

HOMELAND SECURITY AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jon J. Greiner

House Sponsor: D. Gregg Buxton

LONG TITLE

General Description:

This bill changes the name of the Division of Emergency Services and Homeland Security to the Division of Homeland Security, and changes the name of the Emergency Services and Homeland Security Act to the Homeland Security Act.

Highlighted Provisions:

This bill:

- ▶ changes the name of the Division of Emergency Services and Homeland Security, and all references thereto, to the Division of Homeland Security;
- ▶ changes the name of the Emergency Services and Homeland Security Act to the Homeland Security Act; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-3-112, as last amended by Chapter 14, Laws of Utah 2002

26-23b-110, as enacted by Chapter 155, Laws of Utah 2002

53-1-104, as last amended by Chapter 156, Laws of Utah 2004



- 28 **53-2-101**, as last amended by Chapter 14, Laws of Utah 2002
- 29 **53-2-102**, as last amended by Chapter 214, Laws of Utah 2005
- 30 **53-2-103**, as last amended by Chapter 14, Laws of Utah 2002
- 31 **53-2-108**, as last amended by Chapter 62, Laws of Utah 2005
- 32 **63-2-304**, as last amended by Chapters 14, 174 and 261, Laws of Utah 2006
- 33 **63-5-4**, as last amended by Chapter 16, Laws of Utah 2003
- 34 **63-5a-8**, as last amended by Chapter 14, Laws of Utah 2002
- 35 **63-5b-102**, as last amended by Chapter 139, Laws of Utah 2006
- 36 **63-5b-301**, as last amended by Chapter 14, Laws of Utah 2002
- 37 **63-38d-502**, as last amended by Chapter 148, Laws of Utah 2005
- 38 **63-53b-201**, as enacted by Chapter 180, Laws of Utah 2006
- 39 **63C-6-101**, as last amended by Chapter 14, Laws of Utah 2002
- 40 **63C-6-104**, as last amended by Chapter 14, Laws of Utah 2002

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

43 Section 1. Section **19-3-112** is amended to read:

44 **19-3-112. Notification by the department to certain persons of release of**
 45 **radiation from Nevada Test Site -- Notification to certain news outlets.**

46 (1) When informed by the United States Department of Energy of any release of
 47 radiation exceeding the Nuclear Regulatory Commission's limits for unrestricted use in air or
 48 water from the Nevada Test Site which is detected outside its boundaries, the department shall,
 49 unless prohibited by federal law, immediately convey to the persons specified in Subsection (2)
 50 all information that is made available to it, including:

- 51 (a) the date;
- 52 (b) the time and duration of each release of radiation;
- 53 (c) estimates of total amounts of radiation released;
- 54 (d) the types and amounts of each isotope detected off-site;
- 55 (e) the locations of monitoring stations detecting off-site radiation; and
- 56 (f) current and projected wind direction, wind velocity, and precipitation for the region.

57 (2) Unless prohibited by federal law, the department shall provide the information
 58 required under Subsection (1) to the following:

- 59 (a) members of the Utah congressional delegation or their designated representatives;
60 (b) the director of the Division of [~~Emergency Services and~~] Homeland Security;
61 (c) the attorney general;
62 (d) the regional director of the Federal Emergency Management Agency;
63 (e) the regional director of the National Oceanic and Atmospheric Administration;
64 (f) the executive director of the Utah League of Cities and Towns;
65 (g) the executive director of the Department of Health; and
66 (h) the chairpersons of the county commissions of affected counties.

67 (3) If the state is informed by the United States Department of Energy that any
68 radiation released from the Nevada Test Site has been detected by the United States
69 Department of Energy or United States Environmental Protection Agency or the department
70 within the boundaries of the state of Utah, the department shall, unless prohibited by federal
71 law, immediately provide all information available to it as specified in Subsection (1) to the
72 Associated Press and United Press International outlets in the state.

73 Section 2. Section **26-23b-110** is amended to read:

74 **26-23b-110. Information sharing with public safety authorities.**

75 (1) For purposes of this section, "public safety authority" means a local, state, or
76 federal law enforcement authority including the [~~division of emergency services homeland~~
77 ~~security~~] Division of Homeland Security, emergency medical services personnel, and
78 firefighters.

79 (2) Notwithstanding the provisions of Title 63, Chapter 2, Government Records Access
80 and Management Act:

81 (a) whenever a public safety authority suspects a case of a reportable illness or
82 condition under the provisions of this chapter, it shall immediately notify the department;

83 (b) whenever the department learns of a case of a reportable illness or condition under
84 this chapter that it reasonably believes has the potential to be caused by one of the factors listed
85 in Subsection 26-23b-103(1), it shall immediately notify the appropriate public safety
86 authority; and

87 (c) sharing of information reportable under the provisions of this chapter between
88 persons authorized by this chapter shall be limited to information necessary for the treatment,
89 control, investigation, and prevention of a public health emergency.

