

1 **BOARDS AND COMMISSIONS AMENDMENTS**

2 2013 GENERAL SESSION

3 STATE OF UTAH

4

5 **LONG TITLE**

6 **General Description:**

7 This bill repeals certain boards and commissions.

8 **Highlighted Provisions:**

9 This bill:

10 ▶ repeals the:

- 11 • Municipal Government Fiscal Committee;
- 12 • Citizens and County Officials Advisory Committee;
- 13 • Antidiscrimination and Labor Advisory Council;
- 14 • Occupational Safety and Health Advisory Council;
- 15 • advisory committee to the Motorcycle Rider Education Program;
- 16 • Utah Pioneer Communities Advisory Board;
- 17 • Forestry, Fire, and State Lands Advisory Council;
- 18 • Environmental Health Scientist Board;
- 19 • Families, Agencies, and Communities Together (FACT) Steering Committee;
- 20 • Families, Agencies, and Communities Together (FACT) State Council;
- 21 • Job Enhancement Committee;
- 22 • Radiologic Technologist Licensing Board;
- 23 • Controlled Substance Precursor Advisory Board; and
- 24 • Board of Examiners;

25 ▶ requires the state auditor to establish and conduct a continuing review of suggested
26 measurements and procedures for program performance budgeting and reporting;
27 and

28 ▶ makes technical and conforming amendments.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

- 35 **4-31-107**, as renumbered and amended by Laws of Utah 2012, Chapter 331
36 **10-6-154**, as last amended by Laws of Utah 2003, Chapter 292
37 **17-36-4**, as last amended by Laws of Utah 1996, Chapter 212
38 **34A-1-202**, as last amended by Laws of Utah 2009, Chapter 174
39 **34A-6-103**, as last amended by Laws of Utah 2011, Chapter 413
40 **34A-6-202**, as last amended by Laws of Utah 2011, Chapter 297
41 **35A-3-207**, as last amended by Laws of Utah 2008, Chapter 382
42 **39-1-35**, as last amended by Laws of Utah 1981, Chapter 174
43 **39-1-59**, as last amended by Laws of Utah 2011, Chapter 366
44 **52-6-202**, as renumbered and amended by Laws of Utah 2008, Chapter 382
45 **53A-1a-601**, as last amended by Laws of Utah 2011, Chapter 342
46 **58-20a-102**, as last amended by Laws of Utah 1997, Chapter 10
47 **58-20a-302**, as last amended by Laws of Utah 2009, Chapter 183
48 **58-37c-3**, as last amended by Laws of Utah 2008, Chapter 382
49 **58-37c-8**, as last amended by Laws of Utah 2010, Chapter 240
50 **58-37c-11**, as last amended by Laws of Utah 1999, Chapter 21
51 **58-37c-19**, as last amended by Laws of Utah 2000, Chapter 1
52 **58-37c-19.5**, as last amended by Laws of Utah 2004, Chapter 280
53 **58-37c-19.7**, as enacted by Laws of Utah 2000, Chapter 272
54 **58-37c-19.9**, as enacted by Laws of Utah 2000, Chapter 272
55 **58-37c-20**, as last amended by Laws of Utah 2007, Chapter 358
56 **58-37d-3**, as last amended by Laws of Utah 2003, Chapter 115
57 **58-54-102**, as renumbered and amended by Laws of Utah 2011, Chapter 61
58 **58-54-302**, as last amended by Laws of Utah 2012, Chapter 369
59 **62A-5a-104**, as last amended by Laws of Utah 2008, Chapter 382
60 **63A-3-310**, as renumbered and amended by Laws of Utah 1993, Chapter 212
61 **63G-2-103**, as last amended by Laws of Utah 2012, Chapters 369 and 377
62 **63G-7-701**, as renumbered and amended by Laws of Utah 2008, Chapter 382
63 **63G-9-101**, as enacted by Laws of Utah 2008, Chapter 382

64 **63G-9-302**, as renumbered and amended by Laws of Utah 2008, Chapter 382
65 **63I-1-263 (Effective 05/01/13)**, as last amended by Laws of Utah 2012, Chapters 126,
66 206, 347, 369, and 395
67 **63J-1-201**, as last amended by Laws of Utah 2012, Chapters 242 and 341
68 **63J-1-217**, as renumbered and amended by Laws of Utah 2009, Chapters 183 and 368
69 **65A-1-1**, as last amended by Laws of Utah 2012, Chapter 361
70 **65A-1-4**, as last amended by Laws of Utah 2009, Chapter 344
71 **65A-1-9**, as repealed and reenacted by Laws of Utah 1994, Chapter 294
72 **67-5-1**, as last amended by Laws of Utah 2011, Chapter 342
73 **78B-1-117**, as renumbered and amended by Laws of Utah 2008, Chapter 3
74 **78B-8-506**, as renumbered and amended by Laws of Utah 2008, Chapter 3
75 **79-2-201**, as renumbered and amended by Laws of Utah 2009, Chapter 344

76 REPEALS:

77 **10-6-153**, as last amended by Laws of Utah 2010, Chapter 286
78 **17-36-5**, as last amended by Laws of Utah 2010, Chapters 286 and 324
79 **34A-5-105**, as last amended by Laws of Utah 2010, Chapter 286
80 **34A-6-106**, as last amended by Laws of Utah 2010, Chapter 286
81 **52-7-203**, as renumbered and amended by Laws of Utah 2008, Chapter 382
82 **53-3-908**, as last amended by Laws of Utah 2010, Chapters 286 and 324
83 **53A-1a-602**, as last amended by Laws of Utah 2010, Chapter 286
84 **58-20a-201**, as enacted by Laws of Utah 1995, Chapter 95
85 **58-37c-4**, as last amended by Laws of Utah 1993, Chapter 297
86 **58-54-201**, as renumbered and amended by Laws of Utah 2011, Chapter 61
87 **63G-9-201**, as renumbered and amended by Laws of Utah 2008, Chapter 382
88 **63G-9-202**, as renumbered and amended by Laws of Utah 2008, Chapter 382
89 **63G-9-203**, as renumbered and amended by Laws of Utah 2008, Chapter 382
90 **63G-9-204**, as renumbered and amended by Laws of Utah 2008, Chapter 382
91 **63G-9-205**, as renumbered and amended by Laws of Utah 2008, Chapter 382
92 **63G-9-206**, as renumbered and amended by Laws of Utah 2008, Chapter 382
93 **63G-9-207**, as renumbered and amended by Laws of Utah 2008, Chapter 382

- 94 **63G-9-301**, as last amended by Laws of Utah 2009, Chapter 183
95 **63G-9-303**, as last amended by Laws of Utah 2010, Chapter 90
96 **63G-9-304**, as renumbered and amended by Laws of Utah 2008, Chapter 382
97 **63G-9-305**, as renumbered and amended by Laws of Utah 2008, Chapter 382
98 **63G-9-306**, as renumbered and amended by Laws of Utah 2008, Chapter 382
99 **63G-9-401**, as renumbered and amended by Laws of Utah 2008, Chapter 382
100 **63M-1-1501**, as renumbered and amended by Laws of Utah 2008, Chapter 382
101 **63M-1-1502**, as last amended by Laws of Utah 2010, Chapter 218
102 **63M-1-1503**, as last amended by Laws of Utah 2012, Chapter 212
103 **63M-1-1504**, as renumbered and amended by Laws of Utah 2008, Chapter 382
104 **63M-1-1505**, as renumbered and amended by Laws of Utah 2008, Chapter 382
105 **63M-9-101**, as renumbered and amended by Laws of Utah 2008, Chapter 382
106 **63M-9-102**, as renumbered and amended by Laws of Utah 2008, Chapter 382
107 **63M-9-103**, as last amended by Laws of Utah 2011, Chapter 366
108 **63M-9-104**, as renumbered and amended by Laws of Utah 2008, Chapter 382
109 **63M-9-201**, as last amended by Laws of Utah 2010, Chapter 286
110 **63M-9-202**, as last amended by Laws of Utah 2010, Chapter 286
111 **63M-9-203**, as renumbered and amended by Laws of Utah 2008, Chapter 382
112 **63M-9-301**, as last amended by Laws of Utah 2010, Chapter 324
113 **63M-9-401**, as last amended by Laws of Utah 2008, Chapter 3 and renumbered and
114 amended by Laws of Utah 2008, Chapter 382
115 **63M-9-402**, as renumbered and amended by Laws of Utah 2008, Chapter 382
116 **63M-9-501**, as renumbered and amended by Laws of Utah 2008, Chapter 382
117 **65A-1-2**, as last amended by Laws of Utah 2009, Chapter 344
118 **65A-1-3**, as last amended by Laws of Utah 2010, Chapter 286

119

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

121

Section 1. Section **4-31-107** is amended to read:

122

4-31-107. Appraisal of fair market value before destruction.

123

(1) Before any livestock or property is condemned and destroyed under Section

124

4-31-106, an appraisal of the fair market value of the livestock or other property shall be

125 forwarded to the commissioner by a panel of three qualified appraisers appointed as follows:

126 (a) one by the commissioner;

127 (b) one by the owner of the livestock or other property subject to condemnation; and

128 (c) one by the appraisers specified in Subsections (1)(a) and (b).

129 (2) ~~[After review, the]~~ The commissioner shall forward the appraisal to the ~~[board of~~
130 ~~examiners described in Subsection 63G-9-201(2)]~~ Legislature, together with the
131 commissioner's recommendation concerning the amount, if any, that should be allowed.

132 (3) Any costs incurred in the appraisal shall be paid by the state.

133 Section 2. Section **10-6-154** is amended to read:

134 **10-6-154. Duties of state auditor -- Adoption and expansion of uniform system.**

135 (1) The state auditor ~~[with the assistance, advice, and recommendations of the~~
136 ~~municipal government fiscal committee]~~ shall:

137 (a) prescribe uniform accounting and reporting procedures for cities, in conformity
138 with generally accepted accounting principles;

139 (b) conduct a continuing review and modification of such procedures to improve them;

140 (c) prepare and supply each city with suitable budget and reporting forms; and

141 (d) prepare instructional materials, conduct training programs and render other services
142 deemed necessary to assist cities in implementing the uniform accounting, budgeting and
143 reporting procedures.

144 (2) The Uniform Accounting Manual for Utah Cities shall prescribe reasonable
145 exceptions and modifications for fourth and fifth class cities to the uniform system of
146 accounting, budgeting, and reporting.

147 (3) The ~~[advisory committee]~~ state auditor shall establish and conduct a continuing
148 review of suggested measurements and procedures for program and performance budgeting and
149 reporting which may be evaluated on a statewide basis.

150 (4) Cities may expand the uniform accounting and reporting procedures to better serve
151 their needs; however, no deviations from or alterations to the basic prescribed classification
152 systems for the identity of funds and accounts shall be made.

153 Section 3. Section **17-36-4** is amended to read:

154 **17-36-4. State auditor -- Duties.**

155 (1) The state auditor~~[-, with the assistance, advice, and recommendation of the advisory~~

156 ~~committee,~~] shall:

- 157 (a) prescribe a uniform system of fiscal procedures for the several counties;
- 158 (b) conduct a constant review and modification of such procedures to improve them;
- 159 (c) prepare and supply each county budget officer with suitable budget forms; and
- 160 (d) prepare instructional materials, conduct training programs, and render other
- 161 services deemed necessary to assist counties in implementing the uniform system.

162 (2) The uniform system of procedure may include reasonable exceptions and
163 modifications applicable to counties with a population of 25,000 or less, such population to be
164 determined by the Utah Population Work Committee. Counties may expand the uniform
165 system to serve better their needs. Deviations from or alterations to the basic prescribed
166 classification system for the identity of funds and accounts should not be made.

167 Section 4. Section **34A-1-202** is amended to read:

168 **34A-1-202. Divisions and office -- Creation -- Duties -- Labor Relations Board,**
169 **Appeals Board, councils, and panel.**

170 (1) There is created within the commission the following divisions and office:

- 171 (a) the Division of Industrial Accidents that shall administer the regulatory
- 172 requirements of this title concerning industrial accidents and occupational disease;
- 173 (b) the Division of Occupational Safety and Health that shall administer the regulatory
- 174 requirements of Chapter 6, Utah Occupational Safety and Health Act;
- 175 (c) the Division of Boiler and Elevator Safety that shall administer the regulatory
- 176 requirements of Chapter 7, Safety;
- 177 (d) the Division of Antidiscrimination and Labor that shall administer the regulatory
- 178 requirements of:
 - 179 (i) Title 34, Labor in General, when specified by statute;
 - 180 (ii) Chapter 5, Utah Antidiscrimination Act;
 - 181 (iii) this title, when specified by statute; and
 - 182 (iv) Title 57, Chapter 21, Utah Fair Housing Act;
 - 183 (e) the Division of Adjudication that shall adjudicate claims or actions brought under
 - 184 this title; and
 - 185 (f) the Utah Office of Coal Mine Safety created in Section 40-2-201.

186 (2) In addition to the divisions created under this section, within the commission are

187 the following:

188 (a) the Labor Relations Board created in Section 34-20-3;

189 (b) the Appeals Board created in Section 34A-1-205;

190 (c) the following program advisory councils:

191 (i) the workers' compensation advisory council created in Section 34A-2-107;

192 [~~(ii) the antidiscrimination and labor advisory council created in Section 34A-5-105;~~]

193 [~~(iii) the occupational safety and health advisory council created in Section~~

194 ~~34A-6-106;~~]

195 [~~(iv)~~] (ii) the Mine Safety Technical Advisory Council created in Section 40-2-203;

196 and

197 [~~(v)~~] (iii) the Coal Miner Certification Panel created in Section 40-2-204.

198 (3) In addition to the responsibilities described in this section, the commissioner may

199 assign to a division a responsibility granted to the commission by law.

