

BUSINESS AND LABOR INTERIM COMMITTEE REPORT

AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Val L. Peterson

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30 **13-14-310**, as enacted by Laws of Utah 2015, Chapter 268
 31 **34-47-202**, as enacted by Laws of Utah 2011, Chapter 15
 32 **34A-2-801**, as last amended by Laws of Utah 2014, Chapter 192
 33 **63A-1-116**, as enacted by Laws of Utah 2014, Chapter 292
 34 **63M-2-401**, as last amended by Laws of Utah 2015, Chapter 357

35 REPEALS:

36 **31A-22-1013**, as enacted by Laws of Utah 2008, Chapter 348



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

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

40 **13-14-310. Reporting requirement.**

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

- 44 (1) the number of applications for a new or relocated dealership that the advisory board
 45 received; and
- 46 (2) for each application described in Subsection (1):
 - 47 (a) the number of protests that the advisory board received;
 - 48 (b) whether the advisory board conducted a hearing;
 - 49 (c) if the advisory board conducted a hearing, the disposition of the hearing; and
 - 50 (d) the basis for any disposition described in Subsection (2)(c).

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

52 **34-47-202. Duties and powers of the council.**

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

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

- 58 (i) the governor; and
- 59 (ii) the Business and Labor Interim Committee.
- 60 (b) The report required by this Subsection (2) shall include:
- 61 (i) the nature and extent of misclassification in this state;
- 62 (ii) the results of regulatory and law enforcement efforts related to the council;
- 63 (iii) the status of sharing information by member agencies; and
- 64 (iv) recommended legislative changes, if any.
- 65 (c) As part of the report required by this Subsection (2), the [~~chairs of the Business and~~
- 66 ~~Labor Interim Committee~~] council shall provide an opportunity to the following to include in
- 67 the report [~~to the Business and Labor Interim Committee~~] comments on the effectiveness of the
- 68 council:
- 69 (i) the attorney general; and
- 70 (ii) each member agency.
- 71 (3) The council may study:
- 72 (a) how to reduce costs to the state resulting from misclassification;
- 73 (b) how to extend outreach and education efforts regarding the nature and requirements
- 74 of classifying an individual;
- 75 (c) how to promote efficient and effective information sharing amongst the member
- 76 agencies; and
- 77 (d) the need, if any, to create by statute a database or other method to facilitate sharing
- 78 of information related to misclassification.
- 79 (4) A member agency shall cooperate with the commission and council to provide
- 80 information related to misclassification to the extent that:
- 81 (a) the information is public information; or
- 82 (b) providing the information is otherwise permitted by law other than this chapter.
- 83 (5) (a) A record provided to the commission or council under this chapter is a protected
- 84 record under Title 63G, Chapter 2, Government Records Access and Management Act, unless
- 85 otherwise classified as private or controlled under Title 63G, Chapter 2, Government Records

86 Access and Management Act.

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

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

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

91 (iii) that the record is:

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

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

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

96 **34A-2-801. Initiating adjudicative proceedings -- Procedure for review of**
97 **administrative action.**

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

102 (i) the employee;

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

105 (iii) a dependent as described in Section [34A-2-403](#).

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

110 (i) the employer;

111 (ii) the insurance carrier; or

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

114 (c) A person providing goods or services described in Subsections 34A-2-407(11) and
115 34A-3-108(12) may file an application for hearing in accordance with Section 34A-2-407 or
116 34A-3-108.

117 (d) An attorney may file an application for hearing in accordance with Section
118 34A-1-309.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

156 (8) (a) Subject to Subsection (8)(b), the decision of the commissioner or Appeals
157 Board is final unless within 30 days after the date the decision is issued further appeal is
158 initiated under the provisions of this section or Title 63G, Chapter 4, Administrative
159 Procedures Act.

160 (b) In the case of an award of permanent total disability benefits under Section
161 34A-2-413, the decision of the commissioner or Appeals Board is a final order of the
162 commission unless set aside by the court of appeals.

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

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

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

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

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

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

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

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

181 ~~[(c) The commission shall annually report to the Business and Labor Interim
182 Committee;]~~

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

185 ~~[(ii) the number of cases described in Subsection (10)(c)(i) for which the decision of
186 the administrative law judge was not issued within the 60-day period required by Subsection
187 (3);]~~

188 ~~[(iii) the number of cases described in Subsection (10)(c)(i) that are appealed to the
189 commissioner or Appeals Board for which the decision of the commissioner or Appeals Board
190 was not issued within the 90-day period required by Subsection (6);]~~

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

194 ~~[(v) the number of cases for which a final order of the commission is not issued within
195 18 months of the day on which the application for a hearing is filed; and]~~

196 ~~[(vi) the reasons the cases described in Subsection (10)(c)(v) were not resolved within
197 18 months of the day on which the application for a hearing is filed.]~~

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

199 **63A-1-116. Appointment of coordinator of resource stewardship -- Duties of the**
200 **coordinator of resource stewardship.**

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

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

205 (3) The coordinator of resource stewardship shall:

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

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

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

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

214 **63M-2-401. Reporting requirements.**

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

218 (a) the governor;

219 (b) the Legislature;

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

221 [~~and~~]

222 (d) the Economic Development and Workforce Services Interim Committee [~~an annual~~
223 ~~written report of the operations, activities, programs, and services of the governing authority~~
224 ~~and the USTAR initiative for the preceding fiscal year.]; and~~

225 (e) the Business and Labor Interim Committee.