90 (3) Except to the extent inconsistent with this chapter, Sections 26-6-27 and 26-6-28
91 apply to this chapter.

92 Section 3. Section **53-1-104** is amended to read:

93 **53-1-104. Boards, bureaus, councils, divisions, and offices.**

94 (1) The following are the policymaking boards within the department:

- 95 (a) the Driver License Medical Advisory Board, created in Section 53-3-303;
- 96 (b) the Concealed Weapon Review Board, created in Section 53-5-703;
- 97 (c) the Utah Fire Prevention Board, created in Section 53-7-203;
- 98 (d) the Liquified Petroleum Gas Board, created in Section 53-7-304; and
- 99 (e) the Private Investigator Hearing and Licensure Board, created in Section 53-9-104.

100 (2) The following are the councils within the department:

- 101 (a) the Peace Officer Standards and Training Council, created in Section 53-6-106; and
- 102 (b) the Motor Vehicle Safety Inspection Advisory Council, created in Section
103 53-8-203.

104 (3) The following are the divisions within the department:

- 105 (a) the Administrative Services Division, created in Section 53-1-203;
 - 106 (b) the Management Information Services Division, created in Section 53-1-303;
 - 107 (c) the Division of [~~Emergency Services and~~] Homeland Security, created in Section
108 53-2-103;
 - 109 (d) the Driver License Division, created in Section 53-3-103;
 - 110 (e) the Criminal Investigations and Technical Services Division, created in Section
111 53-10-103;
 - 112 (f) the Peace Officers Standards and Training Division, created in Section 53-6-103;
 - 113 (g) the State Fire Marshal Division, created in Section 53-7-103; and
 - 114 (h) the Utah Highway Patrol Division, created in Section 53-8-103.
- 115 (4) The Office of Executive Protection is created in Section 53-1-112.

116 (5) The following are bureaus within the department:

- 117 (a) Bureau of Criminal Identification, created in Section 53-10-201;
- 118 (b) State Bureau of Investigation, created in Section 53-10-301;
- 119 (c) Bureau of Forensic Services, created in Section 53-10-401; and
- 120 (d) Bureau of Communications, created in Section 53-10-501.

121 Section 4. Section **53-2-101** is amended to read:

122 **Part 1. Homeland Security Act**

123 **53-2-101. Title.**

124 This part is known as the "[~~Emergency Services and~~] Homeland Security Act."

125 Section 5. Section **53-2-102** is amended to read:

126 **53-2-102. Definitions.**

127 As used in this part:

128 (1) "Attack" means a nuclear, conventional, biological, or chemical warfare action
129 against the United States of America or this state.

130 (2) "Director" means the division director appointed under Section 53-2-103.

131 (3) "Disaster" means a situation causing, or threatening to cause, widespread damage,
132 social disruption, or injury or loss of life or property resulting from attack, internal disturbance,
133 natural phenomena, or technological hazard.

134 (4) "Division" means the Division of [~~Emergency Services and~~] Homeland Security
135 created in Section 53-2-103.

136 (5) "Energy" includes the energy resources defined in Section 63-53a-1.

137 (6) "Expenses" means actual labor costs of government and volunteer personnel,
138 including workers compensation benefits, fringe benefits, administrative overhead, cost of
139 equipment, cost of equipment operation, cost of materials, and the cost of any contract labor
140 and materials.

141 (7) "Hazardous materials emergency" means a sudden and unexpected release of any
142 substance that because of its quantity, concentration, or physical, chemical, or infectious
143 characteristics presents a direct and immediate threat to public safety or the environment and
144 requires immediate action to mitigate the threat.

145 (8) "Internal disturbance" means a riot, prison break, disruptive terrorism, or strike.

146 (9) "Natural phenomena" means any earthquake, tornado, storm, flood, landslide,
147 avalanche, forest or range fire, drought, or epidemic.

148 (10) "State of emergency" means a condition in any part of this state that requires state
149 government emergency assistance to supplement the local efforts of the affected political
150 subdivision to save lives and to protect property, public health, welfare, or safety in the event
151 of a disaster, or to avoid or reduce the threat of a disaster.

152 (11) "Technological hazard" means any hazardous materials accident, mine accident,
153 train derailment, air crash, radiation incident, pollution, structural fire, or explosion.

154 Section 6. Section **53-2-103** is amended to read:

155 **53-2-103. Division of Homeland Security -- Creation -- Director -- Appointment --**
156 **Term -- Compensation.**

157 (1) There is created within the department the Division of [~~Emergency Services and~~]
158 Homeland Security.

159 (2) The division shall be administered by a director appointed by the commissioner
160 with the approval of the governor.

161 (3) The director is the executive and administrative head of the division and shall be
162 experienced in administration and possess additional qualifications as determined by the
163 commissioner and as provided by law.

