

BUSINESS AND LABOR INTERIM COMMITTEE**REPORT AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies provisions regarding reporting to the Business and Labor Interim Committee.

Highlighted Provisions:

This bill:

- ▶ clarifies that various reports are to be written;
- ▶ changes various dates when reports are due;
- ▶ repeals reporting requirement related to workers' compensation cases;
- ▶ repeals the requirement that the state coordinator of resource stewardship report to the Business and Labor Interim Committee;
- ▶ requires USTAR to annually submit a written report to the Business and Labor Interim Committee;
- ▶ repeals the requirement that a workers' compensation insurance market conditions report be given by the Insurance Department; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-14-310, as enacted by Laws of Utah 2015, Chapter 268

34-47-202, as enacted by Laws of Utah 2011, Chapter 15

34A-2-801, as last amended by Laws of Utah 2014, Chapter 192

63A-1-116, as enacted by Laws of Utah 2014, Chapter 292

32 **63M-2-401**, as last amended by Laws of Utah 2015, Chapter 357

33 REPEALS:

34 **31A-22-1013**, as enacted by Laws of Utah 2008, Chapter 348

35

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

37 Section 1. Section **13-14-310** is amended to read:

38 **13-14-310. Reporting requirement.**

39 By [~~November 30~~] September 1 of each year, the advisory board shall submit an annual
40 written report to the Business and Labor Interim Committee that, for the [~~12 months before~~]
41 fiscal year immediately preceding the day on which the report is submitted, describes:

42 (1) the number of applications for a new or relocated dealership that the advisory board
43 received; and

44 (2) for each application described in Subsection (1):

45 (a) the number of protests that the advisory board received;

46 (b) whether the advisory board conducted a hearing;

47 (c) if the advisory board conducted a hearing, the disposition of the hearing; and

48 (d) the basis for any disposition described in Subsection (2)(c).

49 Section 2. Section **34-47-202** is amended to read:

50 **34-47-202. Duties and powers of the council.**

51 (1) The council shall meet at least quarterly with the attorney general or a designee of
52 the attorney general to coordinate regulatory and law enforcement efforts related to
53 misclassification.

54 (2) (a) The council shall provide a written report by no later than [~~November 30~~]
55 September 1 of each year regarding the previous fiscal year to:

56 (i) the governor; and

57 (ii) the Business and Labor Interim Committee.

58 (b) The report required by this Subsection (2) shall include:

59 (i) the nature and extent of misclassification in this state;

60 (ii) the results of regulatory and law enforcement efforts related to the council;

61 (iii) the status of sharing information by member agencies; and

62 (iv) recommended legislative changes, if any.

63 (c) As part of the report required by this Subsection (2), the [~~chairs of the Business and~~
64 ~~Labor Interim Committee~~] council shall provide an opportunity to the following to include in
65 the report [~~to the Business and Labor Interim Committee~~] comments on the effectiveness of the
66 council:

67 (i) the attorney general; and

68 (ii) each member agency.

69 (3) The council may study:

70 (a) how to reduce costs to the state resulting from misclassification;

71 (b) how to extend outreach and education efforts regarding the nature and requirements
72 of classifying an individual;

73 (c) how to promote efficient and effective information sharing amongst the member
74 agencies; and

75 (d) the need, if any, to create by statute a database or other method to facilitate sharing
76 of information related to misclassification.

77 (4) A member agency shall cooperate with the commission and council to provide
78 information related to misclassification to the extent that:

79 (a) the information is public information; or

80 (b) providing the information is otherwise permitted by law other than this chapter.

81 (5) (a) A record provided to the commission or council under this chapter is a protected
82 record under Title 63G, Chapter 2, Government Records Access and Management Act, unless
83 otherwise classified as private or controlled under Title 63G, Chapter 2, Government Records
84 Access and Management Act.

85 (b) Notwithstanding Subsection (5)(a), the commission or council may disclose the
86 record to the extent:

87 (i) necessary to take an administrative action by a member agency;

88 (ii) necessary to prosecute a criminal act; or

89 (iii) that the record is:

90 (A) obtainable from a source other than the member agency that provides the record to
91 the commission or council; or

92 (B) public information or permitted to be disclosed by a law other than this chapter.

