

1 **UTAH SUBSTANCE ABUSE AND**
2 **ANTI-VIOLENCE COORDINATING COUNCIL**
3 **AMENDMENTS**

4 2010 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: J. Stuart Adams**

7 House Sponsor: Ronda Rudd Menlove

8

9 **LONG TITLE**

10 **General Description:**

11 This bill modifies provisions related to the name, membership, and duties of the Utah
12 Substance Abuse and Anti-Violence Coordinating Council.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ changes the name of the Utah Substance Abuse and Anti-Violence Coordinating
- 16 Council to the Utah Substance Abuse Coordinating Council;
- 17 ▶ modifies the membership and duties of the council;
- 18 ▶ repeals a related section, the operation of which terminated in 2009; and
- 19 ▶ makes technical changes.

20 **Monies Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **26-7-5**, as enacted by Laws of Utah 2008, Chapter 135

27 **32A-1-115**, as last amended by Laws of Utah 2009, Chapter 383



- 28 **32A-10-103**, as last amended by Laws of Utah 2007, Chapter 284
- 29 **63M-7-202**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 30 **63M-7-301**, as last amended by Laws of Utah 2009, Chapter 90
- 31 **63M-7-302**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 32 **63M-7-303**, as last amended by Laws of Utah 2009, Chapter 337
- 33 **63M-7-304**, as last amended by Laws of Utah 2008, Chapter 31 and renumbered and
- 34 amended by Laws of Utah 2008, Chapter 382
- 35 **63M-7-305**, as last amended by Laws of Utah 2009, Chapter 337
- 36 **63M-7-306**, as renumbered and amended by Laws of Utah 2008, Chapter 382

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

39 Section 1. Section **26-7-5** is amended to read:

40 **26-7-5. Public education and outreach regarding substances harmful during**
 41 **pregnancy.**

42 Beginning on July 1, 2008, and ending on June 30, 2009, the department shall, under
 43 the direction of the Utah Substance Abuse [~~and Anti-violence~~] Coordinating Council, created
 44 in Section 63M-7-303, and in consultation with the Division of Substance Abuse and Mental
 45 Health, within the Department of Human Services, conduct a public education and outreach
 46 program to inform pregnant women and women who may become pregnant of:

- 47 (1) the danger of using alcohol, tobacco, or other harmful substances during pregnancy;
- 48 (2) treatment and other assistance available to help women avoid or stop the use or
- 49 abuse of a substance described in Subsection (1); and
- 50 (3) legal protections provided by law or court rule that prohibit information relating to
- 51 treatment received under Subsection (2) from being used as evidence against the woman in
- 52 court.

53 Section 2. Section **32A-1-115** is amended to read:

54 **32A-1-115. Alcoholic Beverage Enforcement and Treatment Restricted Account**
 55 **-- Distribution.**

- 56 (1) As used in this section:
- 57 (a) "Account" means the Alcoholic Beverage Enforcement and Treatment Restricted
- 58 Account created in this section.

- 59 (b) "Alcohol-related offense" means:
- 60 (i) a violation of:
- 61 (A) Section 41-6a-502; or
- 62 (B) an ordinance that complies with the requirements of:
- 63 (I) Subsection 41-6a-510(1); or
- 64 (II) Section 76-5-207; or
- 65 (ii) an offense involving the:
- 66 (A) illegal sale of alcohol;
- 67 (B) illegal distribution of alcohol;
- 68 (C) illegal transportation of alcohol;
- 69 (D) illegal possession of alcohol; or
- 70 (E) illegal consumption of alcohol.
- 71 (c) "Annual conviction time period" means the time period that:
- 72 (i) begins on July 1 and ends on June 30; and
- 73 (ii) immediately precedes the fiscal year for which an appropriation under this section
- 74 is made.
- 75 (d) "Coordinating council" means the Utah Substance Abuse [~~and Anti-Violence~~]
- 76 Coordinating Council created in Section 63M-7-301.
- 77 (e) "Municipality" means:
- 78 (i) a city; or
- 79 (ii) a town.
- 80 (2) (a) There is created in the General Fund a restricted account called the "Alcoholic
- 81 Beverage Enforcement and Treatment Restricted Account."
- 82 (b) The account shall be funded from:
- 83 (i) amounts deposited by the state treasurer in accordance with Section 59-15-109;
- 84 (ii) any appropriations made to the account by the Legislature; and
- 85 (iii) interest described in Subsection (2)(c).
- 86 (c) Interest earned on the account shall be deposited into the account.
- 87 (d) (i) Consistent with the policies provided in Subsection 32A-1-104(4)(b), the
- 88 revenues in the account shall be used for statewide public purposes including promoting the
- 89 reduction of the harmful effects of over consumption of alcoholic beverages by adults and

90 alcohol consumption by minors by funding exclusively programs or projects related to
91 prevention, treatment, detection, prosecution, and control of violations of this title and other
92 offenses in which alcohol is a contributing factor except as provided in Subsection (2)(d)(ii).

93 (ii) The portion distributed under this section to counties may also be used for the
94 confinement or treatment of persons arrested for or convicted of offenses in which alcohol is a
95 contributing factor.

96 (iii) A municipality or county entitled to receive monies shall use the monies
97 exclusively as required by this Subsection (2)(d).

