

HB0244S03 compared with HB0244S02

~~text~~ shows text that was in HB0244S02 but was deleted in HB0244S03.

text shows text that was not in HB0244S02 but was inserted into HB0244S03.

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Representative Jefferson S. Burton proposes the following substitute bill:

OFFICE OF LEGISLATIVE AUDITOR GENERAL REQUIREMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jefferson S. Burton

Senate Sponsor: ~~_____~~ Michael K. McKell

LONG TITLE

General Description:

This bill establishes requirements related to the Office of the Legislative Auditor General.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires ~~the chief officer of~~ an entity that the Office of the Legislative Auditor General (OLAG) audits to waive any privilege that would otherwise entitle the entity to withhold information OLAG requests;
- ▶ requires the chief officer of an entity that OLAG audits to prepare a written audit response plan addressing each recommendation in OLAG's audit report;
- ▶ requires OLAG to attach the audit response plan described above to the audit report;

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- ▶ vests the legislator auditor general with discretion to prepare a written reply to an audit response plan;
- ▶ in certain circumstances, instructs the chief officer described above to update the audit response plan on a semi-annual basis and to submit the update to:
 - the legislative committee designated by the Audit Subcommittee; and
 - the legislative auditor general;
- ▶ provides that the chief officer's obligation to update an audit response plan terminates when OLAG reports to the Audit Subcommittee that the chief officer has fully implemented each recommendation in the audit report;
- ▶ clarifies the Audit Subcommittee's and OLAG's responsibilities in relation to an entity that fails to implement a recommendation included in a previous audit report;
- ▶ grants OLAG the authority to annually perform a systemic performance audit of one or more institutions of higher education~~;~~ and

or independent entities;

- ▶ requires OLAG to evaluate an institution of higher education's admissions practices in conducting an audit described above;
- ▶ clarifies that OLAG's request for data and materials from the Utah Data Research Center (UDRC) in connection with an audit of an entity is not a data research request or request for a data set;
- ▶ in connection with OLAG's audit of an entity:
 - requires the UDRC to provide OLAG with data and materials that is not de-identified; and
 - prohibits the UDRC from charging OLAG a fee for completing a request for data and materials; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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36-12-8, as last amended by Laws of Utah 2016, Chapter 403

36-12-15, as last amended by Laws of Utah 2023, Chapter 21

36-12-15.1, as last amended by Laws of Utah 2023, Chapter 21

53B-33-101, as last amended by Laws of Utah 2023, Chapter 84

53B-33-301, as last amended by Laws of Utah 2023, Chapter 21

ENACTS:

36-12-15.3, Utah Code Annotated 1953

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

Section 1. Section 36-12-8 is amended to read:

36-12-8. Legislative Management Committee -- Research and General Counsel Subcommittee -- Budget Subcommittee -- Audit Subcommittee -- Duties -- Members -- Meetings.

(1) There are created within the Legislative Management Committee:

- (a) the Research and General Counsel Subcommittee;
- (b) the Budget Subcommittee; and
- (c) the Audit Subcommittee.

(2) (a) The Research and General Counsel Subcommittee, comprising six members, shall recommend to the Legislative Management Committee a person or persons to hold the positions of director of the Office of Legislative Research and General Counsel and legislative general counsel.

(b) The Budget Subcommittee, comprising six members, shall recommend to the Legislative Management Committee a person to hold the position of legislative fiscal analyst.

(c) The Audit Subcommittee shall comprise:

- (i) the president, majority leader, and minority leader of the Senate; and
- (ii) the speaker, majority leader, and minority leader of the House of Representatives.

(d) The Audit Subcommittee shall:

(i) recommend to the Legislative Management Committee a person to hold the position of legislative auditor general; and

- (ii) (A) review all requests for audits;
- (B) prioritize those requests;

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(C) hear all audit reports and refer those reports to other legislative committees for their further review and action as appropriate; and

(D) when notified by the legislative auditor general [~~or state auditor~~] that a subsequent audit has found that an entity has not implemented a previous audit recommendation, refer the audit report to an appropriate legislative committee and also ensure that an appropriate legislative committee conducts a review of the entity that has not implemented the previous audit recommendation.