93 Section 3. Section **34A-2-801** is amended to read:

94 **34A-2-801. Initiating adjudicative proceedings -- Procedure for review of**
95 **administrative action.**

96 (1) (a) To contest an action of the employee's employer or its insurance carrier
97 concerning a compensable industrial accident or occupational disease alleged by the employee
98 or a dependent any of the following shall file an application for hearing with the Division of
99 Adjudication:

100 (i) the employee;

101 (ii) a representative of the employee, the qualifications of whom are defined in rule by
102 the commission; or

103 (iii) a dependent as described in Section 34A-2-403.

104 (b) To appeal the imposition of a penalty or other administrative act imposed by the
105 division on the employer or its insurance carrier for failure to comply with this chapter or
106 Chapter 3, Utah Occupational Disease Act, any of the following shall file an application for
107 hearing with the Division of Adjudication:

108 (i) the employer;

109 (ii) the insurance carrier; or

110 (iii) a representative of either the employer or the insurance carrier, the qualifications
111 of whom are defined in rule by the commission.

112 (c) A person providing goods or services described in Subsections 34A-2-407(11) and
113 34A-3-108(12) may file an application for hearing in accordance with Section 34A-2-407 or
114 34A-3-108.

115 (d) An attorney may file an application for hearing in accordance with Section
116 34A-1-309.

117 (2) (a) Unless all parties agree to the assignment in writing, the Division of
118 Adjudication may not assign the same administrative law judge to hear a claim under this
119 section by an injured employee if the administrative law judge previously heard a claim by the
120 same injured employee for a different injury or occupational disease.

121 (b) Unless all parties agree to the appointment in writing, an administrative law judge
122 may not appoint the same medical panel or individual panel member to evaluate a claim by an
123 injured employee if the medical panel or individual panel member previously evaluated a claim
124 by the same injured employee for a different injury or occupational disease.

125 (3) Unless a party in interest appeals the decision of an administrative law judge in
126 accordance with Subsection (4), the decision of an administrative law judge on an application
127 for hearing filed under Subsection (1) is a final order of the commission 30 days after the day
128 on which the decision is issued. An administrative law judge shall issue a decision by no later
129 than 60 days from the day on which the hearing is held under this part unless:

130 (a) the parties agree to a longer period of time; or

131 (b) a decision within the 60-day period is impracticable.

132 (4) (a) A party in interest may appeal the decision of an administrative law judge by
133 filing a motion for review with the Division of Adjudication within 30 days of the date the
134 decision is issued.

135 (b) Unless a party in interest to the appeal requests under Subsection (4)(c) that the
136 appeal be heard by the Appeals Board, the commissioner shall hear the review.

137 (c) A party in interest may request that an appeal be heard by the Appeals Board by
138 filing the request with the Division of Adjudication:

139 (i) as part of the motion for review; or

140 (ii) if requested by a party in interest who did not file a motion for review, within 20
141 days of the day on which the motion for review is filed with the Division of Adjudication.

142 (d) A case appealed to the Appeals Board shall be decided by the majority vote of the
143 Appeals Board.

144 (5) The Division of Adjudication shall maintain a record on appeal, including an
145 appeal docket showing the receipt and disposition of the appeals on review.

146 (6) Upon appeal, the commissioner or Appeals Board shall make its decision in
147 accordance with Section 34A-1-303. The commissioner or Appeals Board shall issue a
148 decision under this part by no later than 90 days from the day on which the motion for review is
149 filed unless:

150 (a) the parties agree to a longer period of time; or

151 (b) a decision within the 90-day period is impracticable.

152 (7) The commissioner or Appeals Board shall promptly notify the parties to a
153 proceeding before it of its decision, including its findings and conclusions.

154 (8) (a) Subject to Subsection (8)(b), the decision of the commissioner or Appeals
155 Board is final unless within 30 days after the date the decision is issued further appeal is

156 initiated under the provisions of this section or Title 63G, Chapter 4, Administrative
157 Procedures Act.

158 (b) In the case of an award of permanent total disability benefits under Section
159 34A-2-413, the decision of the commissioner or Appeals Board is a final order of the
160 commission unless set aside by the court of appeals.

161 (9) (a) Within 30 days after the day on which the decision of the commissioner or
162 Appeals Board is issued, an aggrieved party may secure judicial review by commencing an
163 action in the court of appeals against the commissioner or Appeals Board for the review of the
164 decision of the commissioner or Appeals Board.

165 (b) In an action filed under Subsection (9)(a):

166 (i) any other party to the proceeding before the commissioner or Appeals Board shall
167 be made a party; and

168 (ii) the commission shall be made a party.

