

MANAGEMENT AUDIT COMMITTEE AND PROGRAM EVALUATION STATUTES

CHAPTER 8 - LEGISLATIVE SERVICE OFFICE

28-8-107. Auditing of state agencies; management audit committee; factors to be considered in audit reports.

(a) During every regular session the president of the senate and the speaker of the house of the Wyoming legislature shall each appoint five (5) members of their respective bodies to a management audit committee. Appointments to the committee by each presiding officer shall reflect as nearly as possible the percentage of the elected membership of the majority and minority parties of each house, provided that not more than four (4) members appointed by each presiding officer shall be from the same political party. The committee may appoint one (1) additional member of the legislature to this committee.

(b) The legislative service office, at the direction of the management audit committee, subject to management council budget priorities, and subject to general policies established by the legislature when in regular or special session, shall:

(i) Conduct audits of agencies which may include:

(A) Program evaluations;

(B) Performance audits;

(C) Analyses of policy alternatives;

(D) Audits of the accounts and operations of any agency or of any entity directly or indirectly receiving state funds;

(E) Repealed by Laws 1995, ch. 97, § 2.

(ii) Conduct post-audits to determine if specific recommendations and problems revealed by a first audit have been corrected.

(c) The legislative service office shall prepare a report of each audit conducted and submit a copy of the audit report to the agency being reviewed for comment. The agency has fifteen (15) days, unless otherwise authorized by the committee, to submit a written response to the report to the legislative service office. The completed audit report, which includes the agency response, if any, shall be transmitted to the management audit committee for review and discussion with the agency officials and the legislative auditors. This review and discussion of the audit report shall be conducted by the committee in executive session. Following review the audit report may be released unless the committee requests the legislative service office to obtain supplemental information. A copy of the completed report and any supplemental information shall be distributed to the governor and each member of the legislature.

(d) The contents of the audit report, its findings and documentation are confidential and shall not be disclosed by any member of the management audit committee or employee of the legislative service office or agency being audited until the completed audit report is released, but the committee may discuss the contents of the audit report with the governor before release of the

final report. The chairman of the management audit committee and the director may disclose and discuss any report made pursuant to W.S. 28-8-108(c) with the governor regardless of the status of the audit report.

(e) Generally accepted governmental auditing standards as promulgated by the Comptroller General of the United States shall be used to the extent practicable in conducting audits. The audit shall consider:

- (i) Whether the funds which have been appropriated or otherwise allotted by the legislature to the various state agencies have been expended in accordance with legislative intent;
- (ii) Whether administrative programs are being conducted according to legislative intent;
- (iii) Whether funds and properties handled by an agency or held in trust have been properly administered;
- (iv) That reports and financial statements by the agency disclose fully the nature and scope of the activities conducted and provide a proper basis for evaluating the agency's operations;
- (v) Whether there is duplication or overlap of services;
- (vi) Whether there are alternative means of achieving the same results;
- (vii) Any other factors relating to the efficiency, economy and effectiveness of the agency being audited.

(f) Repealed by Laws 1995, ch. 97, § 2.

(g) As used in this section, "agency" means any state agency, division or department of any state agency, institution, council, board, commission or any other unit, subunit or program of state government.

(h) The management audit committee may exercise the subpoena power granted by W.S. 28-1-109(a) by unanimous request of the chairman and vice-chairman or upon the request of a majority of the members of the committee.

28-8-108. Comments, recommendations and suggestions in audit reports; disclosure of confidential information; unauthorized reports or releases; reporting criminal violations.

(a) The reports of the legislative service office may include comments, recommendations and suggestions, but neither the director nor the auditors shall have any authority to enforce any recommendation or suggestion nor shall they otherwise influence or direct executive or legislative action. All information obtained by the legislative service office related to an audit is deemed not to be a public record and shall remain confidential information in the possession of the legislative service office. Except as otherwise provided in this section or W.S. 28-8-107(d), this information may be disclosed by the legislative service office only to members of the

legislative committee for which the information was obtained, only to the extent necessary to document a statement or report, and only in a manner that protects individual identities.