164 (4) The director acts under the supervision and control of the commissioner and may be
165 removed from his position at the will of the commissioner.

166 (5) The director shall receive compensation as provided by Title 67, Chapter 19, Utah
167 State Personnel Management Act.

168 Section 7. Section **53-2-108** is amended to read:

169 **53-2-108. Search and Rescue Advisory Board -- Members -- Compensation.**

170 (1) There is created the Search and Rescue Advisory Board consisting of seven
171 members appointed as follows:

172 (a) two representatives designated by the Utah Search and Rescue Association, one of
173 whom is from a county having a population of 75,000 or more; and one from a county having a
174 population of less than 75,000;

175 (b) three representatives designated by the Utah Sheriff's Association, at least one of
176 whom shall be a member of a voluntary search and rescue unit operating in the state, at least
177 one of whom shall be from a county having a population of 75,000 or more, and at least one of
178 whom shall be from a county having a population of less than 75,000;

179 (c) one representative of the Division of [~~Emergency Services and~~] Homeland Security
180 designated by the director; and

181 (d) one private citizen appointed by the governor with the consent of the Senate.

182 (2) (a) The term of each member of the board is four years.

183 (b) A member may be reappointed to successive terms.

184 (c) When a vacancy occurs in the membership for any reason, the replacement shall be
185 appointed for the unexpired term.

186 (d) In order to stagger the terms of membership, the members appointed or reappointed
187 to represent the Utah Sheriff's Association on or after May 2, 2005, shall serve a term of two
188 years, and all subsequent terms shall be four years.

189 (3) Members who are not government employees do not receive compensation or
190 benefits for their services, but may receive per diem and travel expenses incurred in the
191 performance of the member's official duties at the rates established by the Division of Finance
192 under Sections 63A-3-106 and 63A-3-107.

193 Section 8. Section **63-2-304** is amended to read:

194 **63-2-304. Protected records.**

195 The following records are protected if properly classified by a governmental entity:

196 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret
197 has provided the governmental entity with the information specified in Section 63-2-308;

198 (2) commercial information or nonindividual financial information obtained from a
199 person if:

200 (a) disclosure of the information could reasonably be expected to result in unfair
201 competitive injury to the person submitting the information or would impair the ability of the
202 governmental entity to obtain necessary information in the future;

203 (b) the person submitting the information has a greater interest in prohibiting access
204 than the public in obtaining access; and

205 (c) the person submitting the information has provided the governmental entity with
206 the information specified in Section 63-2-308;

207 (3) commercial or financial information acquired or prepared by a governmental entity
208 to the extent that disclosure would lead to financial speculations in currencies, securities, or
209 commodities that will interfere with a planned transaction by the governmental entity or cause
210 substantial financial injury to the governmental entity or state economy;

211 (4) records the disclosure of which could cause commercial injury to, or confer a
212 competitive advantage upon a potential or actual competitor of, a commercial project entity as
213 defined in Subsection 11-13-103(4);

214 (5) test questions and answers to be used in future license, certification, registration,
215 employment, or academic examinations;

216 (6) records the disclosure of which would impair governmental procurement
217 proceedings or give an unfair advantage to any person proposing to enter into a contract or
218 agreement with a governmental entity, except that this Subsection (6) does not restrict the right
219 of a person to see bids submitted to or by a governmental entity after bidding has closed;

220 (7) records that would identify real property or the appraisal or estimated value of real
221 or personal property, including intellectual property, under consideration for public acquisition
222 before any rights to the property are acquired unless:

223 (a) public interest in obtaining access to the information outweighs the governmental
224 entity's need to acquire the property on the best terms possible;

225 (b) the information has already been disclosed to persons not employed by or under a
226 duty of confidentiality to the entity;

227 (c) in the case of records that would identify property, potential sellers of the described
228 property have already learned of the governmental entity's plans to acquire the property;

229 (d) in the case of records that would identify the appraisal or estimated value of
230 property, the potential sellers have already learned of the governmental entity's estimated value
231 of the property; or

232 (e) the property under consideration for public acquisition is a single family residence
233 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
234 the property as required under Section 78-34-4.5;

235 (8) records prepared in contemplation of sale, exchange, lease, rental, or other
236 compensated transaction of real or personal property including intellectual property, which, if
237 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
238 of the subject property, unless:

239 (a) the public interest in access outweighs the interests in restricting access, including
240 the governmental entity's interest in maximizing the financial benefit of the transaction; or

241 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
242 the value of the subject property have already been disclosed to persons not employed by or
243 under a duty of confidentiality to the entity;

244 (9) records created or maintained for civil, criminal, or administrative enforcement

245 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
246 release of the records:

247 (a) reasonably could be expected to interfere with investigations undertaken for
248 enforcement, discipline, licensing, certification, or registration purposes;

249 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
250 proceedings;

