of director and general counsel.

(1) There is established an Office of Legislative Research and General Counsel as a permanent staff office for the Legislature.

(2) The powers, functions, and duties of the Office of Legislative Research and General Counsel under the supervision of the director shall be:

(a) to provide research and legal staff assistance to all standing, special, and interim committees as follows:

(i) to assist each committee chairman in planning the work of the committee;

(ii) to prepare and present research and legal information in accordance with committee instructions or instructions of the committee chairman;

(iii) to prepare progress reports of committee work when requested; and

(iv) to prepare a final committee report in accordance with committee instructions, that includes relevant research information, committee policy recommendations, and recommended legislation;

(b) to collect and examine the acts and official reports of any state and report their contents to any committee or member of the Legislature;

(c) to provide research and legal analysis services to any interim committee, legislative standing committee, or individual legislator on actual or proposed legislation or subjects of general legislative concern;

(d) to maintain a legislative research library that provides analytical, statistical, legal, and descriptive data relative to current and potential governmental and legislative subjects;

(e) (i) to exercise under the direction of the general counsel the constitutional authority provided in Article VI, [Sec.] Section 32, Utah Constitution, in serving as legal counsel to the Legislature, majority and minority leadership of the House or Senate, any of the Legislature's committees or subcommittees, individual legislators, any of the Legislature's staff offices, or any of the legislative staff; and

(ii) to represent the Legislature, majority and minority leadership of the House of Representatives or Senate, any of the Legislature's committees or subcommittees, individual legislators, any of the Legislature's staff offices, or any of the legislative staff in cases and controversies before courts and administrative agencies and tribunals;

SB0136S01 compared with SB0136

(f) to prepare and assist in the preparation of legislative bills, resolutions, memorials, amendments, and other documents or instruments required in the legislative process and, under the direction of the general counsel, give advice and counsel regarding them to the Legislature, majority and minority leadership of the House of Representatives or Senate, any of its members or members-elect, any of its committees or subcommittees, or the legislative staff;

(g) under the direction of the general counsel[;]:

~~(i) to review, examine, and correct any technical errors [and approve legislation that has passed both houses in order to enroll the legislation and prepare the laws for publication]~~
when:

(A) preparing legislation that passed both houses to enroll the legislation and prepare the laws for publication; or

(B) maintaining the accuracy of the electronic code database; and

(ii) to deliver enrolled legislation to the House of Representatives and the Senate for submission to the governor for gubernatorial action;

(h) to keep on file records concerning all legislation and proceedings of the Legislature with respect to legislation referred to in Subsection (2)(g);

(i) to prepare the laws for publication;

(j) (i) to maintain an electronic record organized by title, chapter, part, and section that contains the Laws of Utah that are currently in effect and that will take effect in the future; and

(ii) to modify the electronic record required by Subsection (2)(j)(i) based upon changes to the Laws of Utah or to correct technical errors;

~~(k)~~ (k) to formulate recommendations for the revision, clarification, classification, arrangement, codification, annotation, and indexing of Utah statutes, and to develop proposed legislation to effectuate the recommendations;

~~(l)~~ (l) to appoint and develop a professional staff within budget limitations; and

~~(m)~~ (m) to prepare and submit the annual budget request for the Office of Legislative Research and General Counsel.

(3) (a) If, under Article VI, Section 10, Utah Constitution, the House of Representatives or Senate determines that an individual is not qualified to serve in the House of Representatives or Senate, or expels an individual from the respective chamber, but the individual continues to hold his or her elected legislative office, the Office of Legislative

SB0136S01 compared with SB0136

Research and General Counsel may not provide legislative staff services, including legal services, to the individual.

(b) Notwithstanding Subsection (3)(a), the Office of Legislative Research and General Counsel may provide legal services for an individual described in Subsection (3)(a) if the legal services are approved by the Legislative Management Committee described in Section 36-12-7.