226 (2) For each project, operation, activity, program, or service related to the USTAR
227 initiative or overseen or funded through the USTAR governing authority, the annual report
228 shall include:

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

230 (b) data selected and used by the governing authority to measure progress,
231 performance, and scope of the project, operation, activity, program, or service, including
232 summary data;

233 (c) a clear description of the methodology for any data in the report that includes an
234 estimation;

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

236 (i) funding from legislative appropriations;

237 (ii) funding procured outside of legislative appropriations, including a separate
238 accounting of grants or investments contributing to research teams and other activities of the
239 USTAR initiative from the federal government, private entities, or other sources, and an
240 explanation of the extent to which:

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

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

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

244 (A) realized commercialization revenue;

245 (B) unrealized commercialization revenue; and

246 (C) commercialization revenue going to other parties attributable to USTAR initiative
247 funding;

248 (iv) lease revenue from each building in which the USTAR governing authority holds
249 title; and

250 (v) the amount of money deposited with the state treasurer for deposit into the sinking
251 fund created under Section [63B-1a-301](#) for debt service on the bonds issued to fund planning,
252 design, and construction of the research buildings;

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

- 254 (i) operational expenses;
- 255 (ii) for each employee receiving compensation from USTAR initiative funding,
- 256 compensation information, including:
 - 257 (A) salary expenses, benefit expenses, and travel expenses;
 - 258 (B) information for each research team employee and each employee of the TOIP that
 - 259 receives compensation directly or indirectly through USTAR initiative funding; and
 - 260 (C) information regarding compensation for each employee from sources other than
 - 261 USTAR initiative funding, including grants and compensation from a university or private
 - 262 entity;
 - 263 (iii) for each research team, salary expenses, benefit expenses, travel expenses, and
 - 264 operations and maintenance expenses;
 - 265 (iv) operational and maintenance expenses for each building in which the USTAR
 - 266 governing authority holds title;
 - 267 (v) operational and maintenance expenses paid for by USTAR initiative funding for
 - 268 each location that has an established TOIP; and
 - 269 (vi) each grant or other incentive given as a result of the USTAR initiative, including
 - 270 grants or incentives awarded through the TOIP;
 - 271 (f) the number of jobs and the corresponding salary ranges created by the USTAR
 - 272 initiative, including the number of jobs where the employee is expected to be employed for at
 - 273 least one year and earns at least 125% of the prevailing wage of the county where the employee
 - 274 works;
 - 275 (g) the name of each business entity receiving a grant or other incentive as a result of
 - 276 the USTAR initiative, including the outreach program;
 - 277 (h) a list of business entities that have hired employees as a result of the USTAR
 - 278 initiative;
 - 279 (i) the tax revenue generated as a result of the USTAR initiative, with actual revenue
 - 280 generated clearly separated from potential revenue;
 - 281 (j) a list of intellectual property assets, including patents, generated by research teams

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

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

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

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

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

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

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

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

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

298 (q) the written economic development objectives required under Subsection
299 [63M-2-302\(1\)\(e\)](#) and a description of any progress or challenges in meeting the objectives; and

300 (r) the audit report described in Section [63M-2-402](#).

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

303 (4) The governing authority shall:

304 (a) submit the annual report in accordance with Section [68-3-14](#); and

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

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

308 (a) upon the request of a committee, the USTAR governing authority shall provide
309 information and progress reports to;

- 310 (i) the Economic Development and Workforce Services Interim Committee;
- 311 (ii) the Business and Labor Interim Committee; and
- 312 (iii) the Business, Economic Development, and Labor Appropriations Subcommittee;

313 and

314 (b) on or before October 1, 2019, and every five years after October 1, 2019, the
315 USTAR governing authority shall include with the annual report described in this section a
316 written analysis and recommendations concerning the usefulness of the information required in
317 the annual report and the ongoing effectiveness of the USTAR initiative, including whether:

318 (i) the reporting requirements are effective at measuring the performance of the
319 USTAR initiative;

320 (ii) the reporting requirements should be modified; and

321 (iii) the USTAR initiative is beneficial to the state and should continue.

322 **Section 6. Repealer.**

323 This bill repeals:

324 Section **31A-22-1013**, **Department report on workers' compensation.**