200 Section 5. Section **34A-6-103** is amended to read:

201 **34A-6-103. Definitions -- Unincorporated entities.**

202 (1) As used in this chapter:

203 (a) "Administrator" means the director of the Division of Occupational Safety and

204 Health.

205 (b) "Amendment" means such modification or change in a code, standard, rule, or

206 order intended for universal or general application.

207 (c) "Commission" means the Labor Commission.

208 [~~(d) "Council" means the Utah Occupational Safety and Health Advisory Council.~~]

209 [~~(e)~~] (d) "Division" means the Division of Occupational Safety and Health.

210 [~~(f)~~] (e) "Employee" includes any person suffered or permitted to work by an employer.

211 [~~(g)~~] (f) "Employer" means:

212 (i) the state;

213 (ii) a county, city, town, and school district in the state; and

214 (iii) a person, including a public utility, having one or more workers or operatives

215 regularly employed in the same business, or in or about the same establishment, under any

216 contract of hire.

217 [~~(h)~~] (g) "Hearing" means a proceeding conducted by the commission.

218 ~~(f)~~ (h) "Imminent danger" means a danger exists which reasonably could be expected
219 to cause an occupational disease, death, or serious physical harm immediately, or before the
220 danger could be eliminated through enforcement procedures under this chapter.

221 ~~(f)~~ (i) "National consensus standard" means any occupational safety and health
222 standard or modification:

223 (i) adopted by a nationally recognized standards-producing organization under
224 procedures where it can be determined by the administrator and division that persons interested
225 and affected by the standard have reached substantial agreement on its adoption;

226 (ii) formulated in a manner which affords an opportunity for diverse views to be
227 considered; and

228 (iii) designated as such a standard by the Secretary of the United States Department of
229 Labor.

230 ~~(k)~~ (j) "Person" means the general public, one or more individuals, partnerships,
231 associations, corporations, legal representatives, trustees, receivers, and the state and its
232 political subdivisions.

233 ~~(f)~~ (k) "Publish" means publication in accordance with Title 63G, Chapter 3, Utah
234 Administrative Rulemaking Act.

235 ~~(m)~~ (l) "Secretary" means the Secretary of the United States Department of Labor.

236 ~~(n)~~ (m) "Standard" means an occupational health and safety standard or group of
237 standards which requires conditions, or the adoption or use of one or more practices, means,
238 methods, operations, or processes, reasonably necessary to provide safety and healthful
239 employment and places of employment.

240 ~~(o)~~ (n) "Unincorporated entity" means an entity organized or doing business in the
241 state that is not:

242 (i) an individual;

243 (ii) a corporation; or

244 (iii) publicly traded.

245 ~~(p)~~ (o) "Variance" means a special, limited modification or change in the code or
246 standard applicable to the particular establishment of the employer or person petitioning for the
247 modification or change.

248 ~~(q)~~ (p) "Workplace" means any place of employment.

249 (2) (a) For purposes of this chapter, an unincorporated entity that is required to be
250 licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to
251 be the employer of each individual who, directly or indirectly, holds an ownership interest in
252 the unincorporated entity.

253 (b) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3,
254 Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption
255 under Subsection (2)(a) for an individual by establishing by clear and convincing evidence that
256 the individual:

257 (i) is an active manager of the unincorporated entity;

258 (ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated
259 entity; or

260 (iii) is not subject to supervision or control in the performance of work by:

261 (A) the unincorporated entity; or

262 (B) a person with whom the unincorporated entity contracts.

263 (c) As part of the rules made under Subsection (2)(b), the commission may define:

264 (i) "active manager";

265 (ii) "directly or indirectly holds at least an 8% ownership interest"; and

266 (iii) "subject to supervision or control in the performance of work."

267 Section 6. Section **34A-6-202** is amended to read:

268 **34A-6-202. Standards -- Procedure for issuance, modification, or revocation by**
269 **division -- Emergency temporary standard -- Variances from standards -- Statement of**
270 **reasons for administrator's actions -- Judicial review -- Priority for establishing**
271 **standards.**

272 (1) (a) The division, as soon as practicable, shall issue as standards any national
273 consensus standard, any adopted federal standard, or any adopted Utah standard, unless it
274 determines that issuance of the standard would not result in improved safety or health.

275 (b) All codes, standards, and rules adopted under Subsection (1)(a) shall take effect 30
276 days after publication unless otherwise specified.

277 (c) If any conflict exists between standards, the division shall issue the standard that
278 assures the greatest protection of safety or health for affected employees.

279 (2) The division may issue, modify, or revoke any standard as follows:

280 ~~[(a) (i) Whenever the administrator determines upon the basis of information submitted~~
281 ~~in writing by an interested person, a representative of any organization of employers or~~
282 ~~employees, a nationally recognized standards-producing organization, the Department of~~
283 ~~Health, or a state agency or political subdivision, or on information developed by the division~~
284 ~~or otherwise available, that a rule should be promulgated to promote the objectives of this~~
285 ~~chapter, the administrator may request recommendations from the advisory council.]~~

286 ~~[(ii) The administrator shall provide the advisory council with proposals, together with~~
287 ~~all pertinent factual information developed by the division, or otherwise available, including~~
288 ~~the results of research, demonstrations, and experiments.]~~

289 ~~[(iii) The advisory council shall submit to the administrator its recommendations~~
290 ~~regarding the rule to be promulgated within a period as prescribed by the administrator.]~~

291 ~~[(b)]~~ (a) The division shall publish a proposed rule issuing, modifying, or revoking an
292 occupational safety or health standard and shall afford interested parties an opportunity to
293 submit written data or comments as prescribed by Title 63G, Chapter 3, Utah Administrative
294 Rulemaking Act. When the administrator determines that a rule should be issued, the division
295 shall publish the proposed rule after the ~~[submission of the advisory council's recommendations~~
296 ~~or the]~~ expiration of the period prescribed by the administrator for submission.

297 ~~[(c)]~~ (b) The administrator, in issuing standards for toxic materials or harmful physical
298 agents under this subsection, shall set the standard which most adequately assures, to the extent
299 feasible, on the basis of the best available evidence, that no employee will suffer material
300 impairment of health or functional capacity even if the employee has regular exposure to the
301 hazard during an employee's working life. Development of standards under this subsection
302 shall be based upon research, demonstrations, experiments, and other information deemed
303 appropriate. In addition to the attainment of the highest degree of health and safety protection
304 for the employee, other considerations shall be the latest available scientific data in the field,
305 the feasibility of the standards, and experience under this and other health and safety laws.
306 Whenever practicable, the standard shall be expressed in terms of objective criteria and of the
307 performance desired.

308 ~~[(d)]~~ (c) (i) Any employer may apply to the administrator for a temporary order
309 granting a variance from a standard issued under this section. Temporary orders shall be
310 granted only if the employer:

311 (A) files an application which meets the requirements of Subsection (2)[~~(d)~~](c)(iv);

312 (B) establishes that the employer is unable to comply with a standard by its effective
313 date because of unavailability of professional or technical personnel or of materials and
314 equipment needed for compliance with the standard or because necessary construction or
315 alteration of facilities cannot be completed by the effective date;

316 (C) establishes that the employer is taking all available steps to safeguard the
317 employer's employees against hazards; and

318 (D) establishes that the employer has an effective program for compliance as quickly as
319 practicable.

320 (ii) Any temporary order shall prescribe the practices, means, methods, operations, and
321 processes which the employer shall adopt and use while the order is in effect and state in detail
322 the employer's program for compliance with the standard. A temporary order may be granted
323 only after notice to employees and an opportunity for a public hearing; provided, that the
324 administrator may issue one interim order effective until a decision is made after public
325 hearing.

326 (iii) A temporary order may not be in effect longer than the period reasonably required
327 by the employer to achieve compliance. In no case shall the period of a temporary order
328 exceed one year.

329 (iv) An application for a temporary order under Subsection (2)[~~(d)~~](c) shall contain:

330 (A) a specification of the standard or part from which the employer seeks a variance;

331 (B) a representation by the employer, supported by representations from qualified
332 persons having first-hand knowledge of the facts represented, that the employer is unable to
333 comply with the standard or some part of the standard;

334 (C) a detailed statement of the reasons the employer is unable to comply;

335 (D) a statement of the measures taken and anticipated with specific dates, to protect
336 employees against the hazard;

337 (E) a statement of when the employer expects to comply with the standard and what
338 measures the employer has taken and those anticipated, giving specific dates for compliance;
339 and

340 (F) a certification that the employer has informed the employer's employees of the
341 application by:

342 (I) giving a copy to their authorized representative;
343 (II) posting a statement giving a summary of the application and specifying where a
344 copy may be examined at the place or places where notices to employees are normally posted;
345 and

346 (III) by other appropriate means.

347 (v) The certification required under Subsection (2)~~(f)~~(c)(iv) shall contain a
348 description of how employees have been informed.

349 (vi) The information to employees required under Subsection (2)~~(f)~~(c)(v) shall
350 inform the employees of their right to petition the division for a hearing.

351 (vii) The administrator is authorized to grant a variance from any standard or some part
352 of the standard when the administrator determines that it is necessary to permit an employer to
353 participate in a research and development project approved by the administrator to demonstrate
354 or validate new and improved techniques to safeguard the health or safety of workers.

355 ~~(e)~~ (d) (i) Any standard issued under this subsection shall prescribe the use of labels
356 or other forms of warning necessary to ensure that employees are apprised of all hazards,
357 relevant symptoms and emergency treatment, and proper conditions and precautions of safe use
358 or exposure. When appropriate, a standard shall prescribe suitable protective equipment and
359 control or technological procedures for use in connection with such hazards and provide for
360 monitoring or measuring employee exposure at such locations and intervals, and in a manner
361 necessary for the protection of employees. In addition, any such standard shall prescribe the
362 type and frequency of medical examinations or other tests which shall be made available by the
363 employer, or at the employer's cost, to employees exposed to hazards in order to most
364 effectively determine whether the health of employees is adversely affected by exposure. If
365 medical examinations are in the nature of research as determined by the division, the
366 examinations may be furnished at division expense. The results of such examinations or tests
367 shall be furnished only to the division; and, at the request of the employee, to the employee's
368 physician.

369 (ii) The administrator may by rule make appropriate modifications in requirements for
370 the use of labels or other forms of warning, monitoring or measuring, and medical
371 examinations warranted by experience, information, or medical or technological developments
372 acquired subsequent to the promulgation of the relevant standard.

373 ~~[(f)]~~ (e) Whenever a rule issued by the administrator differs substantially from an
374 existing national consensus standard, the division shall publish a statement of the reasons why
375 the rule as adopted will better effectuate the purposes of this chapter than the national
376 consensus standard.

377 ~~[(g)]~~ (f) Whenever a rule, standard, or national consensus standard is modified by the
378 secretary so as to make less restrictive the federal Williams-Steiger Occupational Safety and
379 Health Act of 1970, the less restrictive modification shall be immediately applicable to this
380 chapter and shall be immediately implemented by the division.

381 (3) (a) The administrator shall provide an emergency temporary standard to take
382 immediate effect upon publication if the administrator determines that:

383 (i) employees are exposed to grave danger from exposure to substances or agents
384 determined to be toxic or physically harmful or from new hazards; and

385 (ii) that the standard is necessary to protect employees from danger.

386 (b) An emergency standard shall be effective until superseded by a standard issued in
387 accordance with the procedures prescribed in Subsection (3)(c).

388 (c) Upon publication of an emergency standard the division shall commence a
389 proceeding in accordance with Subsection (2) and the standard as published shall serve as a
390 proposed rule for the proceedings. The division shall issue a standard under Subsection (3) no
391 later than 120 days after publication of the emergency standard.

392 (4) (a) Any affected employer may apply to the division for a rule or order for a
393 variance from a standard issued under this section. Affected employees shall be given notice of
394 each application and may participate in a hearing. The administrator shall issue a rule or order
395 if the administrator determines on the record, after opportunity for an inspection where
396 appropriate and a hearing, that the proponent of the variance has demonstrated by a
397 preponderance of the evidence that the conditions, practices, means, methods, operations, or
398 processes used or proposed to be used by an employer will provide employment and a
399 workplace to the employer's employees that are as safe and healthful as those which would
400 prevail if the employer complied with the standard.

401 (b) The rule or order issued under Subsection (4)(a) shall prescribe the conditions the
402 employer must maintain, and the practices, means, methods, operations and processes that the
403 employer must adopt and use to the extent they differ from the standard in question.

404 (c) A rule or order issued under Subsection (4)(a) may be modified or revoked upon
405 application by an employer, employees, or by the administrator on its own motion, in the
406 manner prescribed for its issuance under Subsection (4) at any time after six months from its
407 issuance.

408 (5) The administrator shall include a statement of reasons for the administrator's
409 actions when the administrator:

410 (a) issues any code, standard, rule, or order;

411 (b) grants any exemption or extension of time; or

412 (c) compromises, mitigates, or settles any penalty assessed under this chapter.

413 (6) Any person adversely affected by a standard issued under this section, at any time
414 prior to 60 days after a standard is issued, may file a petition challenging its validity with the
415 district court having jurisdiction for judicial review. A copy of the petition shall be served
416 upon the division by the petitioner. The filing of a petition may not, unless otherwise ordered
417 by the court, operate as a stay of the standard. The determinations of the division shall be
418 conclusive if supported by substantial evidence on the record as a whole.

419 (7) In determining the priority for establishing standards under this section, the division
420 shall give due regard to the urgency of the need for mandatory safety and health standards for
421 particular industries, trades, crafts, occupations, businesses, workplaces or work environments.
422 The administrator shall also give due regard to the recommendations of the Department of
423 Health about the need for mandatory standards in determining the priority for establishing the
424 standards.

425 Section 7. Section **35A-3-207** is amended to read:

426 **35A-3-207. Community-based prevention programs.**

427 (1) As used in this section:

428 (a) "political subdivision" means a town, city, county, or school district;

429 (b) "qualified sponsor" means a:

430 (i) political subdivision;

431 (ii) community nonprofit, religious, or charitable organization;

432 (iii) regional or statewide nonprofit organization; or

433 (iv) private for profit or nonprofit child care organization with experience and expertise
434 in operating community-based prevention programs described in Subsection (2) and that are

435 licensed under Title 62A, Chapter 2.