~~[(3)]~~ (4) The statutory authorization of the Office of Legislative Research and General Counsel to correct technical errors provided in Subsection (2)(g), to prepare the laws for publication in Subsection (2)(i), and to modify the electronic record to correct technical errors under Subsection (2)(j)(ii) includes:

(a) adopting a uniform system of punctuation, capitalization, numbering, and wording for enrolled legislation and the Laws of Utah;

(b) eliminating duplication and the repeal of laws directly or by implication, including renumbering when necessary;

(c) correcting defective or inconsistent ~~[section and paragraph]~~ title, chapter, part, section, and subsection structure in the arrangement of the subject matter of existing statutes;

(d) eliminating ~~[all]~~ obsolete and redundant words;

(e) correcting;

(i) obvious typographical and grammatical errors; and

(ii) other obvious inconsistencies, including those involving punctuation, capitalization, cross references, numbering, and wording;

(f) inserting or changing the boldface to more accurately reflect the substance of each section, part, chapter, or title; ~~[and]~~

(g) merging or determining priority of any amendments, enactments, or repealers to the same code provisions that are passed by the Legislature;

(h) renumbering and rearranging of a title, chapter, part, section, or provisions of a section;

(i) transferring sections or dividing sections to assign separate sections numbers to distinct subject matters;

(j) modifying cross references to agree with renamed or renumbered titles, chapters, parts, or sections;

(k) substituting the proper section or chapter number for the terms "this act," "this bill,"

SB0136S01 compared with SB0136

or similar terms;

(l) substituting the proper calendar date in the database and in the Laws of Utah;

(m) modifying the highlighted provisions of legislation to correct an inconsistency between the highlighted provisions and the enacted provisions of the legislation;

(n) correcting the names of agencies, departments, and similar units of government;

(o) rearranging any misplaced statutory material, incorporating any omitted statutory material, and correcting other obvious errors of addition or omission;

(p) correcting or incorporating a special clause that was publicly available on the Legislature's website but is errantly omitted, modified, or retained during the legislative process due to obvious technological or human error, including:

(i) a severability clause;

(ii) an effective date clause;

(iii) a retrospective operation clause;

(iv) an uncodified repeal date clause;

(v) a revisor instruction clause; or

(vi) a coordination clause;

(q) correcting the incorporation of an amendment due to obvious technological or human error; and

(r) alphabetizing definition sections.

~~[(4)]~~ (5) In carrying out the duties provided for in this section, the director of the Office of Legislative Research and General Counsel may obtain access to all records, documents, and reports necessary to the scope of the director's duties according to the procedures contained in ~~[Title 36, Chapter 14, Legislative Subpoena Powers]~~ Chapter 14, Legislative Subpoena Powers.

~~[(5)]~~ (6) In organizing the management of the Office of Legislative Research and General Counsel, the Legislative Management Committee may either:

(a) select a person to serve as both the director of the office and as general counsel. In such case, the director of the office shall be a lawyer admitted to practice in Utah and shall have practical management experience or equivalent academic training; or

(b) select a person to serve as director of the office who would have general supervisory authority and select another person to serve as the legislative general counsel within the office. In such case, the director of the office shall have a master's degree in public

SB0136S01 compared with SB0136

or business administration, economics, or the equivalent in academic or practical experience and the legislative general counsel shall be a lawyer admitted to practice in Utah.

Section 5. Section **36-12-15** is amended to read:

36-12-15. Office of the Legislative Auditor General established -- Qualifications -- Powers, functions, and duties -- Reporting -- Criminal penalty -- Employment.

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

(2) The legislative auditor general shall be a licensed certified public accountant or certified internal auditor with at least ~~[five]~~ seven years of experience in the auditing or public accounting profession, or the equivalent, prior to appointment.