(b) Any member of the legislative service office who knowingly discloses confidential information other than as authorized by this section, discloses the contents of audit reports prohibited by W.S. 28-8-107 or releases other reports or information not authorized by the management council, the management audit committee or by statute is subject to immediate termination of employment.

(c) If information obtained by the legislative service office related to an audit discloses an indication of a violation of any criminal law of this state the information shall be reported by the legislative service office employee discovering the apparent violation to the director who shall report the apparent violation to the chairman of the management audit committee and thereafter or concurrently therewith, to the attorney general. Any report under this subsection may be made with the supporting information from the audit determined to be necessary or convenient. Upon request of the attorney general in investigating any apparent violation reported pursuant to this subsection, the legislative service office shall make available to the attorney general any information requested which was obtained during the audit, regardless of the status of the audit report.

(d) The legislative service office shall release information obtained in conducting an audit in response to a court subpoena in a criminal proceeding.

28-8-109. Reports by director to legislature.

The director and his staff shall prepare and deliver a report of the activities of the office to each member of the legislature not later than January 15th of each calendar year, or at such other times as the management council deems necessary or as requested by the legislature.

28-8-111. Assistance to be provided by state and local officers or agencies; duty of audited agencies.

(a) Upon request of the director and with the approval of the management council or the management audit committee, each officer, board, commission, department or any political subdivision of state government or any local government shall provide assistance, documents and information to the legislative service office.

(b) In preparing fiscal and personnel notes for proposed legislation as required by joint rule of the legislature, the budget division of the department of administration and information, its successor, and any agency or department of state government shall furnish any information or assistance relative thereto as soon as reasonably practicable upon request of the director.

28-8-113. Duty of agency officers and employees; legislative service office access to records; failure to provide access; penalty.

(a) Any officer or employee of a state agency subject to audit or other review by the legislature shall fully assist the legislative service office during the course of the audit or review. The legislative service office shall have access to and authority to examine all books, records, accounts, files, correspondence and all other documents, confidential or otherwise, maintained by the agency or its employees during the course of agency business. The provisions of W.S. 16-4-201 through 16-4-205 do not apply to audits or investigations of state agencies performed by or on behalf of the legislature or legislative committees. Any member of the legislative service office who discloses confidential information obtained while conducting an audit, to any person or in any manner not authorized by law, is subject to disciplinary action as provided by W.S. 28-8-108(b).

(b) Any officer or employee of an agency who knowingly fails or refuses to permit such access and examination is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00), imprisonment in the county jail for a period not to exceed six (6) months, or both.

28-8-116. Confidential communications.

(a) Except as otherwise provided in subsection (d) of this section and unless the privilege is waived by the individual legislator involved, the following shall be deemed confidential and privileged:

(i) Communications between a legislator and legislative staff relating to:

(A) A request for research or advice on a legislative issue;

(B) A request for the drafting of legislation or amendments to legislation;

(C) Any matter under consideration by a legislative committee other than communications made publicly to legislative staff in a public meeting of the committee;

(D) Development of a legislator's position on legislation or discussion of any matter arising out of or relating to the deliberative process of the legislature.

(ii) All documents and electronic records, including but not limited to correspondence, e-mail, notes, memoranda and preliminary or final drafts, received by a legislator or legislative staff or prepared or assembled by a legislator or legislative staff in regard to a communication under paragraph (a)(i) of this section, other than a version of a bill or amendment approved for introduction;

(iii) Communications between a legislator and a contractor or consultant retained by the legislature other than communications made publicly in a public meeting.

(b) Private communications of or to a legislator in his official capacity including but not limited to communications with constituents are confidential until otherwise disclosed by the legislator or the individual who is party to the communication.

(c) As used in this section, "legislative staff" means the staff of the legislative service office, session staff employed by the legislature and legislative interns and aides.

(d) The recording or broadcast of a communication made by a legislator or legislative staff which would otherwise be confidential and privileged under this section shall not be deemed confidential and privileged to the extent that the communication is audible on the official legislative service office recording or broadcast of a public meeting of management council, the joint appropriations committee, the management audit committee, a joint interim committee, select committee or task force. Nothing in this subsection shall be deemed to waive the privilege for any communication or portion of a communication that is not audible on the recording or broadcast.