436 (2) Within appropriations from the Legislature, the department may provide grants to
437 qualified sponsors for community-based prevention programs that:

438 (a) support parents in their primary care giving role to children;

439 (b) provide positive alternatives to idleness for school-aged children when school is not
440 in session; and

441 (c) support other community-based prevention programs.

442 (3) In awarding grants under this section, the department shall:

443 (a) request proposals for funding from potential qualified sponsors; and

444 (b) comply with the requirements of Subsection (4).

445 (4) In awarding these grants, the department shall ensure that each dollar of funds from
446 political subdivisions or private funds is matched for each dollar received from the department.

447 The value of in-kind contributions such as materials, supplies, paid labor, volunteer labor, and
448 the incremental increase in building maintenance and operation expenses incurred attributable
449 to the prevention program may be considered in meeting this match requirement.

450 (5) In awarding a grant under this section, the department shall consider:

451 (a) the cash portion of the proposed match in relation to the financial resources of the
452 qualified sponsor; and

453 (b) the extent to which the qualified sponsor has:

454 (i) consulted and collaborated with parents of children who are likely to participate,
455 local parent-teacher organizations, and other parent organizations~~], and the appropriate local~~
456 ~~interagency council established under Section 63M-9-301];~~

457 (ii) identified at risk factors that will be ameliorated through the proposed prevention
458 program;

459 (iii) identified protective factors and developmental assets that will be supported and
460 strengthened through the proposed prevention program; and

461 (iv) the financial support of parents and the organizations specified in Subsection
462 (5)(b)(i).

463 (6) At least 50 percent of the grants awarded under this section shall be awarded to
464 organizations described in Subsection (1)(b)(iv).

465 (7) No federal funds shall be used as matching funds under this act.

466 Section 8. Section **39-1-35** is amended to read:

467 **39-1-35. State employees in National Guard -- Care of dependents when called**
468 **into service.**

469 If the National Guard of this state is called into the service of the state, the state shall
470 provide for the dependents of state employees who are enlisted members of the National Guard
471 so called into service. ~~[The Board of Examiners shall cause an examination to be made into~~
472 ~~the merits of all cases of alleged dependency, and upon finding that any mother, father,~~
473 ~~grandfather, grandmother, wife, sister, brother or child of such member of the National Guard,~~
474 ~~or any or either of them, are dependent upon such member for support, the Board of Examiners~~
475 ~~shall determine the amount to be paid by the state to any such dependent, and shall cause the~~
476 ~~state auditor to draw his warrant on the state treasurer for such sum in favor of such specific~~
477 ~~and determined dependents, payable out of any amounts available for military purposes or for~~
478 ~~the maintenance and support of the National Guard. If there are not sufficient funds available~~
479 ~~to pay for the necessary support of all the dependents determined and specified by the board of~~
480 ~~examiners, the funds available shall be prorated among the dependents specified by the Board~~
481 ~~of Examiners. The Board of Examiners in specifying the amounts to be paid to such~~
482 ~~dependents, may provide for a payment on a weekly or monthly basis and on such conditions as~~
483 ~~it may deem best in each particular case.]~~

484 Section 9. Section **39-1-59** is amended to read:

485 **39-1-59. Compensation for injury or death.**

486 If any officer or enlisted person of the National Guard is wounded, injured, or otherwise
487 acquires a disability, or is killed or dies of wounds or injuries received while serving on state
488 active duty, under orders of competent authority and not as a result of the person's own
489 misconduct, the person, the surviving spouse, children, or any dependent relatives, shall receive
490 from the state relief as the Legislature determines. However, in these cases the member,
491 surviving spouse, children, or any dependent relatives, upon investigation by a board of inquiry
492 appointed by the commander in chief, ~~[the findings and recommendations of which shall be~~
493 ~~filed with the state auditor for the action of the Board of Examiners,]~~ shall receive temporary
494 compensation from the state, out of funds appropriated for the maintenance of the National
495 Guard, ~~[as determined by the Board of Examiners]~~ until the next regular session of the
496 Legislature. This compensation may not exceed the rates of pay provided for officers and

497 enlisted persons in this chapter.

498 Section 10. Section **52-6-202** is amended to read:

499 **52-6-202. Payment of reimbursement of attorney fees and court costs.**

500 (1) A request for reimbursement of attorney fees and court costs shall be filed in the
501 manner provided in Sections 63G-7-902 and 63G-7-903.

502 (2) (a) Any reimbursement of attorney fees and court costs filed on behalf of an officer
503 or employee of the state shall be paid from funds appropriated to the department or division
504 that employed the officer or employee at the time of the act or omission that gave rise to the
505 indictment or information.

506 (b) If those funds are unavailable, the reimbursement shall be paid from the General
507 Fund upon [~~approval by the Board of Examiners and~~] legislative appropriation.

508 Section 11. Section **53A-1a-601** is amended to read:

509 **53A-1a-601. Job enhancements for mathematics, science, technology, and special**
510 **education training.**

511 (1) As used in this part, "special education teacher" includes occupational therapist.

512 (2) The Public Education Job Enhancement Program is established to attract, train, and
513 retain highly qualified:

514 (a) secondary teachers with expertise in mathematics, physics, chemistry, physical
515 science, learning technology, or information technology;

516 (b) special education teachers; and

517 (c) teachers in grades four through six with mathematics endorsements.

518 (3) The program shall provide for the following:

519 (a) application by a school district superintendent or the principal of a school on behalf
520 of a qualified teacher;

521 (b) an award of up to \$20,000 or a scholarship to cover the tuition costs for a master's
522 degree, an endorsement, or graduate education in the areas identified in Subsection (2) to be
523 given to selected public school teachers on a competitive basis:

524 (i) whose applications are approved under Subsection 53A-1a-602(4); and

525 (ii) who teach in the state's public education system for four years in the areas
526 identified in Subsection (2);

527 (c) (i) as to the cash awards under Subsection (3)(b), payment of the award in two

528 installments, with an initial payment of up to \$10,000 at the beginning of the term and up to
529 \$10,000 at the conclusion of the term;

530 (ii) repayment of a portion of the initial payment by the teacher if the teacher fails to
531 complete two years of the four-year teaching term in the areas identified in Subsection (2) as
532 provided by rule of the State Board of Education in accordance with Title 63G, Chapter 3, Utah
533 Administrative Rulemaking Act, unless waived for good cause by the [~~Job Enhancement~~
534 ~~Committee created in Section 53A-1a-602~~] State Board of Education; and

535 (iii) nonpayment of the second installment if the teacher fails to complete the four-year
536 teaching term; and

537 (d) (i) as to the scholarships awarded under Subsection (3)(b), provision for the
538 providing institution to certify adequate performance in obtaining the master's degree,
539 endorsement, or graduate education in order for the teacher to maintain the scholarship; and

540 (ii) repayment by the teacher of a prorated portion of the scholarship, if the teacher fails
541 to complete the authorized classes or program or to teach in the state system of public
542 education in the areas identified in Subsection (2) for four years after obtaining the master's
543 degree, the endorsement, or graduate education.

544 (4) An individual teaching in the public schools under a letter of authorization may
545 participate in the cash award program if:

546 (a) the individual has taught under the letter of authorization for at least one year in the
547 areas referred to in Subsection (2); and

548 (b) the application made under Subsection (3)(a) is based in large part upon the
549 individual receiving a superior evaluation as a classroom teacher.

550 (5) (a) The program may provide for the expenditure of up to \$1,000,000 of available
551 money, if at least an equal amount of matching money becomes available, to provide
552 professional development training to superintendents, administrators, and principals in the
553 effective use of technology in public schools.

554 (b) An award granted under this Subsection (5) shall be made in accordance with
555 criteria developed and adopted by the [~~Job Enhancement Committee created in Section~~
556 ~~53A-1a-602~~] State Board of Education and in accordance with Title 63G, Chapter 3, Utah
557 Administrative Rulemaking Act.

558 (c) An amount up to \$120,000 of the \$1,000,000 authorized in Subsection (5)(a) may

559 be expended, regardless of the matching money being available.

560 Section 12. Section **58-20a-102** is amended to read:

561 **58-20a-102. Definitions.**

562 In addition to the definitions in Section 58-1-102, as used in this chapter:

563 [~~(1)~~] "Board" means the Environmental Health Scientist Board created in Section
564 ~~58-20a-201.~~]

565 [~~(2)~~] (1) "General supervision" means the supervising environmental health scientist is
566 available for immediate voice communication with the person he or she is supervising.

567 [~~(3)~~] (2) "Practice of environmental health science" means:

568 (a) the enforcement of, the issuance of permits required by, or the inspection for the
569 purpose of enforcing state and local public health laws in the following areas:

570 (i) air quality;

571 (ii) food quality;

572 (iii) solid, hazardous, and toxic substances disposal;

573 (iv) consumer product safety;

574 (v) housing;

575 (vi) noise control;

576 (vii) radiation protection;

577 (viii) water quality;

578 (ix) vector control;

579 (x) drinking water quality;

580 (xi) milk sanitation;

581 (xii) rabies control;

582 (xiii) public health nuisances;

583 (xiv) indoor clean air regulations;

584 (xv) institutional and residential sanitation; or

585 (xvi) recreational facilities sanitation; or

586 (b) representing oneself in any manner as, or using the titles "environmental health
587 scientist," "environmental health scientist-in-training," or "registered sanitarian."

588 [~~(4)~~] (3) "Unlawful conduct" is as defined in Section 58-1-501.

589 [~~(5)~~] (4) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-20a-501

590 and as may be further defined by division rule.

591 Section 13. Section **58-20a-302** is amended to read:

592 **58-20a-302. Qualifications for licensure.**

593 (1) Except as provided in Subsection (2), an applicant for licensure as an
594 environmental health scientist shall:

595 (a) submit an application in a form prescribed by the division;

596 (b) pay a fee determined by the department under Section 63J-1-504;

597 (c) be of good moral character;

598 (d) hold a bachelor's degree from an accredited program in a university or college,
599 which degree includes completion of specific coursework as defined by rule;

600 (e) pass an examination as determined by division rule [~~in collaboration with the~~
601 ~~board~~]; and

602 (f) pass the Utah Law and Rules Examination for Environmental Health Scientists
603 administered by the division.

604 (2) An applicant for licensure who is currently actively engaged in the practice of
605 environmental health science in Utah on July 1, 1995, and has been practicing in Utah for at
606 least three consecutive months immediately prior to July 1, 1995, shall:

607 (a) submit an application in a form prescribed by the division;

608 (b) pay a fee determined by the department under Section 63J-1-504;

609 (c) be of good moral character;

610 (d) hold a bachelor's degree from an accredited program in a university or college,
611 which degree includes completion of specific coursework as defined by rule;

612 (e) pass the Utah Law and Rules Examination for Environmental Health Scientists
613 administered by the division; and

614 (f) submit an affidavit from the applicant's immediate supervisor in the applicant's
615 employment, attesting to the applicant's competence to practice environmental health science.

616 (3) An applicant for licensure as an environmental health scientist-in-training shall:

617 (a) submit an application in a form prescribed by the division;

618 (b) pay a fee determined by the department under Section 63J-1-504;

619 (c) be of good moral character;

620 (d) hold a bachelor's degree from an accredited program in a university or college,

621 which degree includes completion of specific coursework as defined by rule;

622 (e) pass the Utah Law and Rules Examination for Environmental Health Scientists
623 administered by the division; and

624 (f) present evidence acceptable to the division [~~and the board~~] that the applicant, when
625 licensed, will practice as an environmental health scientist-in-training only under the general
626 supervision of a supervising environmental health scientist licensed under this chapter.

627 Section 14. Section **58-37c-3** is amended to read:

628 **58-37c-3. Definitions.**

629 In addition to the definitions in Section 58-1-102, as used in this chapter:

630 [~~(1) "Board" means the Controlled Substance Precursor Advisory Board created in~~
631 ~~Section 58-37c-4.]~~

632 [(~~2~~)] (1) "Controlled substance precursor" includes a chemical reagent and means any
633 of the following:

- 634 (a) Phenyl-2-propanone;
- 635 (b) Methylamine;
- 636 (c) Ethylamine;
- 637 (d) D-lysergic acid;
- 638 (e) Ergotamine and its salts;
- 639 (f) Diethyl malonate;
- 640 (g) Malonic acid;
- 641 (h) Ethyl malonate;
- 642 (i) Barbituric acid;
- 643 (j) Piperidine and its salts;
- 644 (k) N-acetylanthranilic acid and its salts;
- 645 (l) Pyrrolidine;
- 646 (m) Phenylacetic acid and its salts;
- 647 (n) Anthranilic acid and its salts;
- 648 (o) Morpholine;
- 649 (p) Ephedrine;
- 650 (q) Pseudoephedrine;
- 651 (r) Norpseudoephedrine;

- 652 (s) Phenylpropanolamine;
- 653 (t) Benzyl cyanide;
- 654 (u) Ergonovine and its salts;
- 655 (v) 3,4-Methylenedioxyphenyl-2-propanone;
- 656 (w) propionic anhydride;
- 657 (x) Insosafrole;
- 658 (y) Saffrole;
- 659 (z) Piperonal;
- 660 (aa) N-Methylephedrine;
- 661 (bb) N-ethylephedrine;
- 662 (cc) N-methylpseudoephedrine;
- 663 (dd) N-ethylpseudoephedrine;
- 664 (ee) Hydriotic acid;
- 665 (ff) gamma butyrolactone (GBL), including butyrolactone, 1,2 butanolide,
- 666 2-oxanolone, tetrahydro-2-furanone, dihydro-2(3H)-furanone, and tetramethylene glycol, but
- 667 not including gamma aminobutric acid (GABA);
- 668 (gg) 1,4 butanediol;
- 669 (hh) any salt, isomer, or salt of an isomer of the chemicals listed in Subsections (2)(a)
- 670 through (gg);
- 671 (ii) Crystal iodine;
- 672 (jj) Iodine at concentrations greater than 1.5% by weight in a solution or matrix;
- 673 (kk) Red phosphorous, except as provided in Section 58-37c-19.7;
- 674 (ll) anhydrous ammonia, except as provided in Section 58-37c-19.9;
- 675 (mm) any controlled substance precursor listed under the provisions of the Federal
- 676 Controlled Substances Act which is designated by the director under the emergency listing
- 677 provisions set forth in Section 58-37c-14; and
- 678 (nn) any chemical which is designated by the director under the emergency listing
- 679 provisions set forth in Section 58-37c-14.
- 680 [~~3~~] (2) "Deliver," "delivery," "transfer," or "furnish" means the actual, constructive,
- 681 or attempted transfer of a controlled substance precursor.
- 682 [~~4~~] (3) "Matrix" means something, as a substance, in which something else

683 originates, develops, or is contained.