98 (iv) The appropriations provided for under Subsection (3) are:

99 (A) intended to supplement the budget of the appropriate agencies of each municipality
100 and county within the state to enable the municipalities and counties to more effectively fund
101 the programs and projects described in this Subsection (2)(d); and

102 (B) not intended to replace monies that would otherwise be allocated for the programs
103 and projects in this Subsection (2)(d).

104 (3) (a) The revenues deposited into the account shall be distributed to municipalities
105 and counties:

106 (i) to the extent appropriated by the Legislature except that the Legislature shall
107 appropriate each fiscal year an amount equal to at least the amount deposited in the account in
108 accordance with Section 59-15-109; and

109 (ii) as provided in this Subsection (3).

110 (b) The amount appropriated from the account shall be distributed as follows:

111 (i) 25% to municipalities and counties based upon the percentage of the state
112 population residing in each municipality and county;

113 (ii) 30% to municipalities and counties based upon each municipality's and county's
114 percentage of the statewide convictions for all alcohol-related offenses;

115 (iii) 20% to municipalities and counties based upon the percentage of all state stores,
116 package agencies, liquor licensees, and beer licensees in the state that are located in each
117 municipality and county; and

118 (iv) 25% to the counties for confinement and treatment purposes authorized by this
119 section based upon the percentage of the state population located in each county.

120 (c) (i) Except as provided in Subsection (3)(c)(iii), a municipality that does not have a

121 law enforcement agency may not receive monies under this section.

122 (ii) The State Tax Commission:

123 (A) may not distribute the monies the municipality would receive but for the
124 municipality not having a law enforcement agency to that municipality; and

125 (B) shall distribute the monies that the municipality would have received but for it not
126 having a law enforcement agency to the county in which the municipality is located for use by
127 the county in accordance with this section.

128 (iii) Notwithstanding Subsections (3)(c)(i) and (ii), if the coordinating council finds
129 that a municipality described in Subsection (3)(c)(i) demonstrates that the municipality can use
130 the monies that the municipality is otherwise eligible to receive in accordance with this section,
131 the coordinating council may direct the State Tax Commission to distribute the money to the
132 municipality.

133 (4) To determine the distributions required by Subsection (3)(b)(ii), the State Tax
134 Commission shall annually:

135 (a) for an annual conviction time period:

136 (i) multiply by two the total number of convictions in the state obtained during the
137 annual conviction time period for violation of:

138 (A) Section 41-6a-502; or

139 (B) an ordinance that complies with the requirements of Subsection 41-6a-510(1) or
140 Section 76-5-207; and

141 (ii) add to the number calculated under Subsection (4)(a)(i) the number of convictions
142 obtained during the annual conviction time period for all alcohol-related offenses other than the
143 alcohol-related offenses described in Subsection (4)(a)(i);

144 (b) divide an amount equal to 30% of the appropriation for that fiscal year by the sum
145 obtained in Subsection (4)(a); and

146 (c) multiply the amount calculated under Subsection (4)(b), by the number of
147 convictions obtained in each municipality and county during the annual conviction time period
148 for alcohol-related offenses.

149 (5) For purposes of this section:

150 (a) the number of state stores, package agencies, and licensees located within the limits
151 of each municipality and county:

- 152 (i) is the number determined by the department to be so located;
- 153 (ii) includes all:
 - 154 (A) club licenses;
 - 155 (B) restaurants;
 - 156 (C) limited restaurants;
 - 157 (D) on-premise banquet licenses;
 - 158 (E) airport lounges;
 - 159 (F) resort licenses;
 - 160 (G) package agencies; and
 - 161 (H) state stores; and
- 162 (iii) does not include on-premise beer retailer licensees;
- 163 (b) the number of state stores, package agencies, and licensees in a county consists only
- 164 of that number located within unincorporated areas of the county;
- 165 (c) population figures shall be determined according to the most current population
- 166 estimates prepared by the Utah Population Estimates Committee;
- 167 (d) a county's population figure for the 25% distribution to municipalities and counties
- 168 under Subsection (3)(b)(i) shall be determined only with reference to the population in the
- 169 unincorporated areas of the county;
- 170 (e) a county's population figure under Subsection (3)(b)(iv) for the 25% distribution to
- 171 counties only shall be determined with reference to the total population in the county, including
- 172 that of municipalities;
- 173 (f) a conviction occurs in the municipality or county that actually prosecutes the
- 174 offense to judgment; and
- 175 (g) in the case of a conviction based upon a guilty plea, the conviction is considered to
- 176 occur in the municipality or county that, except for the guilty plea, would have prosecuted the
- 177 offense.
- 178 (6) By not later than September 1 each year:
 - 179 (a) the state court administrator shall certify to the State Tax Commission the number
 - 180 of convictions obtained for alcohol-related offenses in each municipality or county in the state
 - 181 during the annual conviction time period; and
 - 182 (b) the coordinating council shall notify the State Tax Commission of any municipality

183 that does not have a law enforcement agency.

184 (7) By not later than December 1 of each year, the coordinating council shall notify the
185 State Tax Commission for the fiscal year of appropriation of:

186 (a) any municipality that may receive a distribution under Subsection (3)(c)(iii);

187 (b) any county that may receive a distribution allocated to a municipality described in
188 Subsection (3)(c)(ii);

189 (c) any municipality or county that may not receive a distribution because the
190 coordinating council has suspended the payment under Subsection (10)(a)(i); and

191 (d) any municipality or county that receives a distribution because the suspension of
192 payment has been cancelled under Subsection (10)(a)(ii).