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

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

~~[(b)]~~ (5) Under the direction of the legislative auditor general, the ~~[office]~~ Office of the Legislative Auditor General shall:

~~[(i)]~~ (a) conduct comprehensive and special purpose audits, examinations, ~~[and]~~ investigations, or reviews of [any entity that receives public funds];

(i) any funds, functions, or accounts in a state entity, branch, department, agency, or political subdivision; or

(ii) any entity that receives public funds;

~~[(ii)]~~ (b) prepare and submit a written report on each audit, examination, investigation, or review to the ~~[Legislative Management Committee, the audit subcommittee,]~~ Audit Subcommittee created in Section 36-12-8 and make the report available to all members of the Legislature within 75 days after the audit ~~[or]~~, examination, investigation, or review is completed; ~~[and]~~

~~[(iii)]~~ (c) monitor ~~[and]~~, conduct a risk assessment of, or audit any efficiency evaluations that the legislative auditor general determines necessary, in accordance with Title 63J, Chapter 1, Part 9, Government Performance Reporting and Efficiency Process, and legislative rule~~[-]~~;

(d) create, manage, and report to the Audit Subcommittee a list of high risk programs

SB0136S01 compared with SB0136

and operations that:

(i) threaten public funds or programs;

(ii) are vulnerable to inefficiency, waste, fraud, abuse, or mismanagement; or

(iii) require transformation;

(e) monitor and report to the Audit Subcommittee the health of a state entity's, branch's, department's, agency's, or political subdivision's internal audit functions;

(f) make recommendations to increase the independence and value added of internal audit functions throughout the state;

(g) implement a process to track, monitor, and report whether the subject of an audit has implemented recommendations made in the audit report;

(h) establish, train, and maintain a team of individuals within the office to conduct investigations and represent themselves as lawful investigators;

(i) establish policies, procedures, methods, and standards of audit work and investigations for the office and staff;

(j) prepare and submit each audit and investigative report without interference from any source relative to the content of the report, the conclusions reached in the report, or the manner of disclosing the results of the legislative auditor general's findings;

(k) prepare and submit the annual budget request for the office; and

(l) perform other duties as prescribed by the Legislature.

~~(5)~~ (6) ~~[The]~~ ~~+~~ In conducting an audit, examination, investigation, or review of any entity [that receives public funds may include a], the Office of the Legislative Auditor General may include a determination of any or all of the following:

(a) the honesty and integrity of ~~[all]~~ any of the entity's fiscal affairs;

(b) the accuracy and reliability of the entity's ~~[financial]~~ internal control systems and specific financial statements and reports;

(c) whether or not the entity's financial controls are adequate and effective to properly record and safeguard ~~[its]~~ the entity's acquisition, custody, use, and accounting of public funds;

(d) whether ~~[or not]~~ the entity's administrators have ~~[faithfully adhered to]~~ complied with legislative intent;

(e) whether ~~[or not]~~ the entity's operations have been conducted in an efficient, effective, and cost efficient manner;

SB0136S01 compared with SB0136

(f) whether ~~[or not]~~ the entity's programs have been effective in accomplishing intended objectives; and

(g) whether ~~[or not]~~ the entity's management control and information systems are adequate and effective.

~~[(6) The Office of the Legislative Auditor General:]~~

~~[(a) (i) shall, notwithstanding any other provision of law, have access to all records, documents, and reports of any entity that receives public funds that are necessary to the scope of the duties of the legislative auditor general or the office; and]~~

~~[(ii) may issue a subpoena to obtain access as provided in Subsection (6)(a)(i) using the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers;]~~

~~[(b) establish policies, procedures, methods, and standards of audit work for the office and staff;]~~

~~[(c) prepare and submit each audit report without interference from any source relative to the content of the report, the conclusions reached in the report, or the manner of disclosing the results of the legislative auditor general's findings; and]~~

~~[(d) prepare and submit the annual budget request for the office.]~~

(7) ~~{When}~~ (a) If requested by the Office of the Legislative Auditor General, each entity that the legislative auditor general is authorized to audit under Utah Constitution, Article VI, Section 33, shall, notwithstanding any other provision of law except as provided in Subsection (7)(b), provide the office with ~~{immediate}~~ access to information, materials, or resources the office determines ~~{is}~~ are necessary to conduct an audit, examination, investigation, or review, including:

~~{a}~~ i the following in the possession or custody of the entity in the format identified by the office:

~~{i}~~ A a record, document, and report; and

~~{ii}~~ B films, tapes, recordings, and electronically stored information;

~~{b}~~ ii entity personnel;

~~{c}~~ iii open and closed meetings conducted by the entity; and

~~{d}~~ iv each official or unofficial recording of formal or informal meetings or conversations to which the entity has access.