251 (c) would create a danger of depriving a person of a right to a fair trial or impartial
252 hearing;

253 (d) reasonably could be expected to disclose the identity of a source who is not
254 generally known outside of government and, in the case of a record compiled in the course of
255 an investigation, disclose information furnished by a source not generally known outside of
256 government if disclosure would compromise the source; or

257 (e) reasonably could be expected to disclose investigative or audit techniques,
258 procedures, policies, or orders not generally known outside of government if disclosure would
259 interfere with enforcement or audit efforts;

260 (10) records the disclosure of which would jeopardize the life or safety of an
261 individual;

262 (11) records the disclosure of which would jeopardize the security of governmental
263 property, governmental programs, or governmental recordkeeping systems from damage, theft,
264 or other appropriation or use contrary to law or public policy;

265 (12) records that, if disclosed, would jeopardize the security or safety of a correctional
266 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
267 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

268 (13) records that, if disclosed, would reveal recommendations made to the Board of
269 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
270 Board of Pardons and Parole, or the Department of Human Services that are based on the
271 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's
272 jurisdiction;

273 (14) records and audit workpapers that identify audit, collection, and operational
274 procedures and methods used by the State Tax Commission, if disclosure would interfere with
275 audits or collections;

276 (15) records of a governmental audit agency relating to an ongoing or planned audit
277 until the final audit is released;

278 (16) records prepared by or on behalf of a governmental entity solely in anticipation of
279 litigation that are not available under the rules of discovery;

280 (17) records disclosing an attorney's work product, including the mental impressions or
281 legal theories of an attorney or other representative of a governmental entity concerning
282 litigation;

283 (18) records of communications between a governmental entity and an attorney
284 representing, retained, or employed by the governmental entity if the communications would be
285 privileged as provided in Section 78-24-8;

286 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
287 from a member of the Legislature; and

288 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
289 legislative action or policy may not be classified as protected under this section; and

290 (b) (i) an internal communication that is part of the deliberative process in connection
291 with the preparation of legislation between:

292 (A) members of a legislative body;

293 (B) a member of a legislative body and a member of the legislative body's staff; or

294 (C) members of a legislative body's staff; and

295 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
296 legislative action or policy may not be classified as protected under this section;

297 (20) (a) records in the custody or control of the Office of Legislative Research and
298 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
299 legislation or contemplated course of action before the legislator has elected to support the
300 legislation or course of action, or made the legislation or course of action public; and

301 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
302 Office of Legislative Research and General Counsel is a public document unless a legislator
303 asks that the records requesting the legislation be maintained as protected records until such
304 time as the legislator elects to make the legislation or course of action public;

305 (21) research requests from legislators to the Office of Legislative Research and
306 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared

307 in response to these requests;

308 (22) drafts, unless otherwise classified as public;

309 (23) records concerning a governmental entity's strategy about collective bargaining or
310 pending litigation;

311 (24) records of investigations of loss occurrences and analyses of loss occurrences that
312 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
313 Uninsured Employers' Fund, or similar divisions in other governmental entities;

314 (25) records, other than personnel evaluations, that contain a personal recommendation
315 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
316 personal privacy, or disclosure is not in the public interest;

317 (26) records that reveal the location of historic, prehistoric, paleontological, or
318 biological resources that if known would jeopardize the security of those resources or of
319 valuable historic, scientific, educational, or cultural information;

320 (27) records of independent state agencies if the disclosure of the records would
321 conflict with the fiduciary obligations of the agency;

322 (28) records of an institution within the state system of higher education defined in
323 Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,
324 retention decisions, and promotions, which could be properly discussed in a meeting closed in
325 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
326 the final decisions about tenure, appointments, retention, promotions, or those students
327 admitted, may not be classified as protected under this section;

328 (29) records of the governor's office, including budget recommendations, legislative
329 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
330 policies or contemplated courses of action before the governor has implemented or rejected
331 those policies or courses of action or made them public;

332 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
333 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
334 recommendations in these areas;

335 (31) records provided by the United States or by a government entity outside the state
336 that are given to the governmental entity with a requirement that they be managed as protected
337 records if the providing entity certifies that the record would not be subject to public disclosure

338 if retained by it;

339 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body
340 except as provided in Section 52-4-206;

341 (33) records that would reveal the contents of settlement negotiations but not including
342 final settlements or empirical data to the extent that they are not otherwise exempt from
343 disclosure;

344 (34) memoranda prepared by staff and used in the decision-making process by an
345 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
346 other body charged by law with performing a quasi-judicial function;

347 (35) records that would reveal negotiations regarding assistance or incentives offered
348 by or requested from a governmental entity for the purpose of encouraging a person to expand
349 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
350 person or place the governmental entity at a competitive disadvantage, but this section may not
351 be used to restrict access to a record evidencing a final contract;