193 (8) (a) By not later than January 1 of the fiscal year of appropriation, the State Tax
194 Commission shall annually distribute to each municipality and county the portion of the
195 appropriation that the municipality or county is eligible to receive under this section, except for
196 any municipality or county that the coordinating council notifies the State Tax Commission in
197 accordance with Subsection (7) may not receive a distribution in that fiscal year.

198 (b) (i) The State Tax Commission shall prepare forms for use by municipalities and
199 counties in applying for distributions under this section.

200 (ii) The forms described in this Subsection (8) may require the submission of
201 information the State Tax Commission considers necessary to enable the State Tax
202 Commission to comply with this section.

203 (9) A municipality or county that receives any monies under this section during a fiscal
204 year shall by no later than October 1 following the fiscal year:

205 (a) report to the coordinating council:

206 (i) the programs or projects of the municipality or county that receive monies under
207 this section;

208 (ii) if the monies for programs or projects were exclusively used as required by
209 Subsection (2)(d);

210 (iii) indicators of whether the programs or projects that receive monies under this
211 section are effective; and

212 (iv) if monies received under this section were not expended by the municipality or
213 county; and

214 (b) provide the coordinating council a statement signed by the chief executive officer
215 of the county or municipality attesting that the monies received under this section were used in
216 addition to monies appropriated or otherwise available for the county's or municipality's law
217 enforcement and were not used to supplant those monies.

218 (10) (a) The coordinating council may, by a majority vote:

219 (i) suspend future payments under Subsection (8) to a municipality or county that:

220 (A) does not file a report that meets the requirements of Subsection (9); or

221 (B) the coordinating council finds does not use the monies as required by Subsection

222 (2)(d) on the basis of the report filed by the municipality or county under Subsection (9); and

223 (ii) cancel a suspension under Subsection (10)(a)(i).

224 (b) The State Tax Commission shall:

225 (i) retain monies that a municipality or county does not receive under Subsection

226 (10)(a); and

227 (ii) notify the coordinating council of the balance of retained monies under this

228 Subsection (10)(b) after the annual distribution under Subsection (8).

229 (11) (a) Subject to the requirements of this Subsection (11), the coordinating council

230 shall award the balance of retained monies under Subsection (10)(b):

231 (i) as prioritized by majority vote of the coordinating council; and

232 (ii) as grants to:

233 (A) a county;

234 (B) a municipality;

235 (C) the Department of Alcoholic Beverage Control;

236 (D) the Department of Human Services;

237 (E) the Department of Public Safety; or

238 (F) the Utah State Office of Education.

239 (b) By not later than May 30 of the fiscal year of the appropriation, the coordinating

240 council shall notify the State Tax Commission of grants awarded under this Subsection (11).

241 (c) The State Tax Commission shall make payments of a grant:

242 (i) upon receiving notice as provided under Subsection (11)(b); and

243 (ii) by not later than June 30 of the fiscal year of the appropriation.

244 (d) An entity that receives a grant under this Subsection (11) shall use the grant monies

245 exclusively for programs or projects described in Subsection (2)(d).

246 Section 3. Section **32A-10-103** is amended to read:

247 **32A-10-103. Alcohol training and education for off-premise consumption --**
248 **Requirements on off-premise beer retailer licensees -- Penalties related to sales to minors**
249 **-- Hearings -- Tracking.**

250 (1) (a) A local authority that issues an off-premise beer retailer license to a business to
251 sell beer at retail for off-premise consumption shall require the following to have a valid
252 certificate that the individual completed an alcohol training and education seminar required by
253 Section 62A-15-401 in the time frames required by Subsection (1)(b), any individual who:

254 (i) directly supervises the sale of beer to a customer for consumption off the premises
255 of the off-premise beer retailer licensee; or

256 (ii) sells beer to a customer for consumption off the premises of the off-premise beer
257 retailer licensee.

258 (b) (i) An individual shall complete an alcohol training and education seminar required
259 by Section 62A-15-401 within 30 days of the day on which the individual is employed by an
260 off-premise beer retailer licensee if the individual:

261 (A) is employed on or after September 1, 2006; and

262 (B) on the date of employment, does not have a valid certificate that the individual has
263 completed an alcohol training and education seminar for purposes of this section.

264 (ii) An individual shall complete an alcohol training and education seminar by not later
265 than October 1, 2006 if the individual:

266 (A) is employed before September 1, 2006; and

267 (B) on September 1, 2006, does not have a valid certificate that the individual has
268 completed an alcohol training and education seminar for purposes of this section.

269 (iii) The validity of a certificate that an individual has completed an alcohol training
270 and education seminar required by this section is governed by Section 62A-15-401.

271 (2) In accordance with Section 32A-1-401, a local authority may immediately suspend
272 the license of an off-premise beer retailer that allows an employee to directly supervise the sale
273 of beer or to sell beer to a customer without having a valid certificate that the individual
274 completed an alcohol training and education seminar in accordance with Subsection (1).