(b) To the extent compliance would violate federal law, the requirements of Subsection

SB0136S01 compared with SB0136

(7)(a) do not apply.

(8) The legislative auditor general may issue a subpoena to a financial institution or any other entity to obtain information as part of an investigation of fraud, waste, or abuse, including any suspected malfeasance, misfeasance, or nonfeasance involving public funds.

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

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

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

~~[(8)]~~ (10) (a) The following records in the custody or control of the legislative auditor general ~~[shall be]~~ are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

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

~~[(b)]~~ (ii) ~~[Records]~~ records and audit workpapers ~~[to the extent they]~~ that would disclose the identity of a person who, during the course of a legislative audit, communicated the existence of ~~[any]~~:

(A) unethical behavior;

(B) waste of public funds, property, or [manpower,] personnel; or

(C) a violation or suspected violation of a United States, Utah state, or political subdivision law, rule, ordinance, or regulation ~~[adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was]~~, if the person disclosed on the condition that the identity of the person be protected[-];

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

SB0136S01 compared with SB0136

~~[(d)]~~ (iv) ~~[Records]~~ records that would disclose:

(A) an outline;

(B) all or part of ~~[any]~~ an audit survey ~~[plans]~~, audit risk assessment plan, or audit program~~[-];~~ or

(C) other procedural documents necessary to fulfill the duties of the office; and

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

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

(b) The provisions of Subsection (10)(a) do not prohibit the disclosure of records or information to a government prosecutor or peace officer if those records or information relate to a violation of the law by a governmental entity, employee, or other recipient of public funds.

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

~~[(9)]~~ (11) The legislative auditor general shall:

(a) be available to the Legislature and to the Legislature's committees for consultation on matters relevant to areas of the legislative auditor general's professional competence;

(b) conduct special audits as requested by the ~~[Legislative Management Committee]~~ Audit Subcommittee;

(c) report immediately ~~[in writing to the Legislative Management Committee through its audit subcommittee]~~ to the Audit Subcommittee any apparent violation of penal statutes disclosed by the audit of a state agency and furnish to the ~~[Legislative Management Committee]~~ Audit Subcommittee all information relative to the apparent violation;

(d) report immediately ~~[in writing to the Legislative Management Committee through its audit subcommittee]~~ to the Audit Subcommittee any apparent instances of malfeasance or nonfeasance by a state officer or employee disclosed by the audit of a state agency; and

(e) make any recommendations to the ~~[Legislative Management Committee through its audit subcommittee]~~ Audit Subcommittee with respect to the alteration or improvement of the accounting system used by any entity that receives public funds.

SB0136S01 compared with SB0136

~~[(10)]~~ (12) If the legislative auditor general conducts an audit of a state agency that has previously been audited and finds that the state agency has not implemented a recommendation made by the legislative auditor general in a previous audit, the legislative auditor general shall, upon release of the audit:

(a) report immediately ~~[in writing to the Legislative Management Committee through its audit subcommittee]~~ to the Audit Subcommittee that the state agency has not implemented that recommendation; and

(b) shall report, as soon as possible, that the state agency has not implemented that recommendation to ~~[a meeting of]~~ an appropriate legislative committee designated by the ~~[audit subcommittee of the Legislative Management Committee]~~ Audit Subcommittee.

~~[(11)(a) Prior to each annual general session, the legislative auditor general shall prepare a summary of the audits conducted and of actions taken based upon them during the preceding year.]~~

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

~~[(c) The legislative auditor general shall deliver the report to the Legislature and to the appropriate committees of the Legislature.]~~

(13) Before each annual general session, the legislative auditor general shall:

(a) prepare an annual report that:

(i) summarizes the audits, examinations, investigations, and reviews conducted by the office since the last annual report; and

(ii) evaluate and report the degree to which an agency that has been the subject of an audit has implemented the audit recommendations;

(b) include in the report any items and recommendations that the legislative auditor general believes the Legislature should consider in the annual general session; and

(c) deliver the report to the Legislature and to the appropriate committees of the Legislature.