169 (c) A party claiming to be aggrieved may seek judicial review only if the party exhausts
170 the party's remedies before the commission as provided by this section.

171 (d) At the request of the court of appeals, the commission shall certify and file with the
172 court all documents and papers and a transcript of all testimony taken in the matter together
173 with the decision of the commissioner or Appeals Board.

174 (10) (a) The commission shall make rules, in accordance with Title 63G, Chapter 3,
175 Utah Administrative Rulemaking Act, to facilitate timely completion of administrative actions
176 under this part.

177 (b) The commission shall monitor the time from filing of an application for a hearing
178 to issuance of a final order of the commission for cases brought under this part.

179 ~~[(c) The commission shall annually report to the Business and Labor Interim~~
180 ~~Committee:]~~

181 ~~[(i) the number of cases for which an application for hearing is filed under this part in~~
182 ~~the previous calendar year;]~~

183 ~~[(ii) the number of cases described in Subsection (10)(c)(i) for which the decision of~~
184 ~~the administrative law judge was not issued within the 60-day period required by Subsection~~
185 ~~(3);]~~

186 ~~[(iii) the number of cases described in Subsection (10)(c)(i) that are appealed to the~~

187 commissioner or Appeals Board for which the decision of the commissioner or Appeals Board
188 was not issued within the 90-day period required by Subsection (6);]

189 [(iv) the number of cases described in Subsection (10)(c)(i) for which a final order of
190 the commission is issued within 18 months of the day on which the application for hearing is
191 filed;]

192 [(v) the number of cases for which a final order of the commission is not issued within
193 18 months of the day on which the application for a hearing is filed; and]

194 [(vi) the reasons the cases described in Subsection (10)(c)(v) were not resolved within
195 18 months of the day on which the application for a hearing is filed.]

196 Section 4. Section **63A-1-116** is amended to read:

197 **63A-1-116. Appointment of coordinator of resource stewardship -- Duties of the**
198 **coordinator of resource stewardship.**

199 (1) The executive director of the department shall appoint a state coordinator of
200 resource stewardship and establish the coordinator of resource stewardship's salary.

201 (2) The coordinator of resource stewardship shall report to the executive director or the
202 executive director's designee.

203 (3) The coordinator of resource stewardship shall:

204 (a) work with agencies to implement best practices and stewardship measures to
205 improve air quality; and

206 (b) make an annual report on best practices and stewardship efforts to improve air
207 quality to the [~~Business and Labor Interim Committee and~~] Natural Resources, Agriculture, and
208 Environment Interim Committee.

209 (4) Each agency will retain absolute discretion whether or not to incorporate any of the
210 practices or measures suggested by the coordinator.

211 Section 5. Section **63M-2-401** is amended to read:

212 **63M-2-401. Reporting requirements.**

213 (1) By October 1 of each year, the USTAR governing authority shall submit an annual
214 written report of the operations, activities, programs, and services of the governing authority
215 and the USTAR initiative for the preceding fiscal year to:

216 (a) the governor;

217 (b) the Legislature;

218 (c) the Business, Economic Development, and Labor Appropriations Subcommittee;

219 [and]

220 (d) the Economic Development and Workforce Services Interim Committee [~~an annual~~

221 ~~written report of the operations, activities, programs, and services of the governing authority~~

222 ~~and the USTAR initiative for the preceding fiscal year.]; and~~

223 (e) the Business and Labor Interim Committee.

224 (2) For each project, operation, activity, program, or service related to the USTAR

225 initiative or overseen or funded through the USTAR governing authority, the annual report

226 shall include:

227 (a) a description of the project, operation, activity, program, or service;

228 (b) data selected and used by the governing authority to measure progress,

229 performance, and scope of the project, operation, activity, program, or service, including

230 summary data;

231 (c) a clear description of the methodology for any data in the report that includes an

232 estimation;

233 (d) the amount and source of all USTAR initiative funding, including:

234 (i) funding from legislative appropriations;

235 (ii) funding procured outside of legislative appropriations, including a separate

236 accounting of grants or investments contributing to research teams and other activities of the

237 USTAR initiative from the federal government, private entities, or other sources, and an

238 explanation of the extent to which:

239 (A) outside funding was contingent on or leveraged by legislative appropriations; and

240 (B) outside funding would continue if legislative appropriations were discontinued;

241 (iii) commercialization revenue, including a separate accounting of:

242 (A) realized commercialization revenue;