352 (36) materials to which access must be limited for purposes of securing or maintaining
353 the governmental entity's proprietary protection of intellectual property rights including patents,
354 copyrights, and trade secrets;

355 (37) the name of a donor or a prospective donor to a governmental entity, including an
356 institution within the state system of higher education defined in Section 53B-1-102, and other
357 information concerning the donation that could reasonably be expected to reveal the identity of
358 the donor, provided that:

359 (a) the donor requests anonymity in writing;

360 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
361 classified protected by the governmental entity under this Subsection (37); and

362 (c) except for an institution within the state system of higher education defined in
363 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
364 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
365 over the donor, a member of the donor's immediate family, or any entity owned or controlled
366 by the donor or the donor's immediate family;

367 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
368 73-18-13;

369 (39) a notification of workers' compensation insurance coverage described in Section
370 34A-2-205;

371 (40) (a) the following records of an institution within the state system of higher
372 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,
373 or received by or on behalf of faculty, staff, employees, or students of the institution:

374 (i) unpublished lecture notes;

375 (ii) unpublished notes, data, and information:

376 (A) relating to research; and

377 (B) of:

378 (I) the institution within the state system of higher education defined in Section
379 53B-1-102; or

380 (II) a sponsor of sponsored research;

381 (iii) unpublished manuscripts;

382 (iv) creative works in process;

383 (v) scholarly correspondence; and

384 (vi) confidential information contained in research proposals;

385 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
386 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

387 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

388 (41) (a) records in the custody or control of the Office of Legislative Auditor General
389 that would reveal the name of a particular legislator who requests a legislative audit prior to the
390 date that audit is completed and made public; and

391 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
392 Office of the Legislative Auditor General is a public document unless the legislator asks that
393 the records in the custody or control of the Office of Legislative Auditor General that would
394 reveal the name of a particular legislator who requests a legislative audit be maintained as
395 protected records until the audit is completed and made public;

396 (42) records that provide detail as to the location of an explosive, including a map or
397 other document that indicates the location of:

398 (a) a production facility; or

399 (b) a magazine;

- 400 (43) information contained in the database described in Section 62A-3-311.1;
- 401 (44) information contained in the Management Information System and Licensing
- 402 Information System described in Title 62A, Chapter 4a, Child and Family Services;
- 403 (45) information regarding National Guard operations or activities in support of the
- 404 National Guard's federal mission;
- 405 (46) records provided by any pawnbroker or pawnshop to a law enforcement agency or
- 406 to the central database in compliance with Title 13, Chapter 32a, Pawnshop Transaction
- 407 Information Act;
- 408 (47) information regarding food security, risk, and vulnerability assessments performed
- 409 by the Department of Agriculture and Food;
- 410 (48) except to the extent that the record is exempt from this chapter pursuant to Section
- 411 63-2-106, records related to an emergency plan or program prepared or maintained by the
- 412 Division of [~~Emergency Services and~~] Homeland Security the disclosure of which would
- 413 jeopardize:
 - 414 (a) the safety of the general public; or
 - 415 (b) the security of:
 - 416 (i) governmental property;
 - 417 (ii) governmental programs; or
 - 418 (iii) the property of a private person who provides the Division of [~~Emergency Services~~
 - 419 ~~and~~] Homeland Security information;
- 420 (49) records of the Department of Agriculture and Food relating to the National
- 421 Animal Identification System or any other program that provides for the identification, tracing,
- 422 or control of livestock diseases, including any program established under Title 4, Chapter 24,
- 423 Utah Livestock Brand and Anti-theft Act or Title 4, Chapter 31, Livestock Inspection and
- 424 Quarantine;
- 425 (50) as provided in Section 26-39-109:
 - 426 (a) information or records held by the Department of Health related to a complaint
 - 427 regarding a child care program or residential child care which the department is unable to
 - 428 substantiate; and
 - 429 (b) information or records related to a complaint received by the Department of Health
 - 430 from an anonymous complainant regarding a child care program or residential child care; and

431 (51) unless otherwise classified as public under Section 63-2-301 and except as
432 provided under Section 41-1a-116, an individual's home address, home telephone number, or
433 personal mobile phone number, if:

434 (a) the individual is required to provide the information in order to comply with a law,
435 ordinance, rule, or order of a government entity; and

436 (b) the subject of the record has a reasonable expectation that this information will be
437 kept confidential due to:

438 (i) the nature of the law, ordinance, rule, or order; and

439 (ii) the individual complying with the law, ordinance, rule, or order.

440 Section 9. Section **63-5-4** is amended to read:

441 **63-5-4. Disaster Emergency Advisory Council created -- Function -- Composition**
442 **-- Expenses.**

443 (1) A Disaster Emergency Advisory Council is created to provide advice to the
444 governor on matters relating to state government emergency disaster response and recovery
445 actions and activities.

446 (2) The council shall meet at the call of the governor.