(3) The members of each subcommittee of the Legislative Management Committee, other than the Audit Subcommittee, shall have equal representation from each major political party and shall be appointed from the membership of the Legislative Management Committee by an appointments committee comprised of the speaker and the minority leader of the House of Representatives and the president and the minority leader of the Senate.

(4) Each subcommittee of the Legislative Management Committee:

(a) shall meet as often as necessary to perform its duties; and

(b) may meet during and between legislative sessions.

Section 2. 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) As used in this section:

(a) "Audit action" means an audit, examination, investigation, or review of an entity conducted by the office.

~~(a)~~ (b) "Entity" means:

(i) a government organization; or

(ii) a receiving organization.

~~(b)~~ (c) "Government organization" means:

(i) a state branch, department, or agency; or

(ii) a political subdivision, including a county, municipality, special district, special service district, school district, interlocal entity as defined in Section 11-13-103, or any other local government unit.

(d) "Office" means the Office of the Legislative Auditor General.

~~(c)~~ (e) "Receiving organization" means an organization that receives public funds that

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is not a government organization.

(f) "Required materials" means information, materials, or resources that the office determines are necessary for the office to conduct an audit action.

(2) There is created the Office of the Legislative Auditor General as a permanent staff office for the Legislature.

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

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

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

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

(a) conduct comprehensive and special purpose audits, examinations, investigations, or reviews of entity funds, functions, and accounts;

(b) prepare and submit a written report on each ~~[audit, examination, investigation, or review]~~ audit action to the 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, examination, investigation, or review]~~ audit action is completed;

(c) monitor, 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 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 government organization's internal audit functions;

(f) make recommendations to increase the independence and value added of internal

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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 individuals within the office to conduct investigations and represent themselves as lawful investigators on behalf of the office;

(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 independent of any influence external of the office, including the content of the report, the conclusions reached in the report, and the manner of disclosing 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.

(7) In conducting an ~~[audit, examination, investigation, or review]~~ audit action of an entity, the ~~[Office of the Legislative Auditor General]~~ office may include a determination of any or all of the following:

(a) the honesty and integrity of any of the entity's fiscal affairs;

(b) the accuracy and reliability of the entity's 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 the entity's acquisition, custody, use, and accounting of public funds;

(d) whether the entity's administrators have complied with legislative intent;

(e) whether the entity's operations have been conducted in an efficient, effective, and cost efficient manner;

(f) whether the entity's programs have been effective in accomplishing intended objectives; and

(g) whether the entity's management control and information systems are adequate and effective.

(8) (a) If requested by the ~~[Office of the Legislative Auditor General]~~ office, each entity that the legislative auditor general is authorized to audit under Utah Constitution, ~~†~~ Article VI, ~~†~~

~~†~~ Section 33, or this section shall, notwithstanding any other provision of law except as

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provided in Subsection (8)(b), provide the office with access to ~~information, materials, or resources the office determines are necessary to conduct an audit, examination, investigation, or review~~ required materials, including:

(i) the following in the possession or custody of the entity in the format identified by the office:

(A) a record, document, and report; and

(B) films, tapes, recordings, and electronically stored information;

(ii) entity personnel; and

(iii) 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 (8)(a) do not apply.

(c) (i) (A) If, in the course of conducting an audit action, the office requests the entity subject to the audit action to provide required materials that are subject to a privilege that would otherwise entitle the entity to withhold the required materials, the entity shall waive the privilege and provide the required materials to the office.

(ii) A entity's waiver under Subsection (8)(c)(i):

(A) is not a waiver of the privilege for any other purpose; and

(B) does not prevent the entity from asserting the privilege against any other person as though the waiver under Subsection (8)(c)(i) had not occurred.

(d) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, in response to a request from a person for required materials provided to the office under Subsection (8)(c)(i), the office:

(i) may not provide the person with the required materials; and

(ii) shall inform the person making the request of the identity of the entity from which the required materials were received.