~~[(12)(a) No person or entity may:]~~

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

SB0136S01 compared with SB0136

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

~~[(b) Any person or entity that violates the provisions of this Subsection (12) is guilty of a class B misdemeanor.]~~

~~[(13)]~~ (14) (a) (i) If the managing administrator of an entity described in Subsection (5)(a) has actual knowledge or reasonable cause to believe that there is misappropriation of the entity's public funds or assets, the managing administrator shall immediately notify, in writing, the Office of the Legislative Auditor General and the attorney general, county attorney, or district attorney.

(ii) The managing administrator described in Subsection (14)(a)(i) is subject to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act.

(b) If the Office of the Legislative Auditor General receives a notification under Subsection (14)(a)(i) or other information of misappropriation of public funds or assets of an entity described in Subsection (5)(a), the office shall inform the Audit Subcommittee.

(c) The attorney general, county attorney, or district attorney shall no later than 60 days after receiving the notification under Subsection (14)(a)(i), notify, in writing, the Office of the Legislative Auditor General whether the attorney general, county attorney, or district attorney pursued criminal or civil sanctions in the matter.

(d) If the attorney general, county attorney, or district attorney does not pursue criminal or civil sanctions, the attorney general, county attorney, or district attorney shall provide in the notice under Subsection (14)(c) a detailed explanation for the attorney general's, county attorney's, or district attorney's decision.

(15) (a) An actor commits interference with a legislative audit if the actor interferes with:

(i) a legislative audit, examination, investigation, or review of an entity conducted by the Office of the Legislative Auditor General; or

(ii) the Office of the Legislative Auditor General's decisions relating to:

(A) the content of the office's report;

(B) the conclusions reached in the office's report; or

(C) the manner of disclosing the results and findings of the office.

(b) A violation of Subsection (15)(a) is a class B misdemeanor.

SB0136S01 compared with SB0136

~~{ (c) The legislative auditor general shall immediately report a violation of Subsection (15)(a) to the attorney general, United States attorney's office, or both for review and potential prosecution.~~

‡ (16) (a) Beginning July 1, 2020, the Office of the Legislative Auditor General may require any current employee, or any applicant for employment, to submit to a fingerprint-based local, regional, and criminal history background check as an ongoing condition of employment.

(b) An employee or applicant for employment shall provide a completed fingerprint card to the office upon request.

(c) The ~~[office]~~ Office of the Legislative Auditor General shall require that an individual required to submit to a background check under this ~~[subsection]~~ Subsection (16) also provide a signed waiver on a form provided by the office that meets the requirements of Subsection 53-10-108(4).

~~[(e)]~~ (d) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the office shall submit to the Bureau of Criminal Identification:

(i) the employee's or applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(ii) a request for all information received as a result of the local, regional, and nationwide background check.

Section 6. Section **36-12-15.1** is amended to read:

36-12-15.1. Systemic performance audits.

(1) As used in this section, "entity" means:

(a) an entity in the executive branch that receives an ongoing line item appropriation in an appropriations act; and

(b) any local education agency, as defined in Section 53E-1-102, that receives public funds.

(2) (a) Each year, subject to the availability of work capacity and the discretion of the ~~[Legislative]~~ Audit [Committee] Subcommittee created in Section 36-12-8, the Office of the Legislative Auditor General may, in addition to other audits performed by the office, perform:

(i) ~~[an]~~ a systemic performance audit of one or more executive branch ~~[entity's]~~

SB0136S01 compared with SB0136

appropriations] entities; and

(ii) [~~an~~] a systemic performance audit of one or more local education [~~agency's~~ appropriations] agencies.