447 (3) The Disaster Emergency Advisory Council comprises the:

448 (a) lieutenant governor;

449 (b) attorney general;

450 (c) president of the Senate;

451 (d) speaker of the House of Representatives;

452 (e) heads of the following state agencies:

453 (i) Public Safety;

454 (ii) Division of ~~Emergency Services and~~ Homeland Security;

455 (iii) Building Board; and

456 (iv) Governor's Office of Planning and Budget;

457 (f) executive directors of the following departments:

458 (i) Transportation;

459 (ii) Human Services;

460 (iii) Health;

461 (iv) Environmental Quality;

- 462 (v) Community and Economic Development; and
- 463 (vi) Natural Resources;
- 464 (g) representative of the National Guard appointed by the governor with the consent of
- 465 the Senate;
- 466 (h) commissioner of agriculture and food;
- 467 (i) state planning coordinator; and
- 468 (j) representatives from two statewide, nongovernmental service organizations
- 469 appointed by the governor with the consent of the Senate.

470 (4) The commissioner of Public Safety shall serve as the chair of the council.

471 (5) (a) (i) State government officer and employee members who do not receive salary,

472 per diem, or expenses from their agency for their service may receive per diem and expenses

473 incurred in the performance of their official duties from the council at the rates established by

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

475 (ii) State government officer and employee members may decline to receive per diem

476 and expenses for their service.

477 (b) Legislators on the committee shall receive compensation and expenses as provided

478 by law and legislative rule.

479 Section 10. Section **63-5a-8** is amended to read:

480 **63-5a-8. Acquisition of property for public use -- Compensation of owners.**

481 (1) (a) Upon proclamation of a state of emergency, the governor may purchase or lease

482 public or private property for public use including:

- 483 (i) food and medical supplies;
- 484 (ii) clothing;
- 485 (iii) shelter;
- 486 (iv) means of transportation;
- 487 (v) fuels;
- 488 (vi) oils; or
- 489 (vii) buildings or lands.

490 (b) The governor may not purchase private home storage nor privately owned arms.

491 (2) (a) The governor may use property purchased under authority of this section for any

492 purpose to meet the needs of an emergency, including its use to relieve want, distress, and

493 disease.

494 (b) Any property used by the governor to meet the needs of an emergency is a public
495 use.

496 (3) (a) The governor shall compensate the owner of property taken or used under
497 authority of this section by complying with the procedures established in Title 78, Chapter 34,
498 Eminent Domain.

499 (b) The governor shall pay for those purchases or leases from the funds available to the
500 Division of [~~Emergency Services and~~] Homeland Security under this chapter.

501 (4) Nothing in this section applies to or authorizes compensation for the destruction or
502 damage of standing timber or other property in order to provide a fire break or to the release of
503 waters or the breach of impoundments in order to reduce pressure or other danger from actual
504 or threatened flood.

505 Section 11. Section **63-5b-102** is amended to read:

506 **63-5b-102. Definitions.**

507 (1) (a) "Absent" means:

508 (i) not physically present or not able to be communicated with for 48 hours; or

509 (ii) for local government officers, as defined by local ordinances.

510 (b) "Absent" does not include a person who can be communicated with via telephone,
511 radio, or telecommunications.

512 (2) "Attack" means a nuclear, conventional, biological, or chemical warfare action
513 against the United States of America or this state.

514 (3) "Department" means the Department of Administrative Services, the Department of
515 Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of
516 Commerce, the Department of Community and Culture, the Department of Corrections, the
517 Department of Environmental Quality, the Department of Financial Institutions, the
518 Department of Health, the Department of Human Resource Management, the Department of
519 Workforce Services, the Labor Commission, the National Guard, the Department of Insurance,
520 the Department of Natural Resources, the Department of Public Safety, the Public Service
521 Commission, the Department of Human Services, the State Tax Commission, the Department
522 of Technology Services, the Department of Transportation, any other major administrative
523 subdivisions of state government, the State Board of Education, the State Board of Regents, the

524 Utah Housing Corporation, the Workers' Compensation Fund, the State Retirement Board, and
525 each institution of higher education within the system of higher education.

526 (4) "Disaster" means a situation causing, or threatening to cause, widespread damage,
527 social disruption, or injury or loss of life or property resulting from attack, internal disturbance,
528 natural phenomenon, or technological hazard.

529 (5) "Division" means the Division of [~~Emergency Services and~~] Homeland Security
530 established in Title 53, Chapter 2, Part 1, [~~Emergency Services and~~] Homeland Security Act.

531 (6) "Emergency interim successor" means a person designated by this chapter to
532 exercise the powers and discharge the duties of an office when the person legally exercising the
533 powers and duties of the office is unavailable.

534 (7) "Executive director" means the person with ultimate responsibility for managing
535 and overseeing the operations of each department, however denominated.