243 (B) unrealized commercialization revenue; and

244 (C) commercialization revenue going to other parties attributable to USTAR initiative

245 funding;

246 (iv) lease revenue from each building in which the USTAR governing authority holds

247 title; and

248 (v) the amount of money deposited with the state treasurer for deposit into the sinking

249 fund created under Section 63B-1a-301 for debt service on the bonds issued to fund planning,
250 design, and construction of the research buildings;

251 (e) all expenses of the USTAR initiative, including:

252 (i) operational expenses;

253 (ii) for each employee receiving compensation from USTAR initiative funding,
254 compensation information, including:

255 (A) salary expenses, benefit expenses, and travel expenses;

256 (B) information for each research team employee and each employee of the TOIP that
257 receives compensation directly or indirectly through USTAR initiative funding; and

258 (C) information regarding compensation for each employee from sources other than
259 USTAR initiative funding, including grants and compensation from a university or private
260 entity;

261 (iii) for each research team, salary expenses, benefit expenses, travel expenses, and
262 operations and maintenance expenses;

263 (iv) operational and maintenance expenses for each building in which the USTAR
264 governing authority holds title;

265 (v) operational and maintenance expenses paid for by USTAR initiative funding for
266 each location that has an established TOIP; and

267 (vi) each grant or other incentive given as a result of the USTAR initiative, including
268 grants or incentives awarded through the TOIP;

269 (f) the number of jobs and the corresponding salary ranges created by the USTAR
270 initiative, including the number of jobs where the employee is expected to be employed for at
271 least one year and earns at least 125% of the prevailing wage of the county where the employee
272 works;

273 (g) the name of each business entity receiving a grant or other incentive as a result of
274 the USTAR initiative, including the outreach program;

275 (h) a list of business entities that have hired employees as a result of the USTAR
276 initiative;

277 (i) the tax revenue generated as a result of the USTAR initiative, with actual revenue
278 generated clearly separated from potential revenue;

279 (j) a list of intellectual property assets, including patents, generated by research teams

280 as a result of the USTAR initiative, including a reasonable estimate of the USTAR initiative's
281 percentage share of potential commercialization revenue that may be realized from those
282 assets;

283 (k) a description of any agreements entered into regarding private equity investment in
284 the USTAR initiative;

285 (l) beginning with data from the fiscal year beginning July 1, 2013, historical data from
286 previous years for comparison with the annual data reported under this Subsection (2);

287 (m) goals, challenges, and achievements related to the project, operation, activity,
288 program, or service;

289 (n) relevant federal and state statutory references and requirements;

290 (o) contact information of officials knowledgeable and responsible for each project,
291 operation, activity, program, or service;

292 (p) other information determined by the USTAR governing authority that:

293 (i) may be needed, useful, or of historical significance; or

294 (ii) promotes accountability and transparency for each project, operation, activity,
295 program, or service with the public and with elected officials;

296 (q) the written economic development objectives required under Subsection
297 63M-2-302(1)(e) and a description of any progress or challenges in meeting the objectives; and

298 (r) the audit report described in Section 63M-2-402.

299 (3) The annual report shall be designed to provide clear, accurate, and accessible
300 information to the public, the governor, and the Legislature.

301 (4) The governing authority shall:

302 (a) submit the annual report in accordance with Section 68-3-14; and

303 (b) make the annual report and previous annual reports accessible to the public by
304 placing a link to the reports on the USTAR initiative's website.

305 (5) In addition to the annual written report described in this section:

306 (a) upon the request of a committee, the USTAR governing authority shall provide
307 information and progress reports to:

308 (i) the Economic Development and Workforce Services Interim Committee;

309 (ii) the Business and Labor Interim Committee; and

310 (iii) the Business, Economic Development, and Labor Appropriations Subcommittee;

311 and
312 (b) on or before October 1, 2019, and every five years after October 1, 2019, the
313 USTAR governing authority shall include with the annual report described in this section a
314 written analysis and recommendations concerning the usefulness of the information required in
315 the annual report and the ongoing effectiveness of the USTAR initiative, including whether:
316 (i) the reporting requirements are effective at measuring the performance of the
317 USTAR initiative;
318 (ii) the reporting requirements should be modified; and
319 (iii) the USTAR initiative is beneficial to the state and should continue.
320 Section 6. **Repealer.**
321 This bill repeals:
322 Section 31A-22-1013, **Department report on workers' compensation.**

Legislative Review Note
Office of Legislative Research and General Counsel