(b) An audit performed [~~pursuant to~~] under Subsection (2)(a) shall, as is appropriate for each individual audit:

(i) evaluate the extent to which the entity has efficiently and effectively used the appropriation by identifying:

(A) the entity's appropriation history;

(B) the entity's spending and efficiency history; and

(C) historic trends in the entity's operational performance effectiveness;

(ii) evaluate whether the entity's size and operation are commensurate with the entity's spending history;

(iii) evaluate whether the entity is diligent in its stewardship of [~~state~~] resources;

(iv) provide [~~an in-depth analysis review~~] a systemic performance audit of the entity's operations performance improvements;

(v) if possible, incorporate the audit methodology of other audits performed by the Office of the Legislative Auditor General; and

(vi) be conducted according to the process established for the Audit Subcommittee [~~created in Section 36-12-8~~].

(c) After releasing an audit report [~~pursuant to~~] under Subsection (2)(a), the Audit Subcommittee shall make the audit report available to:

(i) each member of the Senate and the House of Representatives; and

(ii) the governor or the governor's designee.

(d) The Office of the Legislative Auditor General shall:

(i) summarize the findings of an audit described in Subsection (2)(a) [~~in~~]; and

[~~(i) a unique section of the legislative auditor general's annual report; and~~

[~~(ii) a format that the legislative fiscal analyst may use in preparation of the annual appropriations no later than 30 days before the day on which the Legislature convenes]~~

(ii) provide a copy of each audit report and the annual report to the legislative fiscal analyst and director of the Office of Legislative Research and General Counsel as soon as each report is completed.

SB0136S01 compared with SB0136

(3) The Office of the Legislative Auditor General [~~shall~~] may consult with the [~~legislative fiscal analyst~~] Office of the Legislative Fiscal Analyst or the Office of Legislative Research and General Counsel in preparing the summary required by Subsection (2)(d).

(4) The Legislature, in evaluating an entity's request for an increase in its base budget, shall:

(a) review the audit report required by this section and any relevant audits; and

(b) consider the entity's request for an increase in its base budget in light of the entity's prior history of savings and efficiencies as evidenced by the audit report required by this section.

Section 7. Section **36-14-2** is amended to read:

36-14-2. Issuers.

(1) Any of the following persons is an issuer, who may issue legislative subpoenas by following the procedures set forth in this chapter:

(a) the speaker of the House of Representatives;

(b) the president of the Senate;

(c) a chair of any legislative standing committee;

(d) a chair of any legislative interim committee;

(e) a chair of any special committee established by the Legislative Management Committee, the speaker of the House of Representatives, or the president of the Senate;

(f) a chair of any subcommittee of the Legislative Management Committee;

(g) a chair of a special investigative committee;

(h) a chair of a Senate or House Ethics Committee;

(i) a chair of the Executive Appropriations Committee as created in JR3-2-401;

(j) a chair of an appropriations subcommittee as created in JR3-2-302;

(k) the director of the Office of Legislative Research and General Counsel;

(l) the legislative auditor general;

(m) the [~~director of the Office of Legislative Fiscal Analyst~~] legislative fiscal analyst;

and

(n) the legislative general counsel.

(2) A legislative body, a legislative office, an issuer, or a legislative staff member designated by an issuer may:

SB0136S01 compared with SB0136

- (a) administer an oath or affirmation; and
- (b) take evidence, including testimony.

Section 8. Section **36-14-4** is amended to read:

36-14-4. Service.

Legislative subpoenas may be served:

- (1) within the state, by the sheriff of the county where service is made, or by his deputy, or by any other person 18 years old or older who is not a member of the entity issuing the subpoena;
- (2) in another state or United States territory, by the sheriff of the county where the service is made, or by his deputy, or by a United States marshal or his deputy;
- (3) in a foreign country:
 - (a) by following the procedures prescribed by the law of the foreign country;
 - (b) upon an individual, by any person 18 years old or older who is not a member of the entity delivering the subpoena to him personally, and upon a corporation or partnership or association, by any person 18 years old or older who is not a member of the entity delivering the subpoena to an officer, a managing or general agent of the corporation, partnership, or association; or
 - (c) by any form of mail requiring a signed receipt, to be addressed and dispatched by the legislative general counsel to the party to be served~~[?]~~; or
- (4) by electronic transmission requiring acknowledgment of receipt.