275 (3) (a) Each employee of a licensed off-premise beer retailer who directly supervises

276 the sale of beer or who sells beer to a customer for consumption off the premises of the
277 off-premise beer retailer shall wear a unique identification badge:

- 278 (i) on the front of the employee's clothing;
- 279 (ii) visible above the waist;
- 280 (iii) bearing the employee's:
 - 281 (A) first or last name;
 - 282 (B) initials; or
 - 283 (C) unique identification in letters or numbers; and
- 284 (iv) with the number or letters on the unique identification badge being sufficiently
285 large to be clearly visible and identifiable while engaging in or directly supervising the retail
286 sale of beer.

287 (b) (i) An off-premise beer retailer licensee shall maintain a record of all current
288 employee unique identification badges assigned by the off-premise beer retailer licensee.

289 (ii) The record required to be maintained under Subsection (3)(b)(i) shall:

- 290 (A) be available for immediate inspection by:
 - 291 (I) any peace officer; or
 - 292 (II) a representative of the local licensing authority; and
- 293 (B) include the employee's:
 - 294 (I) full name;
 - 295 (II) address; and
 - 296 (III) (Aa) driver license number; or
 - 297 (Bb) similar identification number.

298 (c) A local authority may impose a fine of up to \$250 against any off-premise beer
299 retailer that does not comply or require its employees to comply with this Subsection (3).

300 (4) (a) In addition to any criminal penalties that may be imposed, an individual is
301 subject to the administrative penalties imposed by a local authority described in Subsection
302 (4)(b) if:

- 303 (i) that individual:
 - 304 (A) completes an alcohol training and education seminar required by Subsection (1);
 - 305 and
 - 306 (B) after completing the alcohol training and education seminar required by Subsection

307 (1), is found in violation of any law involving the sale of an alcoholic beverage to a minor;

308 (ii) the violation described in Subsection (4)(a)(i)(B) is based on conduct that occurs
309 while the individual is on duty as an employee of an off-premise beer retailer licensee; and

310 (iii) the local authority brings an adjudicative proceeding against the individual.

311 (b) If the conditions of Subsection (4)(a) are met, a local authority shall impose the
312 following administrative penalties:

313 (i) upon a first violation, the individual may not sell or directly supervise the sale of
314 beer to a customer for consumption off the premises of the off-premise beer retailer licensee
315 until the individual retakes and completes an alcohol training and education seminar described
316 in Section 62A-15-401;

317 (ii) upon a second violation, the individual may not sell or directly supervise the sale of
318 beer to a customer for consumption off the premises of the off-premise beer retailer licensee
319 until the later of:

320 (A) 90 days from the day on which the administrative penalty is imposed; and

321 (B) the day on which the individual:

322 (I) retakes and completes the alcohol training and education seminar described in
323 Section 62A-15-401; and

324 (II) completes any additional training that the local authority may require; and

325 (iii) upon a third or subsequent violation, the individual may not sell or directly
326 supervise the sale of beer to a customer for consumption off the premises of the off-premise
327 beer retailer licensee until the later of:

328 (A) one year from the day on which the administrative penalty is imposed; and

329 (B) the day on which the individual:

330 (I) retakes and completes an alcohol training and education seminar described in
331 Section 62A-15-401; and

332 (II) completes any additional training that the local authority may require.

333 (c) (i) During the period of time an individual is prohibited from selling or directly
334 supervising the sale of beer under Subsection (4)(b), an off-premise beer retailer licensee may
335 not allow that individual to:

336 (A) directly supervise the sale of beer for the off-premise beer retailer licensee; or

337 (B) sell beer for the off-premise beer retailer licensee.

338 (ii) A violation of this Subsection (4)(c) is grounds for the immediate suspension of the
339 off-premise beer retailer's license.

340 (5) (a) In addition to any criminal penalties that may be imposed, an off-premise beer
341 retailer licensee is subject to the administrative penalties imposed by a local authority described
342 in Subsection (5)(b) if:

343 (i) an employee of the off-premise beer retailer licensee is found in violation of any law
344 involving the sale of alcoholic beverage to a minor;

345 (ii) the violation described in Subsection (5)(a)(i) occurs while the employee is on duty
346 for the off-premise beer retailer licensee; and

347 (iii) the local authority brings an adjudicative proceeding against the off-premise beer
348 retailer licensee.

349 (b) If the conditions of Subsection (5)(a) are met, a local authority shall impose the
350 following administrative penalties:

351 (i) upon a first violation, the off-premise beer retailer licensee shall be issued a written
352 warning;

353 (ii) upon a second violation, the off-premise beer retailer licensee shall pay a civil fine
354 of \$250;

355 (iii) upon a third violation, the off-premise beer retailer licensee shall pay a civil fine of
356 \$500;

357 (iv) upon a fourth or subsequent violation, the off-premise beer retailer licensee shall:

358 (A) pay a civil fine of \$500;

359 (B) have its license to sell beer suspended for a period of 30 consecutive days from the
360 date on which the administrative penalty is imposed; and

361 (C) be placed on probation for a period of one year from the date on which the
362 administrative penalty is imposed; and

363 (v) upon any violation by the off-premise beer retailer licensee or any on-duty
364 employee of the off-premise beer retailer licensee during the period of probation specified in
365 Subsection (5)(b)(iv)(C):

366 (A) the off-premise beer retailer licensee's license to sell beer shall be revoked; and

367 (B) the off-premise beer retailer licensee is not eligible to reapply for a new license for
368 at least six months from the date of revocation.