684 ~~[(5)]~~ (4) "Person" means any individual, group of individuals, proprietorship,
685 partnership, joint venture, corporation, or organization of any type or kind.

686 ~~[(6)]~~ (5) "Practitioner" means a physician, dentist, podiatric physician, veterinarian,
687 pharmacist, scientific investigator, pharmacy, hospital, pharmaceutical manufacturer, or other
688 person licensed, registered, or otherwise permitted to distribute, dispense, conduct research
689 with respect to, administer, or use in teaching, or chemical analysis a controlled substance in
690 the course of professional practice or research in this state.

691 ~~[(7)]~~ (6) (a) "Regulated distributor" means a person within the state who provides,
692 sells, furnishes, transfers, or otherwise supplies a listed controlled substance precursor
693 chemical in a regulated transaction.

694 (b) "Regulated distributor" does not include any person excluded from regulation under
695 this chapter.

696 ~~[(8)]~~ (7) (a) "Regulated purchaser" means any person within the state who receives a
697 listed controlled substance precursor chemical in a regulated transaction.

698 (b) "Regulated purchaser" does not include any person excluded from regulation under
699 this chapter.

700 ~~[(9)]~~ (8) "Regulated transaction" means any actual, constructive or attempted:

701 (a) transfer, distribution, delivery, or furnishing by a person within the state to another
702 person within or outside of the state of a threshold amount of a listed precursor chemical; or

703 (b) purchase or acquisition by any means by a person within the state from another
704 person within or outside the state of a threshold amount of a listed precursor chemical.

705 ~~[(10)]~~ (9) "Retail distributor" means a grocery store, general merchandise store, drug
706 store, or other entity or person whose activities as a distributor are limited almost exclusively to
707 sales for personal use:

708 (a) in both number of sales and volume of sales; and

709 (b) either directly to walk-in customers or in face-to-face transactions by direct sales.

710 ~~[(11)]~~ (10) "Threshold amount of a listed precursor chemical" means any amount of a
711 controlled substance precursor or a specified amount of a controlled substance precursor in a
712 matrix; however, the division may exempt from the provisions of this chapter a specific
713 controlled substance precursor in a specific amount and in certain types of transactions which

714 provisions for exemption shall be defined by the division by rule adopted pursuant to Title
715 63G, Chapter 3, Utah Administrative Rulemaking Act.

716 ~~[(12)]~~ (11) "Unlawful conduct" as defined in Section 58-1-501 includes knowingly and
717 intentionally:

718 (a) engaging in a regulated transaction without first being appropriately licensed or
719 exempted from licensure under this chapter;

720 (b) acting as a regulated distributor and selling, transferring, or in any other way
721 conveying a controlled substance precursor to a person within the state who is not appropriately
722 licensed or exempted from licensure as a regulated purchaser, or selling, transferring, or
723 otherwise conveying a controlled substance precursor to a person outside of the state and
724 failing to report the transaction as required;

725 (c) acting as a regulated purchaser and purchasing or in any other way obtaining a
726 controlled substance precursor from a person within the state who is not a licensed regulated
727 distributor, or purchasing or otherwise obtaining a controlled substance precursor from a
728 person outside of the state and failing to report the transaction as required;

729 (d) engaging in a regulated transaction and failing to submit reports and keep required
730 records of inventories required under the provisions of this chapter or rules adopted pursuant to
731 this chapter;

732 (e) making any false statement in any application for license, in any record to be kept,
733 or on any report submitted as required under this chapter;

734 (f) with the intent of causing the evasion of the recordkeeping or reporting
735 requirements of this chapter and rules related to this chapter, receiving or distributing any listed
736 controlled substance precursor chemical in any manner designed so that the making of records
737 or filing of reports required under this chapter is not required;

738 (g) failing to take immediate steps to comply with licensure, reporting, or
739 recordkeeping requirements of this chapter because of lack of knowledge of those
740 requirements, upon becoming informed of the requirements;

741 (h) presenting false or fraudulent identification where or when receiving or purchasing
742 a listed controlled substance precursor chemical;

743 (i) creating a chemical mixture for the purpose of evading any licensure, reporting or
744 recordkeeping requirement of this chapter or rules related to this chapter, or receiving a

745 chemical mixture created for that purpose;

746 (j) if the person is at least 18 years of age, employing, hiring, using, persuading,
747 inducing, enticing, or coercing another person under 18 years of age to violate any provision of
748 this chapter, or assisting in avoiding detection or apprehension for any violation of this chapter
749 by any federal, state, or local law enforcement official; and

750 (k) obtaining or attempting to obtain or to possess any controlled substance precursor
751 or any combination of controlled substance precursors knowing or having a reasonable cause to
752 believe that the controlled substance precursor is intended to be used in the unlawful
753 manufacture of any controlled substance.

754 ~~[(13)]~~ (12) "Unprofessional conduct" as defined in Section 58-1-102 and as may be
755 further defined by rule includes the following:

756 (a) violation of any provision of this chapter, the Controlled Substance Act of this state
757 or any other state, or the Federal Controlled Substance Act; and

758 (b) refusing to allow agents or representatives of the division or authorized law
759 enforcement personnel to inspect inventories or controlled substance precursors or records or
760 reports relating to purchases and sales or distribution of controlled substance precursors as such
761 records and reports are required under this chapter.

762 Section 15. Section **58-37c-8** is amended to read:

763 **58-37c-8. License -- Exceptions from licensure or regulation.**

764 (1) Any person engaged in a regulated transaction under this chapter shall hold a
765 controlled substance precursor license issued under Section 58-37c-7, unless excepted from
766 licensure under this chapter.

767 (2) The division shall:

768 (a) establish the form of application for a license, the requirements for licensure, and
769 fees for initial licensure and renewal; and

770 (b) identify required information to be contained in the application as a condition of
771 licensure.

772 (3) A practitioner who holds a Utah Controlled Substance License and a Controlled
773 Substance Registration issued by the Drug Enforcement Administration of the U.S.

774 Government is excepted from licensure under this chapter.

775 (4) Any purchase, sale, transfer, furnishing, or receipt of any drug intended for lawful

776 use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other
777 animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or
778 phenylpropanolamine, if the drug is lawfully purchased, sold, transferred, or furnished as an
779 over-the-counter medication without prescription pursuant to the federal Food, Drug and
780 Cosmetic Act, 21 USC, Sec. 301 et seq., or regulations adopted under that act, are excepted
781 from licensure, reporting, and recordkeeping under this chapter, except that products
782 containing ephedrine, pseudoephedrine, or phenylpropanolamine are subject to Section
783 58-37c-20.5.

784 (5) Any purchase, sale, transfer, receipt, or manufacture of any dietary supplement,
785 vitamins, minerals, herbs, or other similar substances, including concentrates or extracts, which
786 are not otherwise prohibited by law, and which may contain naturally occurring amounts of
787 chemicals or substances listed in this chapter, or in rules adopted pursuant to Title 63G,
788 Chapter 3, Utah Administrative Rulemaking Act, are exempt from licensure under this chapter.

789 (6) A purchaser of two ounces or less of crystal iodine in a single transaction is not
790 required to be licensed as a regulated purchaser if the transaction complies with Section
791 58-37c-18.

792 (7) Any purchase, sale, transfer, receipt, or manufacture of any product that contains
793 any precursor chemical listed in Subsection 58-37c-3[~~(2)~~](1)(ff) or (gg) and that is not intended
794 for human consumption is exempt from licensure or regulation and is not subject to criminal
795 penalties under this chapter.

796 Section 16. Section **58-37c-11** is amended to read:

797 **58-37c-11. Penalty for unlawful conduct.**

798 (1) Any person who violates the unlawful conduct provision defined in Subsections
799 58-37c-3[~~(12)~~](11)(a) through (j) is guilty of a class A misdemeanor.

800 (2) Any person who violates the unlawful conduct provisions defined in Subsection
801 58-37c-3[~~(12)~~](11)(k) is guilty of a second degree felony.

802 Section 17. Section **58-37c-19** is amended to read:

803 **58-37c-19. Possession or sale of crystal iodine.**

804 (1) Any person licensed to engage in a regulated transaction is guilty of a class B
805 misdemeanor who, under circumstances not amounting to a violation of Subsection
806 58-37d-4(1)(c), offers to sell, sells, or distributes more than two ounces of crystal iodine to

807 another person who is:

808 (a) not licensed as a regulated purchaser of crystal iodine;

809 (b) not excepted from licensure; or

810 (c) not excepted under Subsection (3).

811 (2) Any person who is not licensed to engage in regulated transactions and not

812 excepted from licensure is guilty of a class A misdemeanor who, under circumstances not

813 amounting to a violation of Subsection 58-37c-3~~(12)~~(11)(k) or Subsection 58-37d-4(1)(a):

814 (a) possesses more than two ounces of crystal iodine; or

815 (b) offers to sell, sells, or distributes crystal iodine to another.

816 (3) Subsection (2)(a) does not apply to:

817 (a) a chemistry laboratory maintained by:

818 (i) a public or private regularly established secondary school; or

819 (ii) a public or private institution of higher education that is accredited by a regional or

820 national accrediting agency recognized by the United States Department of Education;

821 (b) a veterinarian licensed to practice under Title 58, Chapter 28, Veterinary Practice

822 Act; or

823 (c) a general acute hospital.

824 Section 18. Section **58-37c-19.5** is amended to read:

825 **58-37c-19.5. Iodine solution greater than 1.5% -- Prescription or permit required**

826 **-- Penalties.**

827 (1) As used in this section, "iodine matrix" means iodine at concentrations greater than

828 1.5% by weight in a matrix or solution.

829 (2) A person may offer to sell, sell, or distribute an iodine matrix only:

830 (a) as a prescription drug, pursuant to a prescription issued by a veterinarian or

831 physician licensed within the state; or

832 (b) to a person who is actively engaged in the legal practice of animal husbandry of

833 livestock, as defined in Section 4-1-8.

834 (3) Prescriptions issued under this section:

835 (a) shall provide for a specified number of refills;

836 (b) may be issued by electronic means, in accordance with Title 58, Chapter 17b,

837 Pharmacy Practice Act; and

838 (c) may be filled by a person other than the veterinarian or physician issuing the
839 prescription.

840 (4) A retailer offering iodine matrix for sale:

841 (a) shall store the iodine matrix so that the public does not have access to the iodine
842 matrix without the direct assistance or intervention of a retail employee;

843 (b) shall keep a record, which may consist of sales receipts, of each person purchasing
844 iodine matrix; and

845 (c) may, if necessary to ascertain the identity of the purchaser, ask for proof of
846 identification from the purchaser.

847 (5) A person engaging in a regulated transaction under Subsection (2) is guilty of a
848 class B misdemeanor if the person, under circumstances not amounting to a violation of
849 Subsection 58-37d-4(1)(c), offers to sell, sells, or distributes an iodine matrix to a person who:

850 (a) does not present a prescription or is not engaged in animal husbandry, as required
851 under Subsection (2); or

852 (b) is not excepted under Subsection (7).

853 (6) A person is guilty of a class A misdemeanor who, under circumstances not
854 amounting to a violation of Subsection 58-37c-3~~(12)~~(11)(k) or 58-37d-4(1)(a):

855 (a) possesses an iodine matrix without proof of obtaining the solution in compliance
856 with Subsection (2); or

857 (b) offers to sell, sells, or distributes an iodine matrix in violation of Subsection (2).

858 (7) Subsection (6)(a) does not apply to:

859 (a) a chemistry or chemistry-related laboratory maintained by:

860 (i) a public or private regularly established secondary school; or

861 (ii) a public or private institution of higher education that is accredited by a regional or
862 national accrediting agency recognized by the United States Department of Education;

863 (b) a veterinarian licensed to practice under Title 58, Chapter 28, Veterinary Practice
864 Act;

865 (c) a general acute hospital; or

866 (d) a veterinarian, physician, pharmacist, retail distributor, wholesaler, manufacturer,
867 warehouseman, or common carrier, or an agent of any of these persons who possesses an
868 iodine matrix in the regular course of lawful business activities.

869 Section 19. Section **58-37c-19.7** is amended to read:

870 **58-37c-19.7. Red phosphorus is a precursor -- Affirmative defense.**

871 (1) A person is guilty of a class A misdemeanor who is not licensed to engage in a
872 regulated transaction and is not excepted from licensure who, under circumstances not
873 amounting to a violation of Subsection 58-37c-3~~[(12)]~~(11)(k) or 58-37d-4(1)(a), possesses any
874 amount of red phosphorus.