Section 9. Section **36-14-5** is amended to read:

36-14-5. Legislative subpoenas -- Enforcement.

- (1) If any person disobeys or fails to comply with a legislative subpoena, or if a person appears pursuant to a subpoena and refuses to testify to a matter upon which the person may be lawfully interrogated, that person is in contempt of the Legislature.
- (2) (a) When the subject of a legislative subpoena disobeys or fails to comply with the legislative subpoena, or if a person appears pursuant to a subpoena and refuses to testify to a matter upon which the person may be lawfully interrogated, the issuer may:
 - (i) file a motion for an order to compel obedience to the subpoena with the district court;
 - (ii) file, with the district court, a motion for an order to show cause why the penalties

SB0136S01 compared with SB0136

established in Title 78B, Chapter 6, Part 3, Contempt, should not be imposed upon the person named in the subpoena for contempt of the Legislature; or

(iii) pursue other remedies against persons in contempt of the Legislature.

(b) (i) Upon receipt of a motion under this subsection, the court shall expedite the hearing and decision on the motion.

(ii) A court may:

(A) order the person named in the subpoena to comply with the subpoena; and

(B) impose any penalties authorized by Title 78B, Chapter 6, Part 3, Contempt, upon the person named in the subpoena for contempt [~~of the Legislature~~].

(3) (a) If a legislative subpoena requires the production of accounts, books, papers, documents, electronically stored information, or tangible things, the person or entity to whom [it] the subpoena is directed may petition a district court to quash or modify the subpoena at or before the time specified in the subpoena for compliance.

(b) An issuer may respond to a motion to quash or modify the subpoena by pursuing any remedy authorized by Subsection (2).

(c) If the court finds that a legislative subpoena requiring the production of accounts, books, papers, documents, electronically stored information, or tangible things is unreasonable or oppressive, the court may quash or modify the subpoena.

(4) Nothing in this section prevents an issuer from seeking an extraordinary writ to remedy contempt of the Legislature.

(5) Any party aggrieved by a decision of a court under this section may appeal that action directly to the Utah Supreme Court.

Section 10. Section **53B-7-708** is amended to read:

53B-7-708. Legislative audit.

(1) Subject to prioritization of the Audit Subcommittee, the Office of the Legislative Auditor General established under Section 36-12-15 shall in any fiscal year:

(a) conduct an audit of money appropriated for performance funding; and

(b) prepare and submit a written report for an audit described in this section in accordance with Subsection [~~36-12-15(4)(b)(ii)~~] 36-12-15(5)(b).

(2) An audit described in this section shall include:

(a) an evaluation of the implementation of performance funding; and

SB0136S01 compared with SB0136

(b) the use of performance funding.

Section 11. Section **53B-33-301** is amended to read:

53B-33-301. Data research program.

(1) The center shall establish a data research program for the purpose of analyzing data that is:

- (a) collected over time;
- (b) aggregated from multiple sources; and
- (c) connected and de-identified.

(2) The center may, in order to establish the data research program described in Subsection (1):

(a) acquire property or equipment in order to store aggregated, connected, and de-identified data derived from data contributed by the participating entities; or

(b) contract with a private entity in accordance with Title 63G, Chapter 6a, Utah Procurement Code, or with a state government entity to:

(i) store aggregated, connected, and de-identified data derived from data contributed by the participating entities; or

(ii) utilize existing aggregated, connected, and de-identified data maintained by a state government entity.

(3) A participating entity shall contribute data to the data research program described in Subsection (1) within guidelines established by the center.

(4) The center may only release data maintained by the center in accordance with the procedures described in this chapter.

(5) The center shall:

(a) as directed by the board, serve as a repository in the state of data from institutions of higher education;

(b) collaborate with the board and the State Board of Education to coordinate access to the unique student identifier of a public education student who later attends an institution of higher education in accordance with Sections 53B-1-109 and 53E-4-308;

(c) develop, establish, and maintain programs that promote access to data from institutions of higher education;

(d) identify initiatives that leverage education data that will improve a state citizen's

SB0136S01 compared with SB0136

ability to:

- (i) access services at an institution of higher education; or
- (ii) graduate with a postsecondary certificate or degree; and
- (e) perform all other duties provided in this chapter.
- (6) The director shall identify the resources necessary to successfully implement

initiatives described in Subsection (5)(d), in accordance with Section 53B-7-101.