369 (c) (i) An off-premise beer retailer licensee's failure to pay a fine imposed under this
370 Subsection (5) within 30 days of the day on which the fine is imposed is grounds for the
371 immediate suspension of the off-premise beer retailer licensee's license to sell beer until
372 payment is made.

373 (ii) An off-premise beer retailer licensee's failure to pay the fine described in
374 Subsection (5)(c)(i) within 30 days of the day on which the license is suspended under
375 Subsection (5)(c)(i) is grounds for revocation of the licensee's license to sell beer.

376 (6) (a) Any local authority that adjudicates an administrative penalty for a violation of
377 any law involving the sale of an alcoholic beverage to any minor pursuant to Subsection (4) or
378 (5), shall:

379 (i) maintain a record of the adjudicated violation until the record is expunged under
380 Subsection (6)(c);

381 (ii) include in the record described in Subsection (6)(a)(i):

382 (A) the name of the individual who committed the violation;

383 (B) the name of the off-premise beer retailer licensee for whom the individual was
384 employed at the time of the violation; and

385 (C) the date of the adjudication of the violation; and

386 (iii) provide the Highway Safety Office of the Department of Public Safety within 30
387 days of the date on which a violation is adjudicated the information described in Subsection
388 (6)(a)(ii).

389 (b) (i) The Highway Safety Office shall develop and operate a system to collect,
390 analyze, maintain, track, and disseminate the violation history information received under
391 Subsection (6)(a).

392 (ii) The system described in Subsection (6)(b)(i) shall be made available to:

393 (A) assist a local authority in assessing administrative penalties under Subsection (4);
394 and

395 (B) inform an off-premise beer retailer licensee of an individual who has an
396 administrative violation history under Subsection (4).

397 (iii) The Highway Safety Office shall maintain a record of violation history information
398 received pursuant to Subsection (6)(a) until the record is expunged under Subsection (6)(c).

399 (c) (i) A local authority and the Highway Safety Office shall expunge from the records

400 maintained under this Subsection (6) an administrative penalty imposed under Subsection (4)
401 for purposes of determining future administrative penalties under Subsection (4) if the
402 individual has not been found in violation of any law involving the sale of an alcoholic
403 beverage to a minor for a period of 36 consecutive months from the day on which the
404 individual is last adjudicated as violating a law involving the sale of an alcoholic beverage to a
405 minor.

406 (ii) A local authority shall expunge from the records maintained by the local authority
407 an administrative penalty imposed under Subsection (5) against an off-premise beer retailer
408 licensee for purposes of determining future administrative penalties under Subsection (5) if the
409 off-premise beer retailer licensee or any employee of that off-premise beer retailer licensee has
410 not been found in violation of any law involving the sale of an alcoholic beverage to a minor
411 for a period of 36 consecutive months from the day on which the off-premise beer retailer
412 licensee or its employee is last adjudicated as violating a law involving the sale of an alcoholic
413 beverage to a minor.

414 (7) (a) A local authority shall conduct a hearing if an off-premise beer retailer licensee
415 or individual identified in Subsection (1) requests a hearing before the local authority.

416 (b) A local authority conducting a hearing under this Subsection (7) shall provide the
417 person requesting the hearing:

- 418 (i) notice of the hearing; and
- 419 (ii) an opportunity to be heard at the hearing.

420 (8) The Highway Safety Office of the Department of Public Safety shall administer a
421 program to:

- 422 (a) reimburse a municipal or county law enforcement agency:
 - 423 (i) for the actual costs of an alcohol-related compliance check investigation conducted
 - 424 pursuant to Section 77-39-101 on the premises of an off-premise beer retailer;
 - 425 (ii) for any administrative costs associated with reporting the compliance check
 - 426 investigation described in Subsection (8)(a)(i);
 - 427 (iii) if the municipal or county law enforcement agency completes and submits to the
 - 428 Highway Safety Office a report within 90 days of the compliance check investigation described
 - 429 in Subsection (8)(a)(i) in a format required by the Highway Safety Office; and
 - 430 (iv) in the order that the municipal or county law enforcement agency submits the

431 report required by Subsection (8)(a)(iii) until the amount allocated by the Highway Safety
432 Office to reimburse a municipal or county law enforcement agency is spent;

433 (b) develop and operate a system to collect, analyze, maintain, track, and disseminate
434 violation history information pursuant to Subsection (6); and

435 (c) have the Highway Safety Office report to the Utah Substance Abuse [~~and~~
436 ~~Anti-Violence~~] Coordinating Council by no later than October 1 following a fiscal year on the
437 following funded during the prior fiscal year:

438 (i) all compliance check investigations reimbursed under Subsection (8)(a); and

439 (ii) the collection, analysis, maintenance, tracking, and dissemination of violation
440 history information provided in Subsection (8)(b).