536 (8) "Internal disturbance" means a riot, prison break, disruptive terrorism, or strike.

537 (9) "Natural phenomenon" means any earthquake, tornado, storm, flood, landslide,
538 avalanche, forest or range fire, drought, epidemic, or other catastrophic event.

539 (10) (a) "Office" includes all state and local offices, the powers and duties of which are
540 defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

541 (b) "Office" does not include the office of governor or the legislative or judicial offices.

542 (11) "Place of governance" means the physical location where the powers of an office
543 are being exercised.

544 (12) "Political subdivision" includes counties, cities, towns, townships, districts,
545 authorities, and other public corporations and entities whether organized and existing under
546 charter or general law.

547 (13) "Political subdivision officer" means a person holding an office in a political
548 subdivision.

549 (14) "State officer" means the attorney general, the state treasurer, the state auditor, and
550 the executive director of each department.

551 (15) "Technological hazard" means any hazardous materials accident, mine accident,
552 train derailment, air crash, radiation incident, pollution, structural fire, or explosion.

553 (16) "Unavailable" means:

554 (a) absent from the place of governance during a disaster that seriously disrupts normal

555 governmental operations, whether or not that absence or inability would give rise to a vacancy
556 under existing constitutional or statutory provisions; or

557 (b) as otherwise defined by local ordinance.

558 Section 12. Section **63-5b-301** is amended to read:

559 **63-5b-301. Division to consult with legislative and judicial branch.**

560 The Division of [~~Emergency Services and~~] Homeland Security may consult with the
561 Legislative Management Committee, the Judicial Council, and legislative and judicial staff
562 offices to assist them in preparing emergency succession plans and procedures.

563 Section 13. Section **63-38d-502** is amended to read:

564 **63-38d-502. Membership -- Terms -- Chair -- Expenses.**

565 (1) The Resource Development Coordinating Committee shall consist of the following
566 25 members:

567 (a) the state science advisor;

568 (b) a representative from the Department of Agriculture and Food appointed by the
569 executive director;

570 (c) a representative from the Department of Community and Culture appointed by the
571 executive director;

572 (d) a representative from the Department of Environmental Quality appointed by the
573 executive director;

574 (e) a representative from the Department of Natural Resources appointed by the
575 executive director;

576 (f) a representative from the Department of Transportation appointed by the executive
577 director;

578 (g) a representative from the Governor's Office of Economic Development appointed
579 by the director;

580 (h) a representative from the Division of Housing and Community Development
581 appointed by the director;

582 (i) a representative from the Division of State History appointed by the director;

583 (j) a representative from the Division of Air Quality appointed by the director;

584 (k) a representative from the Division of Drinking Water appointed by the director;

585 (l) a representative from the Division of Environmental Response and Remediation

586 appointed by the director;

587 (m) a representative from the Division of Radiation appointed by the director;

588 (n) a representative from the Division of Solid and Hazardous Waste appointed by the
589 director;

590 (o) a representative from the Division of Water Quality appointed by the director;

591 (p) a representative from the Division of Oil, Gas, and Mining appointed by the
592 director;

593 (q) a representative from the Division of Parks and Recreation appointed by the
594 director;

595 (r) a representative from the Division of Forestry, Fire and State Lands appointed by
596 the director;

597 (s) a representative from the Utah Geological Survey appointed by the director;

598 (t) a representative from the Division of Water Resources appointed by the director;

599 (u) a representative from the Division of Water Rights appointed by the director;

600 (v) a representative from the Division of Wildlife Resources appointed by the director;

601 (w) a representative from the School and Institutional Trust Lands Administration
602 appointed by the director;

603 (x) a representative from the Division of Facilities Construction and Management
604 appointed by the director; and

605 (y) a representative from the Division of [~~Emergency Services and~~] Homeland Security
606 appointed by the director.

607 (2) (a) As particular issues require, the committee may, by majority vote of the
608 members present, and with the concurrence of the state planning coordinator, appoint
609 additional temporary members to serve as ex officio voting members.

610 (b) Those ex officio members may discuss and vote on the issue or issues for which
611 they were appointed.

612 (3) A chair shall be selected by a majority vote of committee members with the
613 concurrence of the state planning coordinator.

614 (4) (a) (i) Members who are not government employees shall receive no compensation
615 or benefits for their services, but may receive per diem and expenses incurred in the
616 performance of the member's official duties at the rates established by the Division of Finance

617 under Sections 63A-3-106 and 63A-3-107.

618 (ii) Members may decline to receive per diem and expenses for their service.

619 (b) (i) State government officer and employee members who do not receive salary, per
620 diem, or expenses from their agency for their service may receive per diem and expenses
621 incurred in the performance of their official duties from the council at the rates established by
622 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

623 (ii) State government officer and employee members may decline to receive per diem
624 and expenses for their service.

