

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

Committee Note:

The Business and Labor Interim Committee recommended this bill.

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



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **13-14-310**, as enacted by Laws of Utah 2015, Chapter 268

33 **34-47-202**, as enacted by Laws of Utah 2011, Chapter 15

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

35 **63A-1-116**, as enacted by Laws of Utah 2014, Chapter 292

36 **63M-2-401**, as last amended by Laws of Utah 2015, Chapter 357

37 REPEALS:

38 **31A-22-1013**, as enacted by Laws of Utah 2008, Chapter 348



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

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

42 **13-14-310. Reporting requirement.**

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

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

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

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

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

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

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

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

54 **34-47-202. Duties and powers of the council.**

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

58 (2) (a) The council shall provide a written report by no later than [~~November 30~~]

59 September 1 of each year regarding the previous fiscal year to:

60 (i) the governor; and

61 (ii) the Business and Labor Interim Committee.

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

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

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

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

66 (iv) recommended legislative changes, if any.

67 (c) As part of the report required by this Subsection (2), the [~~chairs of the Business and~~

68 ~~Labor Interim Committee~~] council shall provide an opportunity to the following to include in

69 the report [~~to the Business and Labor Interim Committee~~] comments on the effectiveness of the
70 council:

71 (i) the attorney general; and

72 (ii) each member agency.

73 (3) The council may study:

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

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

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

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

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

83 (a) the information is public information; or

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

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

89 (b) Notwithstanding Subsection (5)(a), the commission or council may disclose the

90 record to the extent:

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

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

93 (iii) that the record is:

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

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

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

98 **34A-2-801. Initiating adjudicative proceedings -- Procedure for review of**
99 **administrative action.**

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

104 (i) the employee;

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

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

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

112 (i) the employer;

113 (ii) the insurance carrier; or

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

116 (c) A person providing goods or services described in Subsections 34A-2-407(11) and
117 34A-3-108(12) may file an application for hearing in accordance with Section 34A-2-407 or
118 34A-3-108.

119 (d) An attorney may file an application for hearing in accordance with Section
120 34A-1-309.

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

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

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

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

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

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

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

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

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

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

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

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

150 (6) Upon appeal, the commissioner or Appeals Board shall make its decision in
151 accordance with Section [34A-1-303](#). The commissioner or Appeals Board shall issue a

152 decision under this part by no later than 90 days from the day on which the motion for review is
153 filed unless:

- 154 (a) the parties agree to a longer period of time; or
- 155 (b) a decision within the 90-day period is impracticable.

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

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

162 (b) In the case of an award of permanent total disability benefits under Section
163 [34A-2-413](#), the decision of the commissioner or Appeals Board is a final order of the
164 commission unless set aside by the court of appeals.

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

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

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

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

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

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

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

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

183 ~~[(v) The commission shall annually report to the Business and Labor Interim~~
184 ~~Committee;]~~

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

187 ~~[(ii) the number of cases described in Subsection (10)(c)(i) for which the decision of~~
188 ~~the administrative law judge was not issued within the 60-day period required by Subsection~~
189 ~~(3);]~~

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

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

196 ~~[(v) the number of cases for which a final order of the commission is not issued within~~
197 ~~18 months of the day on which the application for a hearing is filed; and]~~

198 ~~[(vi) the reasons the cases described in Subsection (10)(c)(v) were not resolved within~~
199 ~~18 months of the day on which the application for a hearing is filed;]~~

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

201 **63A-1-116. Appointment of coordinator of resource stewardship -- Duties of the**
202 **coordinator of resource stewardship.**

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

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

207 (3) The coordinator of resource stewardship shall:

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

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

213 (4) Each agency will retain absolute discretion whether or not to incorporate any of the

214 practices or measures suggested by the coordinator.

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

216 **63M-2-401. Reporting requirements.**

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

220 (a) the governor;

221 (b) the Legislature;

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

223 [and]

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

227 (e) the Business and Labor Interim Committee.

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

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

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

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

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

238 (i) funding from legislative appropriations;

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

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

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

- 245 (iii) commercialization revenue, including a separate accounting of:
246 (A) realized commercialization revenue;
247 (B) unrealized commercialization revenue; and
248 (C) commercialization revenue going to other parties attributable to USTAR initiative
249 funding;
- 250 (iv) lease revenue from each building in which the USTAR governing authority holds
251 title; and
252 (v) the amount of money deposited with the state treasurer for deposit into the sinking
253 fund created under Section 63B-1a-301 for debt service on the bonds issued to fund planning,
254 design, and construction of the research buildings;
- 255 (e) all expenses of the USTAR initiative, including:
256 (i) operational expenses;
257 (ii) for each employee receiving compensation from USTAR initiative funding,
258 compensation information, including:
259 (A) salary expenses, benefit expenses, and travel expenses;
260 (B) information for each research team employee and each employee of the TOIP that
261 receives compensation directly or indirectly through USTAR initiative funding; and
262 (C) information regarding compensation for each employee from sources other than
263 USTAR initiative funding, including grants and compensation from a university or private
264 entity;
- 265 (iii) for each research team, salary expenses, benefit expenses, travel expenses, and
266 operations and maintenance expenses;
267 (iv) operational and maintenance expenses for each building in which the USTAR
268 governing authority holds title;
269 (v) operational and maintenance expenses paid for by USTAR initiative funding for
270 each location that has an established TOIP; and
271 (vi) each grant or other incentive given as a result of the USTAR initiative, including
272 grants or incentives awarded through the TOIP;
- 273 (f) the number of jobs and the corresponding salary ranges created by the USTAR
274 initiative, including the number of jobs where the employee is expected to be employed for at
275 least one year and earns at least 125% of the prevailing wage of the county where the employee

276 works;

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

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

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

283 (j) a list of intellectual property assets, including patents, generated by research teams
284 as a result of the USTAR initiative, including a reasonable estimate of the USTAR initiative's
285 percentage share of potential commercialization revenue that may be realized from those
286 assets;

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

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

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

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

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

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

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

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

300 (q) the written economic development objectives required under Subsection
301 [63M-2-302\(1\)\(e\)](#) and a description of any progress or challenges in meeting the objectives; and

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

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

305 (4) The governing authority shall:

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

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

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

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

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

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

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

315 and

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

320 (i) the reporting requirements are effective at measuring the performance of the
321 USTAR initiative;

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

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

324 Section 6. **Repealer.**

325 This bill repeals:

326 Section [31A-22-1013](#), **Department report on workers' compensation.**