441 Section 4. Section **63M-7-202** is amended to read:

442 **63M-7-202. Composition -- Appointments -- Ex officio members -- Terms -- U.S.**
443 **Attorney as nonvoting member.**

444 (1) The commission on criminal and juvenile justice shall be composed of 21 voting
445 members as follows:

446 (a) the chief justice of the supreme court, as the presiding officer of the judicial
447 council, or a judge designated by the chief justice;

448 (b) the state court administrator;

449 (c) the executive director of the Department of Corrections;

450 (d) the director of the Division of Juvenile Justice Services;

451 (e) the commissioner of the Department of Public Safety;

452 (f) the attorney general;

453 (g) the president of the chiefs of police association or a chief of police designated by
454 the association's president;

455 (h) the president of the sheriffs' association or a sheriff designated by the association's
456 president;

457 (i) the chair of the Board of Pardons and Parole or a member designated by the chair;

458 (j) the chair of the Utah Sentencing Commission;

459 (k) the chair of the Utah Substance Abuse [~~and Anti-Violence~~] Coordinating Council;

460 (l) the chair of the Utah Board of Juvenile Justice;

461 (m) the chair of the Utah Council on Victims of Crime or the chair's designee;

- 462 (n) the director of the Division of Substance Abuse and Mental Health; and
- 463 (o) the following members designated to serve four-year terms:
- 464 (i) a juvenile court judge, appointed by the chief justice, as presiding officer of the
- 465 Judicial Council;
- 466 (ii) a representative of the statewide association of public attorneys designated by the
- 467 association's officers;
- 468 (iii) one member of the House of Representatives who is appointed by the speaker of
- 469 the House of Representatives; and
- 470 (iv) one member of the Senate who is appointed by the president of the Senate.
- 471 (2) The governor shall appoint the remaining three members to four-year staggered
- 472 terms as follows:
- 473 (a) one criminal defense attorney appointed from a list of three nominees submitted by
- 474 the Utah State Bar Association;
- 475 (b) one representative of public education; and
- 476 (c) one citizen representative.
- 477 (3) In addition to the members designated under Subsections (1) and (2), the United
- 478 States Attorney for the district of Utah may serve as a nonvoting member.
- 479 (4) In appointing the members under Subsection (2), the governor shall take into
- 480 account the geographical makeup of the commission.
- 481 Section 5. Section **63M-7-301** is amended to read:
- 482 **63M-7-301. Definitions -- Creation of council -- Membership -- Terms.**
- 483 (1) (a) As used in this part, "council" means the Utah Substance Abuse [~~and~~
- 484 ~~Anti-Violence~~] Coordinating Council[;] created in this section.
- 485 (b) There is created within the governor's office the Utah Substance Abuse [~~and~~
- 486 ~~Anti-Violence~~] Coordinating Council.
- 487 (2) The council shall be comprised of [~~at least 26 voting members as follows~~] the
- 488 following voting members:
- 489 (a) the attorney general or the attorney general's designee;
- 490 (b) a county commissioner designated by the Utah Association of Counties;
- 491 (c) the commissioner of public safety or the commissioner's designee;
- 492 (d) the director of the Division of Substance Abuse and Mental Health or the director's

493 designee;

494 (e) the state superintendent of public instruction or the superintendent's designee;

495 (f) the director of the Department of Health or the director's designee;

496 (g) the executive director of the Commission on Criminal and Juvenile Justice or the

497 executive director's designee;

498 (h) the governor or the governor's designee;

499 (i) the executive director of the Department of Corrections or the executive director's

500 designee;

501 (j) the director of the Division of Juvenile Justice Services or the director's designee;

502 (k) the ~~chair~~ executive director of the private nonprofit Utah Domestic Violence

503 [Advisory] Council or the ~~chair's~~ executive director's designee;

504 (l) the director of the Division of Indian Affairs or the director's designee;

505 (m) the state court administrator or the state court administrator's designee;

506 ~~(m)~~ (n) the following members designated to serve four-year terms:

507 (i) a member of the House of Representatives designated by the speaker of the House

508 of Representatives;

509 (ii) a member of the Senate designated by the president of the Senate;

510 ~~[(iii) a member of the judiciary designated by the chief justice of the Utah Supreme~~

511 ~~Court;]~~

512 ~~[(iv)]~~ (iii) a representative designated by the Utah League of Cities and Towns; and

513 ~~[(v)]~~ (iv) a representative from the ~~[offices of minority affairs]~~ Office of Ethnic Affairs

514 within the Department of Community and Culture designated by the ~~[directors of those offices]~~

515 director of the office or a designee;

516 ~~[(n)]~~ (o) the following members appointed by the governor to serve four-year terms:

517 (i) a representative of the Utah National Guard;

518 ~~[(ii) one resident of the state who has been personally affected by domestic violence;]~~

519 ~~[(iii) one resident of the state who has been personally affected by gang violence;]~~

520 ~~[(iv)]~~ (ii) one resident of the state who has been personally affected by alcohol or other

521 drug abuse; and

522 ~~[(v)]~~ (iii) one citizen representative;

523 ~~[(o)]~~ (p) in addition to the voting members described in Subsections (2)(a) through (o).

524 the following voting members may be appointed by a majority of the members described in
 525 Subsections (2)(a) through [~~(n)~~] (o) to serve four-year terms:

- 526 (i) a person knowledgeable in criminal justice issues;
- 527 (ii) a person knowledgeable in substance abuse treatment issues;
- 528 (iii) a person knowledgeable in substance abuse prevention issues; and
- 529 (iv) a person knowledgeable in judiciary issues; and

530 [~~(p)~~] (q) in addition to the voting members described in Subsections (2)(a) through
 531 [~~(o)~~] (p), one or more chairs or co-chairs of a [~~subcommittee~~] committee established by the
 532 council under Subsection 63M-7-302(5) may be appointed as a voting member by a majority of
 533 the members described in Subsections (2)(a) through [~~(o)~~] (p).