(9) (a) In carrying out the duties provided for in this section and under Utah Constitution, Article VI, Section 33, the legislative auditor general may issue a subpoena to access ~~information, materials, or resources~~ required materials in accordance with Chapter 14, Legislative Subpoena Powers.

(b) The legislative auditor general may issue a subpoena, as described in Subsection

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(9)(a), 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.

(10) 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.

(11) (a) The following records in the custody or control of the legislative auditor general are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) 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;

(ii) records and audit workpapers that would disclose the identity of a person who, during the course of a legislative audit, communicated the existence of:

(A) unethical behavior;

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

(C) a violation or suspected violation of a United States, Utah state, or political subdivision law, rule, ordinance, or regulation, if the person disclosed on the condition that the identity of the person be protected;

(iii) 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 an entity for review, response, or information;

(iv) records that would disclose:

(A) an outline;

(B) all or part of an audit survey, audit risk assessment plan, or audit program; or

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

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

(b) The provisions of Subsection (11)(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 an entity or entity employee.

(c) A record, as defined in Section 63G-2-103, created by the ~~Office of the Legislative Auditor General~~ office in a closed meeting held in accordance with Section 52-4-205:

(i) is a protected record, as defined in Section 63G-2-103;

(ii) to the extent the record contains information:

(A) described in Section 63G-2-302, is a private record; or

(B) described in Section 63G-2-304, is a controlled record; and

(iii) may not be reclassified by the office.

(d) The provisions of this section do not limit the authority otherwise given to the legislative auditor general to maintain the private, controlled, or protected record status of a shared record in the legislative auditor general's possession or classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(12) 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 Audit Subcommittee;

(c) report immediately to the Audit Subcommittee any apparent violation of penal statutes disclosed by the audit of an entity and furnish to the Audit Subcommittee all information relative to the apparent violation;

(d) report immediately to the Audit Subcommittee any apparent instances of malfeasance or nonfeasance by an entity officer or employee disclosed by the audit of an entity; and

(e) make any recommendations to the Audit Subcommittee with respect to the alteration or improvement of the accounting system used by an entity.

(13) If the legislative auditor general conducts an audit of an entity that has previously been audited and finds that the entity has not implemented a recommendation made by the legislative auditor general in a previous audit report, the legislative auditor general shall ~~upon~~

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~~release of the audit:] report to the Audit Subcommittee that the entity has not implemented the recommendation.~~

~~[(a) report immediately to the Audit Subcommittee that the entity has not implemented that recommendation; and]~~

~~[(b) shall report, as soon as possible, that the entity has not implemented that recommendation to an appropriate legislative committee designated by the Audit Subcommittee.]~~

(14) 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 entity 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.

(15) (a) If the chief officer of an entity has actual knowledge or reasonable cause to believe that there is misappropriation of the entity's public funds or assets, or another entity officer has actual knowledge or reasonable cause to believe that the chief officer is misappropriating the entity's public funds or assets, the chief officer or, alternatively, the other entity officer, shall immediately notify, in writing:

(i) the ~~[Office of the Legislative Auditor General]~~ office;

(ii) the attorney general, county attorney, or district attorney; and

(iii) (A) for a state government organization, the chief executive officer;

(B) for a political subdivision government organization, the legislative body or governing board; or

(C) for a receiving organization, the governing board or chief executive officer unless the chief executive officer is believed to be misappropriating the funds or assets, in which case the next highest officer of the receiving organization.

(b) As described in Subsection (15)(a), the entity chief officer or, if applicable, another

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entity officer, is subject to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act.

(c) If the Office of the Legislative Auditor General receives a notification under Subsection (15)(a) or other information of misappropriation of public funds or assets of an entity, the office shall inform the Audit Subcommittee.

(d) The attorney general, county attorney, or district attorney shall 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.

(16) (a) An actor commits interference with a legislative audit if the actor uses force, violence, intimidation, or engages in any other unlawful act with a purpose to interfere with:

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

(ii) the ~~Office of the Legislative Auditor General's~~ office'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 (16)(a) is a class B misdemeanor.