875 (2) It is an affirmative defense to a charge under Subsection (1) that the person in
876 possession of red phosphorus:

877 (a) is conducting a licensed business which involves red phosphorus in the
878 manufacture of any of the following:

879 (i) the striking surface used for lighting matches, which is sometimes referred to as the
880 striker plate;

881 (ii) flame retardant in polymers; or

882 (iii) fireworks, for which the person or entity possesses a federal license to manufacture
883 explosives as required under 27 CFR Chapter 1, Part 55, Commerce in Explosives; or

884 (b) (i) is a wholesaler, manufacturer, warehouseman, or common carrier handling red
885 phosphorus, or is an agent of any of these persons; and

886 (ii) possesses the substances in the regular course of lawful business activities.

887 (3) (a) The defendant shall provide written notice of intent to claim an affirmative
888 defense under this section as soon as practicable, but not later than 10 days prior to trial. The
889 court may waive the notice requirement in the interest of justice for good cause shown, if the
890 prosecutor is not unfairly prejudiced by the lack of timely notice.

891 (b) The notice shall include the specifics of the affirmative defense.

892 (c) The defendant shall establish the affirmative defense by a preponderance of the
893 evidence. If the defense is established, it is a complete defense to the charges.

894 (4) Subsection (1) does not apply to:

895 (a) a chemistry or chemistry-related laboratory maintained by:

896 (i) a public or private regularly established secondary school; or

897 (ii) a public or private institution of higher education that is accredited by a regional or
898 national accrediting agency recognized by the United States Department of Education; or

899 (b) a retail distributor, wholesaler, manufacturer, warehouseman, or common carrier, or

900 an agent of any of these persons who possesses red phosphorus in the regular course of lawful
901 business activities.

902 Section 20. Section **58-37c-19.9** is amended to read:

903 **58-37c-19.9. Anhydrous ammonia is a precursor -- Requirements regarding**
904 **purposes and containers.**

905 (1) A person is guilty of a class A misdemeanor who is not licensed to engage in a
906 regulated transaction and is not excepted from licensure or exempted under Subsection (2), and
907 who possesses any amount of anhydrous ammonia under circumstances not amounting to a
908 violation of Subsection 58-37c-3~~(12)~~(11)(k) or 58-37d-4(1)(a).

909 (2) A person who possesses anhydrous ammonia has an affirmative defense to a charge
910 under Subsection (1) if the person is:

911 (a) directly involved in or actively operating land in agricultural use as defined in
912 Section 59-2-502;

913 (b) a retail distributor, wholesaler, manufacturer, warehouseman, or common carrier, or
914 an agent of any of these persons, who possesses anhydrous ammonia in the regular course of
915 lawful business activities;

916 (c) directly involved in or actively operating a business or other lawful activity
917 providing or using anhydrous ammonia for refrigeration applications; or

918 (d) directly involved in or actively operating a lawful business enterprise, including an
919 industrial enterprise, that uses anhydrous ammonia in the regular course of its business
920 activities.

921 Section 21. Section **58-37c-20** is amended to read:

922 **58-37c-20. Possession of ephedrine, pseudoephedrine, or phenylpropanolamine --**
923 **Penalties.**

924 (1) Any person is guilty of a class A misdemeanor:

925 (a) who is not licensed to engage in regulated transactions and is not excepted from
926 licensure; and

927 (b) who, under circumstances not amounting to a violation of Subsection
928 58-37c-3~~(12)~~(11)(k) or Subsection 58-37d-4(1)(a), possesses more than 9 grams of ephedrine,
929 pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a
930 combination of any of these substances.

931 (2) It is an affirmative defense to a charge under Subsection (1) that the person in
932 possession of ephedrine, pseudoephedrine, phenylpropanolamine, or a combination of these
933 two substances:

934 (a) (i) is a physician, pharmacist, retail distributor, wholesaler, manufacturer,
935 warehouseman, or common carrier, or an agent of any of these persons; and

936 (ii) possesses the substances in the regular course of lawful business activities; or

937 (b) possesses the substance pursuant to a valid prescription as defined in Section
938 58-37-2.

939 (3) (a) The defendant shall provide written notice of intent to claim an affirmative
940 defense under this section as soon as practicable, but not later than 10 days prior to trial. The
941 court may waive the notice requirement in the interest of justice for good cause shown, if the
942 prosecutor is not unfairly prejudiced by the lack of timely notice.

943 (b) The notice shall include the specifics of the asserted defense.

944 (c) The defendant shall establish the affirmative defense by a preponderance of the
945 evidence. If the defense is established, it is a complete defense to the charges.

946 (4) This section does not apply to dietary supplements, herbs, or other natural products,
947 including concentrates or extracts, which:

948 (a) are not otherwise prohibited by law; and

949 (b) may contain naturally occurring ephedrine, ephedrine alkaloids, or
950 pseudoephedrine, or their salts, isomers, or salts of isomers, or a combination of these
951 substances, that:

952 (i) are contained in a matrix of organic material; and

953 (ii) do not exceed 15% of the total weight of the natural product.

954 Section 22. Section **58-37d-3** is amended to read:

955 **58-37d-3. Definitions.**

956 (1) As used in this chapter:

957 (a) "Booby trap" means any concealed or camouflaged device designed to cause bodily
958 injury when triggered by any action of a person making contact with the device. This term
959 includes guns, ammunition, or explosive devices attached to trip wires or other triggering
960 mechanisms, sharpened stakes, nails, spikes, electrical devices, lines or wires with hooks
961 attached, and devices for the production of toxic fumes or gases.

- 962 (b) "Clandestine laboratory operation" means the:
- 963 (i) purchase or procurement of chemicals, supplies, equipment, or laboratory location
964 for the illegal manufacture of specified controlled substances;
- 965 (ii) transportation or arranging for the transportation of chemicals, supplies, or
966 equipment for the illegal manufacture of specified controlled substances;
- 967 (iii) setting up of equipment or supplies in preparation for the illegal manufacture of
968 specified controlled substances;
- 969 (iv) activity of compounding, synthesis, concentration, purification, separation,
970 extraction, or other physical or chemical processing of any substance, including a controlled
971 substance precursor, or the packaging, repackaging, labeling, or relabeling of a container
972 holding a substance that is a product of any of these activities, when the substance is to be used
973 for the illegal manufacture of specified controlled substances;
- 974 (v) illegal manufacture of specified controlled substances; or
- 975 (vi) distribution or disposal of chemicals, equipment, supplies, or products used in or
976 produced by the illegal manufacture of specified controlled substances.
- 977 (c) "Controlled substance precursor" means those chemicals designated in Title 58,
978 Chapter 37c, Controlled Substance Precursor Act, except those substances designated in
979 Subsections 58-37c-3~~(2)~~(1)(kk) and (ll).
- 980 (d) "Disposal" means the abandonment, discharge, deposit, injection, dumping,
981 spilling, leaking, or placing of any hazardous or dangerous material into or on any property,
982 land or water so that the material may enter the environment, be emitted into the air, or
983 discharged into any waters, including groundwater.
- 984 (e) "Hazardous or dangerous material" means any substance which because of its
985 quantity, concentration, physical characteristics, or chemical characteristics may cause or
986 significantly contribute to an increase in mortality, an increase in serious illness, or may pose a
987 substantial present or potential future hazard to human health or the environment when
988 improperly treated, stored, transported, disposed of, or otherwise improperly managed.
- 989 (f) "Illegal manufacture of specified controlled substances" means in violation of Title
990 58, Chapter 37, Utah Controlled Substances Act, the:
- 991 (i) compounding, synthesis, concentration, purification, separation, extraction, or other
992 physical or chemical processing for the purpose of producing methamphetamine, other

993 amphetamine compounds as listed in Schedule I of the Utah Controlled Substances Act,
994 phencyclidine, narcotic analgesic analogs as listed in Schedule I of the Utah Controlled
995 Substances Act, lysergic acid diethylamide, or mescaline;

996 (ii) conversion of cocaine or methamphetamine to their base forms; or

997 (iii) extraction, concentration, or synthesis of marijuana as that drug is defined in
998 Section 58-37-2.

999 (2) Unless otherwise specified, the definitions in Section 58-37-2 also apply to this
1000 chapter.

1001 Section 23. Section **58-54-102** is amended to read:

1002 **58-54-102. Definitions.**

1003 In addition to the definition in Section 58-1-102, as used in this chapter:

1004 [~~(1)~~ "Board" means the Radiologic Technologist Licensing Board established under
1005 ~~this chapter.~~]

1006 [~~(2)~~ (1) "General supervision" means the supervising radiologist is available to
1007 provide immediate communication with the supervised person and is aware of the procedure
1008 before it is performed.

1009 [~~(3)~~ (2) "Indirect supervision" means the supervising radiologist:

1010 (a) has given either written or verbal instructions to the person being supervised;

1011 (b) is present in the facility in which the person being supervised is providing services;

1012 and

1013 (c) is available to provide immediate face-to-face communications with the person
1014 being supervised.

1015 [~~(4)~~ (3) "Practice of radiologic technology" means using radiation from a radioactive
1016 substance, radiology equipment, or any other source, in amounts beyond normal background
1017 levels, for diagnostic or therapeutic purposes on humans.

1018 [~~(5)~~ (4) "Practice of radiologist assistant" means the performance of non-invasive and
1019 minimally invasive radiological procedures:

1020 (a) delegated to a radiologist assistant by a radiologist; and

1021 (b) performed under the indirect supervision of a radiologist.

1022 [~~(6)~~ (5) "Radiologic technologist" means a person licensed under this chapter to

1023 engage in the practice of radiologic technology under the general supervision of a radiologist or

1024 radiology practitioner including the administration of parenteral contrast media, radionuclides,
1025 and other medications incidental to radiology procedures provided the administrations are
1026 under the direct supervision of a qualified physician and the technologist is currently certified
1027 in cardiopulmonary resuscitation (CPR) and appropriate patient care procedures.

1028 ~~[(7)]~~ (6) "Radiologist" means a physician certified by the American Board of
1029 Radiology, the American Osteopathic Board of Radiology, the British Royal College of
1030 Radiology, or the Canadian College of Physicians and Surgeons.

1031 ~~[(8)]~~ (7) "Radiologist assistant" means a person licensed under this chapter to engage
1032 in the practice of a radiologist assistant.

1033 ~~[(9)]~~ (8) "Radiology equipment" means any medical radiation device that emits
1034 ionizing or nonionizing radiation or detects that radiation for the purpose or intended purpose
1035 of:

1036 (a) diagnosing disease or other medical conditions in humans; or

1037 (b) treating, curing, mitigating, or preventing disease in humans.

1038 ~~[(10)]~~ (9) "Radiology practical technician" means a person licensed under this chapter
1039 to engage in a practice of radiologic technology performing limited diagnostic radiology
1040 procedures:

1041 (a) as defined and permitted by rule in accordance with Title 63G, Chapter 3, Utah
1042 Administrative Rulemaking Act; and

1043 (b) under the supervision of a radiologist or radiology practitioner.

1044 ~~[(11)]~~ (10) "Radiology practitioner" means any person or individual licensed in this
1045 state as a physician and surgeon, osteopathic physician, podiatric physician, chiropractic
1046 physician, dentist, dental hygienist, or a physician's assistant, nurse practitioner, or nurse
1047 specialist practicing under the supervision of an approved supervising physician and in
1048 accordance with an approved protocol and utilization plan.

1049 ~~[(12)]~~ (11) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-54-501.

1050 ~~[(13)]~~ (12) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-54-501
1051 and as may be further defined by administrative rule adopted by the division.

1052 Section 24. Section **58-54-302** is amended to read:

1053 **58-54-302. Requirements for licensure.**

1054 (1) Each applicant for licensure as a radiologic technologist, radiology assistant, or

1055 radiology practical technician shall:

1056 (a) submit an application in a form prescribed by the division [~~in collaboration with the~~
1057 ~~board~~];

1058 (b) pay a fee as determined by the department pursuant to Section 63J-1-504; and

1059 (c) be of good moral character.

1060 (2) Each applicant for licensure as a radiologic technologist shall, in addition to the
1061 requirements of Subsection (1):

1062 (a) be a graduate of an accredited educational program in radiologic technology or
1063 certified by the American Registry of Radiologic Technologists or any equivalent educational
1064 program approved by the division [~~in collaboration with the board~~]; and

1065 (b) have passed an examination approved by the division [~~in collaboration with the~~
1066 ~~board~~].

1067 (3) Each applicant for licensure as a radiology practical technician shall, in addition to
1068 the requirements of Subsection (1), have passed a basic examination and one or more specialty
1069 examinations that are competency based, using a task analysis of the scope of practice of
1070 radiology practical technicians in the state. The basic examination and the specialty
1071 examination shall be approved by the division [~~in collaboration with the board and the~~
1072 ~~licensing board of the profession within which the radiology practical technician will be~~
1073 ~~practicing~~].

1074 (4) The division shall provide for administration of the radiology practical technician
1075 examination not less than monthly at offices designated by the division and located:

1076 (a) in Salt Lake City; and

1077 (b) within each local health department jurisdictional area.

1078 (5) (a) Except as provided in Subsection (5)(b), each applicant for licensure as a
1079 radiologist assistant shall:

1080 (i) meet the requirements of Subsections (1) and (2);

1081 (ii) have a Bachelor of Science degree; and

1082 (iii) be certified as:

1083 (A) a radiologist assistant by the American Registry of Radiologic Technologists; or

1084 (B) a radiology practitioner assistant by the Certification Board of Radiology

1085 Practitioner Assistants.

1086 (b) An individual who meets the requirements of Subsections (5)(a)(i) and (iii), but not
1087 Subsection (5)(a)(ii), may be licensed as a radiologist assistant under this chapter until May 31,
1088 2013, at which time, the individual must have completed the Bachelor of Science degree in
1089 order to retain the license of radiologist assistant.

1090 Section 25. Section **62A-5a-104** is amended to read:

1091 **62A-5a-104. Powers of council.**

1092 (1) The council has authority, after local or individual efforts have failed~~[-including,~~
1093 ~~with regard to persons under 22 years of age, actions by local interagency councils established~~
1094 ~~under Section 63M-9-301]~~, to:

1095 (a) coordinate the appropriate transition of persons with disabilities who receive
1096 services and support from one state agency to receive services and support from another state
1097 agency;

1098 (b) coordinate policies governing the provision of services and support for persons
1099 with disabilities by state agencies; and

1100 (c) consider issues regarding eligibility for services and support and, where possible,
1101 develop uniform eligibility standards for state agencies.