(7) The center may:

- (a) employ staff necessary to carry out the center's duties;
- (b) purchase, own, create, or maintain equipment necessary to:
 - (i) collect data from the participating entities;
 - (ii) connect and de-identify data collected by the center;
 - (iii) store connected and de-identified data; or
 - (iv) conduct research on data stored or obtained by the center; or
- (c) contract with a private entity, another state or federal entity, or a political

subdivision of the state to carry out the center's duties as provided in this chapter.

(8) The data research program is not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The center:

(a) shall, upon request by the Office of the Legislative Auditor General, provide ~~direct~~ access to all records, data, and other materials in possession of the center; and

(b) is otherwise subject to the authority of the legislative auditor general in accordance with Utah Constitution, Article VI, Section 33, and Section 36-12-15.

Section 12. Section **63E-2-104** is amended to read:

63E-2-104. Legislative review.

(1) Each independent corporation is subject to:

(a) review by the Retirement and Independent Entities Committee in accordance with Chapter 1, Independent Entities Act; and

(b) the authority of the legislative auditor general in accordance with Utah Constitution, Article VI, Section 33, and Section 36-12-15.

~~[(2) Notwithstanding Section 36-12-15, the Office of Legislative Auditor General may conduct comprehensive and special purpose audits, examinations, and reviews of any~~

SB0136S01 compared with SB0136

~~independent corporation.]~~

~~[(3)] (2)~~ Each independent corporation shall report, as requested, to the committee on matters related to audits.

Section 13. Section **63I-2-253** is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

~~[(1)(a)]~~ Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.]

~~[(b)]~~ When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.]

~~[(2)] (1)~~ Section 53B-6-105.7 is repealed July 1, 2024.

~~[(3)] (2)~~ Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

~~[(4)] (3)~~ Section 53B-8-114 is repealed July 1, 2024.

~~[(5)] (4)~~ The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

~~[(6)] (5)~~ Section 53B-10-101 is repealed on July 1, 2027.

~~[(7)] (6)~~ Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

~~[(8)] (7)~~ Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

~~[(9)] (8)~~ Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

~~[(10)] (9)~~ Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

SB0136S01 compared with SB0136

~~[(11)]~~ (10) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(12)]~~ (11) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

~~[(13)]~~ (12) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

~~[(14)]~~ (13) Section 53F-2-302.1, regarding the Enrollment Growth Contingency Program, is repealed July 1, 2023.

~~[(15)]~~ (14) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

~~[(16)]~~ (15) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

~~[(17)]~~ (16) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(18) Subsection 53F-4-401(3)(b), regarding a child enrolled or eligible for enrollment in kindergarten, is repealed July 1, 2022.]~~

~~[(19) In Subsection 53F-4-404(4)(c), the language that states "Except as provided in Subsection (4)(d)" is repealed July 1, 2022.]~~

~~[(20) Subsection 53F-4-404(4)(d) is repealed July 1, 2022.]~~

~~[(21)]~~ (17) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(22)]~~ (18) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(23)]~~ (19) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(24)]~~ (20) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~[(25)]~~ (21) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under

SB0136S01 compared with SB0136

[~~Subsection 36-12-12(3)~~] Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 14. Section **68-3-13** is amended to read:

68-3-13. Printing boldface in numbered bills -- Purpose -- Effect -- Power of Office of Legislative Research and General Counsel to change.

A short summary of each section, part, chapter, or title, called boldface, may be printed in numbered bills introduced in the Legislature. This boldface is not law; it is intended only to highlight the content of each section, part, chapter, or title for legislators. Inaccurate boldface is not a basis for invalidating legislation. The Office of Legislative Research and General Counsel is authorized in Section 36-12-12 to change the boldface [~~in the enrolling process~~] so that it more accurately reflects the substance of each section, part, chapter, or title.

Section 15. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.