(17) (a) [~~Beginning July 1, 2020, the~~ ~~{ } The~~ ~~Office of the Legislative Auditor General~~] The office 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 of the Legislative Auditor General~~ office shall require that an individual required to submit to a background check under this Subsection (17) also provide a signed waiver on a form provided by the office that meets the requirements of Subsection 53-10-108(4).

(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

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

Section 3. 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 Audit 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~~[:]~~ a systemic performance audit of:

(i) ~~[a systemic performance audit of]~~ one or more executive branch entities; ~~[and]~~

(ii) ~~[a systemic performance audit of]~~ one or more local education agencies~~[:]~~; ~~[and]~~

(iii) one or more institutions of higher education~~[:]~~; and

(iv) one or more independent entities.

(b) An audit performed 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 resources;

(iv) provide 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

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(vi) be conducted according to the process established for the Audit Subcommittee.

(c) In conducting an audit of an institution of higher education under Subsection (2)(a)(iii), the Office of the Legislator Auditor General shall, in addition to the subjects of evaluation described in Subsection (2)(b), review the institution's admissions practices for:

(i) compliance with applicable laws, rules, and policies;

(ii) best practices; and

(iii) efficiency and effectiveness.

~~[(c)]~~ (d) After releasing an audit report 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)]~~ (e) The Office of the Legislative Auditor General shall:

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

(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.

(3) The Office of the Legislative Auditor General may consult with the 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 4. Section **36-12-15.3** is enacted to read:

36-12-15.3. Response to audit -- Chief officer -- Entity reporting requirements -- Audit response plan -- Semi-annual update.

(1) As used in this section:

(a) "Alternative action" means a process, practice, or procedure that an entity implements in response to an audit report that is different from the process, practice, or

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procedure described in a recommendation.

(b) "Audit report" means a written report that the office issues that contains the office's findings and recommendations with respect to an audit of an entity.

(c) "Audit response plan" means a written document that an entity issues that contains the entity's response to an audit report of the entity.

(d) "Audit Subcommittee" means the subcommittee created in Subsection 36-12-8(1)(c).

(e) "Chief officer" means the individual who holds ultimate authority over the management or governance of an entity.

(f) "Entity" means:

(i) the same as that term is defined in Subsection 36-12-15(1); or

(ii) any other person that the office is authorized to audit under any other provision of law.

(g) "Legislative committee" means the committee to which the Audit Subcommittee refers an audit report under Subsection 36-12-8(2)(d)(ii)(C).

(h) "Office" means the Office of the Legislative Auditor General.

(i) "Recommendation" means a process, practice, or procedure described in an audit report that the office proposes an entity implement.

(j) "Reply" means a written document that the office issues that contains the office's response to an entity's audit response plan.

(2) In addition to any other information that the office is required to include or attach to an audit report, the office shall, for each audit report the office issues:

(a) include in the audit report:

(i) the identity of the chief officer; and

(ii) a notice to the chief officer that the chief officer must comply with the reporting requirements described in this section; and

(b) attach to the audit report:

(i) the audit response plan of the entity that is the subject of the audit report; and

(ii) at the discretion of the legislative auditor general, a reply to the entity's audit response plan.

(3) The chief officer of an entity that is the subject of an audit report shall:

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(a) prepare an audit response plan that:

(i) is in writing;

(ii) responds to the findings in the audit report; and

(iii) subject to Subsection (4), for each recommendation in the audit report:

(A) describes how the entity will implement the recommendation;

(B) identifies the individual employed by or otherwise affiliated with the entity who is responsible for implementing the recommendation;

(C) establishes a timetable that identifies benchmarks for the entity to implement the recommendation; and

(D) specifies an anticipated deadline by which the entity will fully implement the recommendation; and

(b) submit the audit response plan to the office before the office submits the audit report to the Audit Subcommittee under Subsection 36-12-15(6)(b).