1102 (2) The council may receive appropriations from the Legislature to purchase services
1103 and supports for persons with disabilities as the council deems appropriate.

1104 Section 26. Section **63A-3-310** is amended to read:

1105 **63A-3-310. Rules for implementing part.**

1106 The [~~Board of Examiners~~] executive director may adopt rules for the implementation of
1107 this part, including rules for the conduct of hearings and appointment of hearing examiners.

1108 Section 27. Section **63G-2-103** is amended to read:

1109 **63G-2-103. Definitions.**

1110 As used in this chapter:

1111 (1) "Audit" means:

1112 (a) a systematic examination of financial, management, program, and related records
1113 for the purpose of determining the fair presentation of financial statements, adequacy of
1114 internal controls, or compliance with laws and regulations; or

1115 (b) a systematic examination of program procedures and operations for the purpose of
1116 determining their effectiveness, economy, efficiency, and compliance with statutes and

1117 regulations.

1118 (2) "Chronological logs" mean the regular and customary summary records of law
1119 enforcement agencies and other public safety agencies that show:

1120 (a) the time and general nature of police, fire, and paramedic calls made to the agency;
1121 and

1122 (b) any arrests or jail bookings made by the agency.

1123 (3) "Classification," "classify," and their derivative forms mean determining whether a
1124 record series, record, or information within a record is public, private, controlled, protected, or
1125 exempt from disclosure under Subsection 63G-2-201(3)(b).

1126 (4) (a) "Computer program" means:

1127 (i) a series of instructions or statements that permit the functioning of a computer
1128 system in a manner designed to provide storage, retrieval, and manipulation of data from the
1129 computer system; and

1130 (ii) any associated documentation and source material that explain how to operate the
1131 computer program.

1132 (b) "Computer program" does not mean:

1133 (i) the original data, including numbers, text, voice, graphics, and images;

1134 (ii) analysis, compilation, and other manipulated forms of the original data produced by
1135 use of the program; or

1136 (iii) the mathematical or statistical formulas, excluding the underlying mathematical
1137 algorithms contained in the program, that would be used if the manipulated forms of the
1138 original data were to be produced manually.

1139 (5) (a) "Contractor" means:

1140 (i) any person who contracts with a governmental entity to provide goods or services
1141 directly to a governmental entity; or

1142 (ii) any private, nonprofit organization that receives funds from a governmental entity.

1143 (b) "Contractor" does not mean a private provider.

1144 (6) "Controlled record" means a record containing data on individuals that is controlled
1145 as provided by Section 63G-2-304.

1146 (7) "Designation," "designate," and their derivative forms mean indicating, based on a
1147 governmental entity's familiarity with a record series or based on a governmental entity's

1148 review of a reasonable sample of a record series, the primary classification that a majority of
1149 records in a record series would be given if classified and the classification that other records
1150 typically present in the record series would be given if classified.

1151 (8) "Elected official" means each person elected to a state office, county office,
1152 municipal office, school board or school district office, local district office, or special service
1153 district office, but does not include judges.

1154 (9) "Explosive" means a chemical compound, device, or mixture:

1155 (a) commonly used or intended for the purpose of producing an explosion; and

1156 (b) that contains oxidizing or combustive units or other ingredients in proportions,
1157 quantities, or packing so that:

1158 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the
1159 compound or mixture may cause a sudden generation of highly heated gases; and

1160 (ii) the resultant gaseous pressures are capable of:

1161 (A) producing destructive effects on contiguous objects; or

1162 (B) causing death or serious bodily injury.

1163 (10) "Government audit agency" means any governmental entity that conducts an audit.

1164 (11) (a) "Governmental entity" means:

1165 (i) executive department agencies of the state, the offices of the governor, lieutenant
1166 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,
1167 [~~the Board of Examiners,~~] the National Guard, the Career Service Review Office, the State
1168 Board of Education, the State Board of Regents, and the State Archives;

1169 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal
1170 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative
1171 committees, except any political party, group, caucus, or rules or sifting committee of the
1172 Legislature;

1173 (iii) courts, the Judicial Council, the Office of the Court Administrator, and similar
1174 administrative units in the judicial branch;

1175 (iv) any state-funded institution of higher education or public education; or

1176 (v) any political subdivision of the state, but, if a political subdivision has adopted an
1177 ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this
1178 chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or

1179 as specified in any other section of this chapter that specifically refers to political subdivisions.

1180 (b) "Governmental entity" also means every office, agency, board, bureau, committee,
1181 department, advisory board, or commission of an entity listed in Subsection (11)(a) that is
1182 funded or established by the government to carry out the public's business.

1183 (c) "Governmental entity" does not include the Utah Educational Savings Plan created
1184 in Section 53B-8a-103.

1185 (12) "Gross compensation" means every form of remuneration payable for a given
1186 period to an individual for services provided including salaries, commissions, vacation pay,
1187 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any
1188 similar benefit received from the individual's employer.

1189 (13) "Individual" means a human being.

1190 (14) (a) "Initial contact report" means an initial written or recorded report, however
1191 titled, prepared by peace officers engaged in public patrol or response duties describing official
1192 actions initially taken in response to either a public complaint about or the discovery of an
1193 apparent violation of law, which report may describe:

1194 (i) the date, time, location, and nature of the complaint, the incident, or offense;

1195 (ii) names of victims;

1196 (iii) the nature or general scope of the agency's initial actions taken in response to the
1197 incident;

1198 (iv) the general nature of any injuries or estimate of damages sustained in the incident;

1199 (v) the name, address, and other identifying information about any person arrested or
1200 charged in connection with the incident; or

1201 (vi) the identity of the public safety personnel, except undercover personnel, or
1202 prosecuting attorney involved in responding to the initial incident.

1203 (b) Initial contact reports do not include follow-up or investigative reports prepared
1204 after the initial contact report. However, if the information specified in Subsection (14)(a)
1205 appears in follow-up or investigative reports, it may only be treated confidentially if it is
1206 private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

1207 (15) "Legislative body" means the Legislature.

1208 (16) "Notice of compliance" means a statement confirming that a governmental entity
1209 has complied with a records committee order.

1210 (17) "Person" means:

1211 (a) an individual;

1212 (b) a nonprofit or profit corporation;

1213 (c) a partnership;

1214 (d) a sole proprietorship;

1215 (e) other type of business organization; or

1216 (f) any combination acting in concert with one another.

1217 (18) "Private provider" means any person who contracts with a governmental entity to
1218 provide services directly to the public.

1219 (19) "Private record" means a record containing data on individuals that is private as
1220 provided by Section 63G-2-302.

1221 (20) "Protected record" means a record that is classified protected as provided by
1222 Section 63G-2-305.

1223 (21) "Public record" means a record that is not private, controlled, or protected and that
1224 is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

1225 (22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film,
1226 card, tape, recording, electronic data, or other documentary material regardless of physical form
1227 or characteristics:

1228 (i) that is prepared, owned, received, or retained by a governmental entity or political
1229 subdivision; and

1230 (ii) where all of the information in the original is reproducible by photocopy or other
1231 mechanical or electronic means.

1232 (b) "Record" does not mean:

1233 (i) a personal note or personal communication prepared or received by an employee or
1234 officer of a governmental entity:

1235 (A) in a capacity other than the employee's or officer's governmental capacity; or

1236 (B) that is unrelated to the conduct of the public's business;

1237 (ii) a temporary draft or similar material prepared for the originator's personal use or
1238 prepared by the originator for the personal use of an individual for whom the originator is
1239 working;

1240 (iii) material that is legally owned by an individual in the individual's private capacity;

- 1241 (iv) material to which access is limited by the laws of copyright or patent unless the
1242 copyright or patent is owned by a governmental entity or political subdivision;
- 1243 (v) proprietary software;
- 1244 (vi) junk mail or a commercial publication received by a governmental entity or an
1245 official or employee of a governmental entity;
- 1246 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections
1247 of a library open to the public;
- 1248 (viii) material that is cataloged, indexed, or inventoried and contained in the collections
1249 of a library open to the public, regardless of physical form or characteristics of the material;
- 1250 (ix) a daily calendar or other personal note prepared by the originator for the
1251 originator's personal use or for the personal use of an individual for whom the originator is
1252 working;
- 1253 (x) a computer program that is developed or purchased by or for any governmental
1254 entity for its own use;
- 1255 (xi) a note or internal memorandum prepared as part of the deliberative process by:
- 1256 (A) a member of the judiciary;
- 1257 (B) an administrative law judge;
- 1258 (C) a member of the Board of Pardons and Parole; or
- 1259 (D) a member of any other body charged by law with performing a quasi-judicial
1260 function;
- 1261 (xii) a telephone number or similar code used to access a mobile communication
1262 device that is used by an employee or officer of a governmental entity, provided that the
1263 employee or officer of the governmental entity has designated at least one business telephone
1264 number that is a public record as provided in Section 63G-2-301;
- 1265 (xiii) information provided by the Public Employees' Benefit and Insurance Program,
1266 created in Section 49-20-103, to a county to enable the county to calculate the amount to be
1267 paid to a health care provider under Subsection 17-50-319(2)(e)(ii); or
- 1268 (xiv) information that an owner of unimproved property provides to a local entity as
1269 provided in Section 11-42-205.
- 1270 (23) "Record series" means a group of records that may be treated as a unit for
1271 purposes of designation, description, management, or disposition.

1272 (24) "Records committee" means the State Records Committee created in Section
1273 63G-2-501.

1274 (25) "Records officer" means the individual appointed by the chief administrative
1275 officer of each governmental entity, or the political subdivision to work with state archives in
1276 the care, maintenance, scheduling, designation, classification, disposal, and preservation of
1277 records.

1278 (26) "Schedule," "scheduling," and their derivative forms mean the process of
1279 specifying the length of time each record series should be retained by a governmental entity for
1280 administrative, legal, fiscal, or historical purposes and when each record series should be
1281 transferred to the state archives or destroyed.

1282 (27) "Sponsored research" means research, training, and other sponsored activities as
1283 defined by the federal Executive Office of the President, Office of Management and Budget:

1284 (a) conducted:

1285 (i) by an institution within the state system of higher education defined in Section
1286 53B-1-102; and

1287 (ii) through an office responsible for sponsored projects or programs; and

1288 (b) funded or otherwise supported by an external:

1289 (i) person that is not created or controlled by the institution within the state system of
1290 higher education; or

1291 (ii) federal, state, or local governmental entity.

1292 (28) "State archives" means the Division of Archives and Records Service created in
1293 Section 63A-12-101.

1294 (29) "State archivist" means the director of the state archives.

1295 (30) "Summary data" means statistical records and compilations that contain data
1296 derived from private, controlled, or protected information but that do not disclose private,
1297 controlled, or protected information.

1298 Section 28. Section **63G-7-701** is amended to read:

1299 **63G-7-701. Payment of claim or judgment against state -- Presentment for**
1300 **payment.**

1301 (1) [(a)] Each claim, as defined by Subsection 63G-7-102(1), that is approved by the
1302 state or any final judgment obtained against the state shall be presented for payment to:

1334 2020.

1335 (7) The Resource Development Coordinating Committee, created in Section
1336 63J-4-501, is repealed July 1, 2015.

1337 (8) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

1338 (9) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act, is
1339 repealed January 1, 2021.

1340 (b) Subject to Subsection (9)(c), Sections 59-7-610 and 59-10-1007 regarding tax
1341 credits for certain persons in recycling market development zones, are repealed for taxable
1342 years beginning on or after January 1, 2021.

1343 (c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

1344 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or
1345 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

1346 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if
1347 the expenditure is made on or after January 1, 2021.

1348 (d) Notwithstanding Subsections (9)(b) and (c), a person may carry forward a tax credit
1349 in accordance with Section 59-7-610 or 59-10-1007 if:

1350 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

1351 (ii) (A) for the purchase price of machinery or equipment described in Section
1352 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31,
1353 2020; or

1354 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the
1355 expenditure is made on or before December 31, 2020.

1356 (10) (a) Section 63M-1-2507, Health Care Compact is repealed on July 1, 2014.

1357 (b) (i) The Legislature shall, before reauthorizing the Health Care Compact:

1358 (A) direct the Health System Reform Task Force to evaluate the issues listed in
1359 Subsection (10)(b)(ii), and by January 1, 2013 develop and recommend criteria for the
1360 Legislature to use to negotiate the terms of the Health Care Compact; and

1361 (B) prior to July 1, 2014, seek amendments to the Health Care Compact among the
1362 member states that the Legislature determines are appropriate after considering the
1363 recommendations of the Health System Reform Task Force.

1364 (ii) The Health System Reform Task Force shall evaluate and develop criteria for the

1365 Legislature regarding:

1366 (A) the impact of the Supreme Court ruling on the Affordable Care Act;

1367 (B) whether Utah is likely to be required to implement any part of the Affordable Care
1368 Act prior to negotiating the compact with the federal government, such as Medicaid expansion
1369 in 2014;

1370 (C) whether the compact's current funding formula, based on adjusted 2010 state
1371 expenditures, is the best formula for Utah and other state compact members to use for
1372 establishing the block grants from the federal government;

1373 (D) whether the compact's calculation of current year inflation adjustment factor,
1374 without consideration of the regional medical inflation rate in the current year, is adequate to
1375 protect the state from increased costs associated with administering a state based Medicaid and
1376 a state based Medicare program;

1377 (E) whether the state has the flexibility it needs under the compact to implement and
1378 fund state based initiatives, or whether the compact requires uniformity across member states
1379 that does not benefit Utah;

1380 (F) whether the state has the option under the compact to refuse to take over the federal
1381 Medicare program;

1382 (G) whether a state based Medicare program would provide better benefits to the
1383 elderly and disabled citizens of the state than a federally run Medicare program;

1384 (H) whether the state has the infrastructure necessary to implement and administer a
1385 better state based Medicare program;

1386 (I) whether the compact appropriately delegates policy decisions between the
1387 legislative and executive branches of government regarding the development and
1388 implementation of the compact with other states and the federal government; and

1389 (J) the impact on public health activities, including communicable disease surveillance
1390 and epidemiology.