625 Section 14. Section **63-53b-201** is amended to read:

626 **63-53b-201. Governor's energy advisor -- Duties.**

627 (1) (a) The governor shall appoint an energy advisor.

628 (b) The governor's energy advisor serves at the pleasure of the governor.

629 (2) The governor's energy advisor shall:

630 (a) advise the governor on energy-related matters;

631 (b) annually review and propose updates to the state's energy policy, as contained in
632 Section 63-53b-301;

633 (c) promote as the governor's energy advisor considers necessary:

634 (i) the development of cost-effective energy resources both renewable and
635 nonrenewable; and

636 (ii) educational programs, including programs supporting conservation and energy
637 efficiency measures;

638 (d) coordinate across state agencies to assure consistency with state energy policy,
639 including:

640 (i) working with the State Energy Program to promote access to federal assistance for
641 energy-related projects for state agencies and members of the public;

642 (ii) working with the Division of [~~Emergency Services and~~] Homeland Security to
643 assist the governor in carrying out the governor's energy emergency powers under Title 63,
644 Chapter 53a, Energy Emergency Powers of Governor;

645 (iii) participating in the annual review of the energy emergency plan and the
646 maintenance of the energy emergency plan and a current list of contact persons required by
647 Section 53-2-110; and

648 (iv) identifying and proposing measures necessary to facilitate low-income consumers'
649 access to energy services;

650 (e) coordinate with the Division of [~~Emergency Services and~~] Homeland Security
651 ongoing activities designed to test an energy emergency plan to ensure coordination and
652 information sharing among state agencies and political subdivisions in the state, public utilities
653 and other energy suppliers, and other relevant public sector persons as required by Sections
654 53-2-110, 63-53a-3, 63-53a-7, and 63-53a-8;

655 (f) coordinate with requisite state agencies to study:

656 (i) the creation of a centralized state repository for energy-related information;

657 (ii) methods for streamlining state review and approval processes for energy-related
658 projects; and

659 (iii) the development of multistate energy transmission and transportation
660 infrastructure;

661 (g) coordinate energy-related regulatory processes within the state;

662 (h) compile, and make available to the public, information about federal, state, and
663 local approval requirements for energy-related projects;

664 (i) act as the state's advocate before federal and local authorities for energy-related
665 infrastructure projects or coordinate with the appropriate state agency; and

666 (j) help promote the Division of Facilities Construction and Management's measures to
667 improve energy efficiency in state buildings.

668 Section 15. Section **63C-6-101** is amended to read:

669 **63C-6-101. Creation of commission -- Membership -- Appointment -- Vacancies.**

670 (1) There is created the Utah Seismic Safety Commission consisting of 15 members,
671 designated as follows:

672 (a) the director of the Division of [~~Emergency Services and~~] Homeland Security or his
673 designee;

674 (b) the director of the Utah Geological Survey or his designee;

675 (c) the director of the University of Utah Seismograph Stations or his designee;

676 (d) the executive director of the Utah League of Cities and Towns or his designee;

677 (e) a representative from the Structural Engineers Association of Utah biannually
678 selected by its membership;

- 679 (f) the director of the Division of Facilities and Construction Management or his
680 designee;
- 681 (g) the executive director of the Department of Transportation or his designee;
- 682 (h) the State Planning Coordinator or his designee;
- 683 (i) a representative from the American Institute of Architects, Utah Section;
- 684 (j) a representative from the American Society of Civil Engineers, Utah Section;
- 685 (k) a member of the House of Representatives appointed biannually by the speaker of
686 the House;
- 687 (l) a member of the Senate appointed biannually by the president of the Senate;
- 688 (m) the commissioner of the Department of Insurance or his designee;
- 689 (n) a representative from the Association of Contingency Planners, Utah Chapter,
690 biannually selected by its membership; and
- 691 (o) a representative from the American Public Works Association, Utah Chapter,
692 biannually selected by its membership.
- 693 (2) The commission shall annually select one of its members to serve as chair of the
694 commission.

695 (3) When a vacancy occurs in the membership for any reason, the replacement shall be
696 appointed for the unexpired term.

697 Section 16. Section **63C-6-104** is amended to read:

698 **63C-6-104. Staffing and appropriated funds.**

699 (1) Staff support to the commission shall be provided by the Division of [~~Emergency~~
700 ~~Services and~~] Homeland Security and the Utah Geological Survey.

701 (2) Monies not expended by the Utah Seismic Safety Commission during a fiscal year
702 are nonlapsing except that any balance of General Fund monies greater than \$10,000 lapses to
703 the General Fund.

Legislative Review Note
as of 1-16-07 5:04 PM

Office of Legislative Research and General Counsel

S.B. 137 - Homeland Security Amendments

Fiscal Note

2007 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.

1/22/2007, 4:19:28 PM, Lead Analyst: Ricks, G.

Office of the Legislative Fiscal Analyst