(4) If the chief officer described in Subsection (3) objects to implementing a recommendation in an audit report, the chief officer shall:

(a) prepare an audit response plan in accordance with Subsections (3)(a)(i) and (ii) that:

(i) explains the basis for the objection; and

(ii) (A) identifies an alternative action that the entity will implement; or

(B) specifies that the entity will not implement the recommendation or an alternative action; and

(b) comply with submission requirements described in Subsection (3)(b).

(5) A chief officer implementing an alternative action under Subsection (4)(a)(ii)(A) shall, as it relates to the alternative action, include in the audit response plan the information described in Subsection (3)(a)(iii).

(6) Subject to Subsection (8), if the chief officer of an entity that is the subject of an audit report implements a recommendation under Subsection (3)(a)(iii), or an alternative action under Subsections (4)(a)(ii)(A) and (5), the chief officer shall, no later than 180 days after the day on which the Audit Subcommittee refers the audit report to a legislative committee:

(a) prepare an update to the entity's audit response plan that:

(i) is in writing; and

(ii) describes the entity's progress towards fully implementing:

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(A) each recommendation addressed in the entity's audit response plan under Subsection (3)(a)(iii); or

(B) each alternative action addressed in the entity's audit response plan under Subsections (4)(a)(ii)(A) and (5); and

(b) submit the update to the legislative committee and the legislative auditor general.

(7) Subject to Subsection (8), after the chief officer described in Subsection (6) complies with the submission requirements described in Subsection (6)(b), the chief officer shall:

(a) continue to update the audit response plan in accordance with Subsection (6)(a);

and

(b) submit the update to the legislative committee and the legislative auditor general at least semi-annually.

(8) A chief officer's obligation to update an audit response plan under this section terminates when the legislative auditor general reports to the Audit Subcommittee that the entity which is the subject of the audit report has fully implemented:

(a) each recommendation addressed in the entity's audit response plan under Subsection (3)(a)(iii); or

(b) each alternative action addressed in the entity's audit response plan under Subsections (4)(a)(ii)(A) and (5).

Section 5. Section 53B-33-101 is amended to read:

53B-33-101. Definitions.

As used in this chapter:

(1) "Advisory board" means the Utah Data Research Advisory Board created in Section 53B-33-202.

(2) "Center" means the Utah Data Research Center created in Section 53B-33-201.

(3) "Data" means any information about a person stored in a physical or electronic record.

(4) "Data research program" means the data maintained by the center in accordance with Section 53B-33-301.

(5) "De-identified data" means data about a person that cannot, without additional information, identify the person to another person or machine.

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(6) "Director" means the director of the Utah Data Research Center created in Section 53B-33-201.

(7) "Institution of higher education" means an institution of higher education described in Section 53B-1-102.

(8) "Office" means the Office of the Legislative Auditor General created in Section 36-12-15.

~~(8)~~ (9) "Participating entity" means:

(a) the State Board of Education, which includes the director as defined in Section 53E-10-701;

(b) the board;

(c) the Department of Workforce Services;

(d) the Department of Health and Human Services; and

(e) the Department of Commerce.

~~(9)~~ (10) "Unique student identifier" means the same as that term is defined in Section 53E-4-308.

Section 6. 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

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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 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.

HB0244S03 compared with HB0244S02

(9) (a) The center:

~~[(a)] (i) [shall, upon request by the Office of the Legislative Auditor General, provide]~~
shall, in connection with the office's audit of an entity, provide the office, at the office's
request, with access to all records, data, and other materials in possession of the center; and

~~[(b)] (ii) 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.

(b) The office's request for access to records, data, and other materials under
Subsection (9)(a)(i) is not:

(i) a data research request under Subsection 53B-33-302(3)(a) or (4); or

(ii) a request for a data set under Subsection 53B-33-302(10).

(c) The center, in complying with Subsection (9)(a)(i):

(i) shall, upon the office's request, provide the office with records, data, and other
materials that are not de-identified; and

(ii) may not charge the office a fee for completing the request.

Section ~~5~~7. **Effective date.**

This bill takes effect on May 1, 2024.