1391 (11) The Crime Victim Reparations and Assistance Board, created in Section
1392 63M-7-504, is repealed July 1, 2017.

1393 [~~(12) Title 63M, Chapter 9, Families, Agencies, and Communities Together for~~
1394 ~~Children and Youth At Risk Act, is repealed July 1, 2016.]~~

1395 [~~(13)~~ (12) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,

1396 2017.

1397 Section 32. Section **63J-1-201** is amended to read:

1398 **63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation**

1399 **-- Appropriations based on current tax laws and not to exceed estimated revenues.**

1400 (1) The governor shall deliver, not later than 30 days before the date the Legislature
1401 convenes in the annual general session, a confidential draft copy of the governor's proposed
1402 budget recommendations to the Office of the Legislative Fiscal Analyst according to the
1403 requirements of this section.

1404 (2) (a) When submitting a proposed budget, the governor shall, within the first three
1405 days of the annual general session of the Legislature, submit to the presiding officer of each
1406 house of the Legislature:

1407 (i) a proposed budget for the ensuing fiscal year;

1408 (ii) a schedule for all of the proposed changes to appropriations in the proposed budget,
1409 with each change clearly itemized and classified; and

1410 (iii) as applicable, a document showing proposed changes in estimated revenues that
1411 are based on changes in state tax laws or rates.

1412 (b) The proposed budget shall include:

1413 (i) a projection of the total estimated revenues and appropriations for the next fiscal
1414 year;

1415 (ii) the source of changes to all direct, indirect, and in-kind matching funds for all
1416 federal grants or assistance programs included in the budget;

1417 (iii) a plan of proposed changes to appropriations and estimated revenues for the next
1418 fiscal year that is based upon the current fiscal year state tax laws and rates;

1419 (iv) an itemized estimate of the proposed changes to appropriations for:

1420 (A) the Legislative Department as certified to the governor by the president of the
1421 Senate and the speaker of the House;

1422 (B) the Executive Department;

1423 (C) the Judicial Department as certified to the governor by the state court
1424 administrator;

1425 (D) changes to salaries payable by the state under the Utah Constitution or under law
1426 for lease agreements planned for the next fiscal year; and

- 1427 (E) all other changes to ongoing or one-time appropriations, including dedicated
1428 credits, restricted funds, nonlapsing balances, grants, and federal funds;
- 1429 (v) for each line item, the average annual dollar amount of staff funding associated
1430 with all positions that were vacant during the last fiscal year;
- 1431 (vi) deficits or anticipated deficits;
- 1432 (vii) the recommendations for each state agency for new full-time employees for the
1433 next fiscal year, which shall also be provided to the State Building Board as required by
1434 Subsection 63A-5-103(2);
- 1435 (viii) any explanation that the governor may desire to make as to the important features
1436 of the budget and any suggestion as to methods for the reduction of expenditures or increase of
1437 the state's revenue; and
- 1438 (ix) information detailing certain fee increases as required by Section 63J-1-504.
- 1439 (3) For the purpose of preparing and reporting the proposed budget:
- 1440 (a) The governor shall require the proper state officials, including all public and higher
1441 education officials, all heads of executive and administrative departments and state institutions,
1442 bureaus, boards, commissions, and agencies expending or supervising the expenditure of the
1443 state money, and all institutions applying for state money and appropriations, to provide
1444 itemized estimates of changes in revenues and appropriations.
- 1445 (b) The governor may require the persons and entities subject to Subsection (3)(a) to
1446 provide other information under these guidelines and at times as the governor may direct,
1447 which may include a requirement for program productivity and performance measures, where
1448 appropriate, with emphasis on outcome indicators.
- 1449 (c) The governor may require representatives of public and higher education, state
1450 departments and institutions, and other institutions or individuals applying for state
1451 appropriations to attend budget meetings.
- 1452 (4) In submitting the budgets for the Departments of Health and Human Services and
1453 the Office of the Attorney General, the governor shall consider a separate recommendation in
1454 the governor's budget for changes in funds to be contracted to:
- 1455 (a) local mental health authorities under Section 62A-15-110;
- 1456 (b) local substance abuse authorities under Section 62A-15-110;
- 1457 (c) area agencies under Section 62A-3-104.2;

1458 (d) programs administered directly by and for operation of the Divisions of Substance
1459 Abuse and Mental Health and Aging and Adult Services;

1460 (e) local health departments under Title 26A, Chapter 1, Local Health Departments;
1461 and

1462 (f) counties for the operation of Children's Justice Centers under Section 67-5b-102.

1463 (5) (a) In making budget recommendations, the governor shall consider an amount
1464 sufficient to grant the following entities the same percentage increase for wages and benefits
1465 that the governor includes in the governor's budget for persons employed by the state:

1466 (i) local health departments, local mental health authorities, local substance abuse
1467 authorities, and area agencies;

1468 (ii) local conservation districts and Utah Association of Conservation District
1469 employees, as related to the budget for the Department of Agriculture; and

1470 (iii) employees of corporations that provide direct services under contract with:

1471 (A) the Utah State Office of Rehabilitation and the Division of Services for People
1472 with Disabilities;

1473 (B) the Division of Child and Family Services; and

1474 (C) the Division of Juvenile Justice Services within the Department of Human
1475 Services.

1476 (b) If the governor does not include in the governor's budget an amount sufficient to
1477 grant an increase for any entity described in Subsection (5)(a), the governor shall include a
1478 message to the Legislature regarding the governor's reason for not including that amount.

1479 ~~[(6)(a) The Families, Agencies, and Communities Together Council may propose a~~
1480 ~~budget recommendation to the governor for collaborative service delivery systems operated~~
1481 ~~under Section 63M-9-402, as provided under Subsection 63M-9-201(4)(e).]~~

1482 ~~[(b) The Legislature may, through a specific program schedule, designate funds~~
1483 ~~appropriated for collaborative service delivery systems operated under Section 63M-9-402.]~~

1484 ~~[(7)]~~ (6) The governor shall include in the governor's budget the state's portion of the
1485 budget for the Utah Communications Agency Network established in Title 63C, Chapter 7,
1486 Utah Communications Agency Network Act.

1487 ~~[(8)]~~ (7) (a) The governor shall include a separate recommendation in the governor's
1488 budget for funds to maintain the operation and administration of the Utah Comprehensive

1489 Health Insurance Pool. In making the recommendation, the governor may consider:

1490 (i) actuarial analysis of growth or decline in enrollment projected over a period of at
1491 least three years;

1492 (ii) actuarial analysis of the medical and pharmacy claims costs projected over a period
1493 of at least three years;

1494 (iii) the annual Medical Care Consumer Price Index;

1495 (iv) the annual base budget for the pool established by the Business, Economic
1496 Development, and Labor Appropriations Subcommittee for each fiscal year;

1497 (v) the growth or decline in insurance premium taxes and fees collected by the State
1498 Tax Commission and the Insurance Department; and

1499 (vi) the availability of surplus General Fund revenue under Section 63J-1-312 and
1500 Subsection 59-14-204(5).

1501 (b) In considering the factors in Subsections [~~(8)~~] (7)(a)(i), (ii), and (iii), the governor
1502 may consider the actuarial data and projections prepared for the board of the Utah
1503 Comprehensive Health Insurance Pool as it develops the governor's financial statements and
1504 projections for each fiscal year.

1505 [~~(9)~~] (8) (a) In submitting the budget for the Department of Public Safety, the governor
1506 shall include a separate recommendation in the governor's budget for maintaining a sufficient
1507 number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to
1508 or below the number specified in Subsection 32B-1-201(2).

1509 (b) If the governor does not include in the governor's budget an amount sufficient to
1510 maintain the number of alcohol-related law enforcement officers described in Subsection [~~(9)~~]
1511 (8)(a), the governor shall include a message to the Legislature regarding the governor's reason
1512 for not including that amount.

1513 [~~(10)~~] (9) (a) The governor may revise all estimates, except those relating to the
1514 Legislative Department, the Judicial Department, and those providing for the payment of
1515 principal and interest to the state debt and for the salaries and expenditures specified by the
1516 Utah Constitution or under the laws of the state.

1517 (b) The estimate for the Judicial Department, as certified by the state court
1518 administrator, shall also be included in the budget without revision, but the governor may make
1519 separate recommendations on the estimate.

1520 ~~[(11)]~~ (10) The total appropriations requested for expenditures authorized by the
 1521 budget may not exceed the estimated revenues from taxes, fees, and all other sources for the
 1522 next ensuing fiscal year.

1523 ~~[(12)]~~ (11) If any item of the budget as enacted is held invalid upon any ground, the
 1524 invalidity does not affect the budget itself or any other item in it.

1525 Section 33. Section **63J-1-217** is amended to read:

1526 **63J-1-217. Overexpenditure of budget by agency -- Prorating budget income**
 1527 **shortfall.**

1528 (1) Expenditures of departments, agencies, and institutions of state government shall be
 1529 kept within revenues available for such expenditures.

1530 (2) (a) Line items of appropriation shall not be overexpended.

1531 (b) Notwithstanding Subsection (2)(a), if an agency's line item is overexpended at the
 1532 close of a fiscal year:

1533 (i) the director of the Division of Finance may make payments from the line item to
 1534 vendors for goods or services that were received on or before June 30; and

1535 (ii) the director of the Division of Finance shall immediately reduce the agency's line
 1536 item budget in the current year by the amount of the overexpenditure.

1537 (c) Each agency with an overexpended line item shall:

1538 (i) prepare a written report explaining the reasons for the overexpenditure; and

1539 (ii) present the report to~~[-(A) the Board of Examiners as required by Section~~
 1540 ~~63G-9-301; and (B)]~~ the Office of the Legislative Fiscal Analyst.

1541 (3) (a) As used in this Subsection (3):

1542 (i) "Education Fund budget deficit" has the same meaning as in Section 63J-1-312; and

1543 (ii) "General Fund budget deficit" has the same meaning as in Section 63J-1-312.

1544 (b) If an Education Fund budget deficit or a General Fund budget deficit exists and the
 1545 adopted estimated revenues were prepared in consensus with the Governor's Office of Planning
 1546 and Budget, the governor shall:

1547 (i) direct state agencies to reduce commitments and expenditures by an amount
 1548 proportionate to the amount of the deficiency; and

1549 (ii) direct the Division of Finance to reduce allotments to institutions of higher
 1550 education by an amount proportionate to the amount of the deficiency.

1551 (c) The governor's directions under Subsection (3)(b) are rescinded when the
1552 Legislature rectifies the Education Fund budget deficit and the General Fund budget deficit.

1553 (4) (a) A department may not receive an advance of funds that cannot be covered by
1554 anticipated revenue within the work program of the fiscal year, unless the governor allocates
1555 money from the governor's emergency appropriations.

1556 (b) All allocations made from the governor's emergency appropriations shall be
1557 reported to the budget subcommittee of the Legislative Management Committee by notifying
1558 the Office of the Legislative Fiscal Analyst at least 15 days before the effective date of the
1559 allocation.

1560 (c) Emergency appropriations shall be allocated only to support activities having
1561 existing legislative approval and appropriation, and may not be allocated to any activity or
1562 function rejected directly or indirectly by the Legislature.

1563 Section 34. Section **65A-1-1** is amended to read:

1564 **TITLE 65A. DIVISION OF FORESTRY, FIRE AND STATE LANDS**

1565 **65A-1-1. Definitions.**

1566 As used in this title:

1567 [~~(1)~~ "Advisory council" or "council" means the Forestry, Fire, and State Lands
1568 ~~Advisory Council.~~]

1569 [~~(2)~~ (1) "Division" means the Division of Forestry, Fire, and State Lands.

1570 [~~(3)~~ (2) "Multiple use" means the management of various surface and subsurface
1571 resources in a manner that will best meet the present and future needs of the people of this
1572 state.

1573 [~~(4)~~ (3) "Public trust assets" means those lands and resources, including sovereign
1574 lands, administered by the division.

1575 [~~(5)~~ (4) "Sovereign lands" means those lands lying below the ordinary high water
1576 mark of navigable bodies of water at the date of statehood and owned by the state by virtue of
1577 its sovereignty.

1578 [~~(6)~~ (5) "State lands" means all lands administered by the division.

1579 [~~(7)~~ (6) "Sustained yield" means the achievement and maintenance of high level
1580 annual or periodic output of the various renewable resources of land without impairment of the
1581 productivity of the land.

1582 ~~[(8)]~~ (7) "Wildland" means an area where:

1583 (a) development is essentially non-existent, except for roads, railroads, powerlines, or
1584 similar transportation facilities; and

1585 (b) structures, if any, are widely scattered.

1586 ~~[(9)]~~ (8) "Wildland fire" means a fire that consumes:

1587 (a) wildland; or

1588 (b) wildland-urban interface, as defined in Section 65A-8a-102.

1589 Section 35. Section **65A-1-4** is amended to read:

1590 **65A-1-4. Division of Forestry, Fire, and State Lands -- Creation -- Power and**
1591 **authority.**

1592 (1) (a) The Division of Forestry, Fire, and State Lands is created within the Department
1593 of Natural Resources under the administration and general supervision of the executive director
1594 of the department.

1595 (b) The division is the executive authority for the management of sovereign lands, and
1596 the state's mineral estates on lands other than school and institutional trust lands, and shall
1597 provide for forestry and fire control activities as required in Section 65A-8-101.

1598 (2) The division shall adopt rules under Title 63G, Chapter 3, Utah Administrative
1599 Rulemaking Act, necessary to fulfill the purposes of this title.