534 (3) A person[;] other than a person described in Subsection (2)[;] may not be appointed
 535 as a voting member of the council.

536 Section 6. Section **63M-7-302** is amended to read:

537 **63M-7-302. Chair -- Vacancies -- Quorum -- Expenses.**

538 (1) The Utah Substance Abuse [~~and Anti-Violence~~] Coordinating Council shall
 539 annually select one of its members to serve as chair and one of its members to serve as vice
 540 chair.

541 (2) When a vacancy occurs in the membership for any reason, the replacement shall be
 542 appointed for the unexpired term in the same manner as the position was originally filled.

543 (3) A majority of the members of the council constitutes a quorum.

544 (4) (a) (i) [~~Members who are~~] A member who is not a government [~~employees shall~~]
 545 employee may not receive [~~no~~] compensation or benefits for [~~their services~~] the member's
 546 service, but may receive per diem and expenses incurred in the performance of the member's
 547 official duties at the rates established by the Division of Finance under Sections 63A-3-106 and
 548 63A-3-107.

549 (ii) [~~Members~~] A member may decline to receive per diem and expenses for [~~their~~] the
 550 member's service.

551 (b) (i) [~~State~~] A state government officer [~~and~~] or employee [~~members~~] member who
 552 [~~do~~] does not receive salary, per diem, or expenses from [~~their~~] the agency the member
 553 represents for [~~their~~] the member's service may receive per diem and expenses incurred in the
 554 performance of [~~their~~] the member's official duties [~~from the council~~] at the rates established by

555 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

556 (ii) [~~State~~] A state government officer [and] or employee [members] member may
557 decline to receive per diem and expenses for [~~their~~] the member's service.

558 (c) Legislators on the council shall receive compensation and expenses as provided by
559 law and legislative rule.

560 (d) (i) [~~Local~~] A local government [members] member who [~~do~~] does not receive
561 salary, per diem, or expenses from the entity that [~~they represent~~] the member represents for
562 [~~their~~] the member's service may receive per diem and expenses incurred in the performance of
563 [~~their~~] the member's official duties at the rates established by the Division of Finance under
564 Sections 63A-3-106 and 63A-3-107.

565 (ii) [~~Local~~] A local government [members] member may decline to receive per diem
566 and expenses for [~~their~~] the member's service.

567 (e) (i) A member who represents higher education and does not receive salary, per
568 diem, or expenses from the entity that the member represents for the member's service may
569 receive per diem and expenses incurred in the performance of the member's official duties at
570 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

571 (ii) A member who represents higher education may decline to receive per diem and
572 expenses for the member's service.

573 (5) The council may establish [~~subcommittees~~] committees as needed to assist in
574 accomplishing its duties under Section 63M-7-303.

575 Section 7. Section **63M-7-303** is amended to read:

576 **63M-7-303. Duties of council.**

577 (1) The Utah Substance Abuse [~~and Anti-Violence~~] Coordinating Council shall:

578 (a) provide leadership and generate unity for Utah's ongoing efforts to combat
579 substance abuse [~~and community violence~~];

580 (b) recommend and coordinate the creation, dissemination, and implementation of a
581 statewide substance abuse [~~and anti-violence~~] policy;

582 (c) facilitate planning for a balanced continuum of substance abuse [~~and community~~
583 ~~violence~~] prevention, treatment, and justice services;

584 (d) promote collaboration and mutually beneficial public and private partnerships;

585 (e) coordinate recommendations made by any [~~subcommittees~~] committee created

586 under Section 63M-7-302;

587 (f) analyze and provide an objective assessment of all proposed legislation concerning
588 alcohol and other drug issues [~~and community violence issues~~]; and

589 (g) coordinate the implementation of Section 77-18-1.1 and related provisions in
590 Subsections 77-18-1(5)(d) and (e), as provided in Section 63M-7-305.

591 (2) The council shall meet quarterly or more frequently as determined necessary by the
592 chair.

593 (3) The council shall report its recommendations annually to the commission,
594 governor, the Legislature, and the Judicial Council.

595 Section 8. Section **63M-7-304** is amended to read:

596 **63M-7-304. Chair -- Vacancies -- Quorum -- Expenses.**

597 (1) The members of each [~~subcommittee~~] committee established by the council shall
598 annually select a chair or co-chairs from among the members of the [~~subcommittee~~] committee.

599 (2) When a vacancy occurs in the membership for any reason, the replacement shall be
600 appointed for the unexpired term in the same manner as the position was originally filled.

601 (3) A majority of the members of a [~~subcommittee~~] committee constitutes a quorum for
602 the transaction of business by the [~~subcommittee~~] committee.

603 (4) (a) (i) [~~Members who are~~] A member who is not a government [~~employees shall~~]
604 employee may not receive [~~no~~] compensation or benefits for [~~their services~~] the member's
605 service, but may receive per diem and expenses incurred in the performance of the member's
606 official duties at the rates established by the Division of Finance under Sections 63A-3-106 and
607 63A-3-107.

608 (ii) [~~Members~~] A member may decline to receive per diem and expenses for [~~their~~] the
609 member's service.