1600 (3) The director of the Division of Forestry, Fire, and State Lands is the executive and
1601 administrative head of the division and shall be a person experienced in administration and
1602 management of natural resources.

1603 ~~[(4) The director shall inform the council:]~~

1604 ~~[(a) in an annual meeting of the division's plans, policies, and budget; and]~~

1605 ~~[(b) of policy changes and developing conflicts:]~~

1606 ~~[(5) The director shall give the council an opportunity to advise on the changes and~~
1607 ~~conflicts.]~~

1608 ~~[(6)]~~ (4) (a) An aggrieved party to a final action by the director may appeal that action
1609 to the executive director of the Department of Natural Resources within 20 days after the
1610 action.

1611 (b) The executive director shall rule on the director's action within 20 days after receipt
1612 of the appeal.

1613 Section 36. Section **65A-1-9** is amended to read:

1614 **65A-1-9. Application of Public Officers' and Employees' Ethics Act.**

1615 [~~Council members and employees~~] Employees and agents of the division are subject to
1616 Title 67, Chapter 16, Public Officers' and Employees' Ethics Act.

1617 Section 37. Section **67-5-1** is amended to read:

1618 **67-5-1. General duties.**

1619 The attorney general shall:

1620 (1) perform all duties in a manner consistent with the attorney-client relationship under
1621 Section 67-5-17;

1622 (2) except as provided in Sections 10-3-928 and 17-18-1, attend the Supreme Court
1623 and the Court of Appeals of this state, and all courts of the United States, and prosecute or
1624 defend all causes to which the state, or any officer, board, or commission of the state in an
1625 official capacity is a party; and take charge, as attorney, of all civil legal matters in which the
1626 state is interested;

1627 (3) after judgment on any cause referred to in Subsection (2), direct the issuance of
1628 process as necessary to execute the judgment;

1629 (4) account for, and pay over to the proper officer, all money that comes into the
1630 attorney general's possession that belongs to the state;

1631 (5) keep a file of all cases in which the attorney general is required to appear, including
1632 any documents and papers showing the court in which the cases have been instituted and tried,
1633 and whether they are civil or criminal, and:

1634 (a) if civil, the nature of the demand, the stage of proceedings, and when prosecuted to
1635 judgment, a memorandum of the judgment and of any process issued whether satisfied, and if
1636 not satisfied, the return of the sheriff;

1637 (b) if criminal, the nature of the crime, the mode of prosecution, the stage of
1638 proceedings, and when prosecuted to sentence, a memorandum of the sentence and of the
1639 execution, if the sentence has been executed, if not executed, of the reason of the delay or
1640 prevention; and

1641 (c) deliver this information to the attorney general's successor in office;

1642 (6) exercise supervisory powers over the district and county attorneys of the state in all
1643 matters pertaining to the duties of their offices, and from time to time require of them reports of

1644 the condition of public business entrusted to their charge;

1645 (7) give the attorney general's opinion in writing and without fee to the Legislature or
1646 either house, and to any state officer, board, or commission, and to any county attorney or
1647 district attorney, when required, upon any question of law relating to their respective offices;

1648 (8) when required by the public service or directed by the governor, assist any county,
1649 district, or city attorney in the discharge of his duties;

1650 (9) purchase in the name of the state, [~~under the direction of the state Board of~~
1651 ~~Examiners,~~] any property offered for sale under execution issued upon judgments in favor of or
1652 for the use of the state, and enter satisfaction in whole or in part of the judgments as the
1653 consideration of the purchases;

1654 (10) when the property of a judgment debtor in any judgment mentioned in Subsection
1655 (9) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance
1656 taking precedence of the judgment in favor of the state, redeem the property[~~, under the~~
1657 ~~direction of the state Board of Examiners,~~] from the prior judgment, lien, or encumbrance, and
1658 pay all money necessary for the redemption[~~, upon the order of the state Board of Examiners,~~]
1659 out of any money appropriated for these purposes;

1660 (11) when in his opinion it is necessary for the collection or enforcement of any
1661 judgment, institute and prosecute on behalf of the state any action or proceeding necessary to
1662 set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the
1663 cost necessary to the prosecution[~~, when allowed by the state Board of Examiners,~~] out of any
1664 money not otherwise appropriated;

1665 (12) discharge the duties of a member of all official boards of which the attorney
1666 general is or may be made a member by the Utah Constitution or by the laws of the state, and
1667 other duties prescribed by law;

1668 (13) institute and prosecute proper proceedings in any court of the state or of the
1669 United States, to restrain and enjoin corporations organized under the laws of this or any other
1670 state or territory from acting illegally or in excess of their corporate powers or contrary to
1671 public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations,
1672 and wind up their affairs;

1673 (14) institute investigations for the recovery of all real or personal property that may
1674 have escheated or should escheat to the state, and for that purpose, subpoena any persons

1675 before any of the district courts to answer inquiries and render accounts concerning any
1676 property, examine all books and papers of any corporations, and when any real or personal
1677 property is discovered that should escheat to the state, institute suit in the district court of the
1678 county where the property is situated for its recovery, and escheat that property to the state;

1679 (15) administer the Children's Justice Center as a program to be implemented in
1680 various counties pursuant to Sections 67-5b-101 through 67-5b-107;

1681 (16) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4,
1682 Constitutional Defense Council;

1683 (17) pursue any appropriate legal action to implement the state's public lands policy
1684 established in Subsection 63C-4-105(1);

1685 (18) investigate and prosecute violations of all applicable state laws relating to fraud in
1686 connection with the state Medicaid program and any other medical assistance program
1687 administered by the state, including violations of Title 26, Chapter 20, False Claims Act;

1688 (19) investigate and prosecute complaints of abuse, neglect, or exploitation of patients
1689 at:

1690 (a) health care facilities that receive payments under the state Medicaid program; and

1691 (b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C.

1692 Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and

1693 (20) (a) report at least twice per year to the Legislative Management Committee on any
1694 pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

1695 (i) cost the state more than \$500,000; or

1696 (ii) require the state to take legally binding action that would cost more than \$500,000

1697 to implement; and

1698 (b) if the meeting is closed, include an estimate of the state's potential financial or other
1699 legal exposure in that report.

1700 Section 38. Section **78B-1-117** is amended to read:

1701 **78B-1-117. Jurors and witnesses -- State payment for jurors and subpoenaed**
1702 **persons -- Appropriations and costs -- Expenses in justice court.**

1703 (1) The state is responsible for payment of all fees and expenses authorized by law for
1704 prosecution witnesses, witnesses subpoenaed by indigent defendants, and interpreter costs in
1705 criminal actions in the courts of record and actions in the juvenile court. The state is

1706 responsible for payment of all fees and expenses authorized by law for jurors in the courts of
 1707 record. For these payments, the Judicial Council shall receive an annual appropriation
 1708 contained in a separate line item appropriation.

1709 (2) If expenses exceed the line item appropriation, the administrator of the courts shall
 1710 submit a claim against the state to the [~~Board of Examiners and request the board to~~
 1711 ~~recommend~~] Legislature and submit a supplemental appropriation request to the Legislature for
 1712 the deficit incurred.

1713 (3) In the justice courts, the fees, mileage, and other expenses authorized by law for
 1714 jurors, prosecution witnesses, witnesses subpoenaed by indigent defendants, and interpreter
 1715 costs shall be paid by the municipality if the action is prosecuted by the city attorney, and by
 1716 the county if the action is prosecuted by the county attorney or district attorney.

1717 Section 39. Section **78B-8-506** is amended to read:

1718 **78B-8-506. Payment of expenses awarded -- Statement required in agency's**
 1719 **budget.**

1720 Expenses awarded under this part shall be paid from funds in the regular operating
 1721 budget of the state entity. If sufficient funds are not available in the budget of the entity, the
 1722 [~~expenses shall be considered a claim governed by the provisions of Title 63G, Chapter 9,~~
 1723 ~~Board of Examiners Act~~] entity shall submit a supplemental appropriation request to the
 1724 Legislature. Every state entity against which litigation expenses have been awarded under this
 1725 part shall, at the time of submission of its proposed budget, submit a report to the governmental
 1726 body which appropriates its funds in which the amount of expenses awarded and paid under
 1727 this act during the fiscal year is stated.

1728 Section 40. Section **79-2-201** is amended to read:

1729 **79-2-201. Department of Natural Resources created.**

1730 (1) There is created the Department of Natural Resources.

1731 (2) The department comprises the following:

1732 (a) Board of Water Resources, created in Section 73-10-1.5;

1733 [~~(b) Forestry, Fire, and State Lands Advisory Council, created in Section 65A-1-2;~~]

1734 [~~(c)~~] (b) Board of Oil, Gas, and Mining, created in Section 40-6-4;

1735 [~~(d)~~] (c) Board of Parks and Recreation, created in Section 79-4-301;

1736 [~~(e)~~] (d) Wildlife Board, created in Section 23-14-2;

- 1737 ~~[(f)]~~ (e) Board of the Utah Geological Survey, created in Section 79-3-301;
- 1738 ~~[(g)]~~ (f) Water Development Coordinating Council, created in Section 73-10c-3;
- 1739 ~~[(h)]~~ (g) Division of Water Rights, created in Section 73-2-1.1;
- 1740 ~~[(i)]~~ (h) Division of Water Resources, created in Section 73-10-18;
- 1741 ~~[(j)]~~ (i) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;
- 1742 ~~[(k)]~~ (j) Division of Oil, Gas, and Mining, created in Section 40-6-15;
- 1743 ~~[(l)]~~ (k) Division of Parks and Recreation, created in Section 79-4-201;
- 1744 ~~[(m)]~~ (l) Division of Wildlife Resources, created in Section 23-14-1;
- 1745 ~~[(n)]~~ (m) Utah Geological Survey, created in Section 79-3-201;
- 1746 ~~[(o)]~~ (n) Heritage Trees Advisory Committee, created in Section 65A-8-306;
- 1747 ~~[(p)]~~ (o) Recreational Trails Advisory Council, authorized by Section 79-5-201;
- 1748 ~~[(q)]~~ (p) Boating Advisory Council, authorized by Section 73-18-3.5;
- 1749 ~~[(r)]~~ (q) Wildlife Board Nominating Committee, created in Section 23-14-2.5; and
- 1750 ~~[(s)]~~ (r) Wildlife Regional Advisory Councils, created in Section 23-14-2.6.
- 1751 Section 41. **Repealer.**
- 1752 This bill repeals:
- 1753 Section **10-6-153, Municipal government fiscal committee created -- Members --**
- 1754 **Terms -- Vacancies -- Recommendations.**
- 1755 Section **17-36-5, Creation of Citizens and County Officials Advisory Committee.**
- 1756 Section **34A-5-105, Antidiscrimination and Labor Advisory Council --**
- 1757 **Membership -- Appointment -- Term -- Powers and duties -- Chair.**
- 1758 Section **34A-6-106, Occupational Safety and Health Advisory Council --**
- 1759 **Appointment.**
- 1760 Section **52-7-203, No review by Board of Examiners.**
- 1761 Section **53-3-908, Advisory committee.**
- 1762 Section **53A-1a-602, Job Enhancement Committee -- Composition -- Duties --**
- 1763 **Appropriation.**
- 1764 Section **58-20a-201, Board.**
- 1765 Section **58-37c-4, Board.**
- 1766 Section **58-54-201, Board created -- Membership -- Duties.**

- 1767 Section **63G-9-201, Members -- Functions.**
- 1768 Section **63G-9-202, Procedures -- Adjudicative proceedings.**
- 1769 Section **63G-9-203, Meetings.**
- 1770 Section **63G-9-204, Record of proceedings.**
- 1771 Section **63G-9-205, Rules and regulations.**
- 1772 Section **63G-9-206, Witnesses -- Subpoena -- Examination -- Fees.**
- 1773 Section **63G-9-207, Depositions.**
- 1774 Section **63G-9-301, Audit and approval of claims -- Overexpenditure by agencies.**
- 1775 Section **63G-9-303, Meeting to examine claims -- Notice of meeting.**
- 1776 Section **63G-9-304, Adjustment of claims -- Recommendations to Legislature.**
- 1777 Section **63G-9-305, Publication of abstract of claims allowed and rejected.**
- 1778 Section **63G-9-306, Reconsideration of rejected claims.**
- 1779 Section **63G-9-401, Appeal to Legislature.**
- 1780 Section **63M-1-1501, Title.**
- 1781 Section **63M-1-1502, Definitions.**
- 1782 Section **63M-1-1503, Advisory board.**
- 1783 Section **63M-1-1504, Advisory board duties.**
- 1784 Section **63M-1-1505, Criteria for participation -- Report.**
- 1785 Section **63M-9-101, Title.**
- 1786 Section **63M-9-102, Purpose of chapter.**
- 1787 Section **63M-9-103, Definitions.**
- 1788 Section **63M-9-104, Relationship to political subdivisions.**
- 1789 Section **63M-9-201, Families, Agencies, and Communities Together State Council**
- 1790 **-- Composition -- Duties -- Interagency case management team.**
- 1791 Section **63M-9-202, Steering committee -- Membership -- Duties.**
- 1792 Section **63M-9-203, Staffing.**
- 1793 Section **63M-9-301, Local interagency council -- Composition -- Duties.**
- 1794 Section **63M-9-401, Prevention and early intervention programs -- Applicants --**
- 1795 **Selection process.**
- 1796 Section **63M-9-402, Plans for collaborative service delivery systems.**
- 1797 Section **63M-9-501, Evaluation of programs -- Report to legislative interim**

1798 **committee.**

1799 Section **65A-1-2, Forestry, Fire, and State Lands Advisory Council -- Creation --**

1800 **Responsibilities.**

1801 Section **65A-1-3, Forestry, Fire, and State Lands Advisory Council -- Membership**

1802 **-- Chair -- Terms -- Quorum -- Per diem and travel expenses -- Duties.**