610 (b) (i) [~~State~~] A state government officer [~~and~~] or employee [~~members~~] member who
611 [~~do~~] does not receive salary, per diem, or expenses from [~~their~~] the agency the member
612 represents for [~~their~~] the member's service may receive per diem and expenses incurred in the
613 performance of [~~their~~] the member's official duties [~~from the committee~~] at the rates
614 established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

615 (ii) [~~State~~] A state government officer [~~and~~] or employee [~~members~~] member may
616 decline to receive per diem and expenses for [~~their~~] the member's service.

617 (c) Legislators on the ~~[subcommittee]~~ committee shall receive compensation and
 618 expenses as provided by law and legislative rule.

619 ~~[(d) Members from higher education may not receive per diem or expenses for their
 620 service.]~~

621 ~~[(e)]~~ (d) (i) ~~[Local]~~ A local government ~~[members]~~ member who ~~[do]~~ does not receive
 622 salary, per diem, or expenses from the entity that ~~[they represent]~~ the member represents for
 623 ~~[their]~~ the member's service may receive per diem and expenses incurred in the performance of
 624 ~~[their]~~ the member's official duties at the rates established by the Division of Finance under
 625 Sections 63A-3-106 and 63A-3-107.

626 (ii) ~~[Local]~~ A local government ~~[members]~~ member may decline to receive per diem
 627 and expenses for ~~[their]~~ the member's service.

628 (e) (i) A member who represents higher education and who does not receive salary, per
 629 diem, or expenses from the entity that the member represents for the member's service may
 630 receive per diem and expenses incurred in the performance of the member's official duties at
 631 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

632 (ii) A member who represents higher education may decline to receive per diem and
 633 expenses for the member's service.

634 Section 9. Section **63M-7-305** is amended to read:

635 **63M-7-305. Drug Offender Reform Act -- Coordination.**

636 (1) As used in this section:

637 (a) "Council" means the Utah Substance Abuse ~~[and Anti-Violence]~~ Coordinating
 638 Council.

639 (b) "Drug Offender Reform Act" and "act" mean the screening, assessment, substance
 640 abuse treatment, and supervision provided to convicted offenders under Subsection
 641 77-18-1.1(2) to:

642 (i) determine offenders' specific substance abuse treatment needs as early as possible in
 643 the judicial process;

644 (ii) expand treatment resources for offenders in the community;

645 (iii) integrate treatment of offenders with supervision by the Department of
 646 Corrections; and

647 (iv) reduce the incidence of substance abuse and related criminal conduct.

648 (c) "Substance abuse authority" has the same meaning as in Section 17-43-201.

649 (2) The council shall provide ongoing oversight of the implementation, functions, and
650 evaluation of the Drug Offender Reform Act.

651 (3) The council shall develop an implementation plan for the Drug Offender Reform
652 Act. The plan shall:

653 (a) identify local substance abuse authority areas where the act will be implemented, in
654 cooperation with the Division of Substance Abuse and Mental Health, the Department of
655 Corrections, and the local substance abuse authorities;

656 (b) include guidelines on how funds appropriated under the act should be used;

657 (c) require that treatment plans under the act are appropriate for criminal offenders;

658 (d) include guidelines on the membership of local planning groups;

659 (e) include guidelines on the membership of the Department of Corrections' planning
660 group under Subsection (5); and

661 (f) provide guidelines for the Commission on Criminal and Juvenile Justice to conduct
662 an evaluation of the implementation, impact, and results of the act.

663 (4) (a) Each local substance abuse authority designated under Subsection (3) to
664 implement the act shall establish a local planning group and shall submit a plan to the council
665 detailing how the authority proposes to use the act funds. The uses shall be in accordance with
666 the guidelines established by the council under Subsection (3).

667 (b) Upon approval of the plan by the council, the ~~[Department of Human Services]~~
668 Division of Substance Abuse and Mental Health shall allocate the funds.

669 (c) Local substance abuse authorities shall annually, on or before October 1, submit to
670 the ~~[Department of Human Services]~~ Division of Substance Abuse and Mental Health and to
671 the council reports detailing use of the funds and the impact and results of the use of the funds
672 during the prior fiscal year ending June 30.

673 (5) (a) The Department of Corrections shall establish a planning group and shall submit
674 a plan to the council detailing how the department proposes to use the act funds. The uses shall
675 be in accordance with the guidelines established by the council under Subsection (3).

676 (b) The Department of Corrections shall annually, on or before October 1, submit to
677 the council a report detailing use of the funds and the impact and results of the use of the funds
678 during the prior fiscal year ending June 30.

679 (6) The council shall monitor the progress and evaluation of the act and shall provide a
680 written report on the implementation, impact, and results of the act to the Law Enforcement
681 and Criminal Justice and the Health and Human Services legislative interim committees
682 annually on or before November [†] 30.

683 Section 10. Section **63M-7-306** is amended to read:

684 **63M-7-306. Staffing.**

685 The Commission on Criminal and Juvenile Justice shall provide staff to the council and
686 any [~~subcommittees~~] committee established by the council.

Legislative Review Note
as of 2-2-10 5:54 PM

Office of Legislative Research and General Counsel

Fiscal Note**S.B. 141 - Utah Substance Abuse and Anti-violence Coordinating Council
Amendments**

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
