

BOARDS AND COMMISSIONS AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Peter C. Knudson

House Sponsor: _____

LONG TITLE

Committee Note:

The Government Operations Interim Committee recommended this bill.

General Description:

This bill repeals certain boards and commissions.

Highlighted Provisions:

This bill:

▶ repeals the:

- Municipal Government Fiscal Committee;
- Citizens and County Officials Advisory Committee;
- Antidiscrimination and Labor Advisory Council;
- Occupational Safety and Health Advisory Council;
- advisory committee to the Motorcycle Rider Education Program;
- Utah Pioneer Communities Advisory Board;
- Forestry, Fire, and State Lands Advisory Council;
- Controlled Substance Precursor Advisory Board;
- Environmental Health Scientist Board;
- Families, Agencies, and Communities Together (FACT) Steering Committee;
- Families, Agencies, and Communities Together (FACT) State Council;
- Job Enhancement Committee; and
- Radiologic Technologist Licensing Board;



- 28 ▶ requires the state auditor to establish and conduct a continuing review of suggested
- 29 measurements and procedures for program performance budgeting and reporting;
- 30 and
- 31 ▶ makes technical and conforming amendments.

32 Money Appropriated in this Bill:

33 None

34 Other Special Clauses:

35 This bill provides effective dates.

36 Utah Code Sections Affected:

37 AMENDS:

- 38 **10-6-154**, as last amended by Laws of Utah 2003, Chapter 292
- 39 **17-36-4**, as last amended by Laws of Utah 1996, Chapter 212
- 40 **34A-1-202**, as last amended by Laws of Utah 2009, Chapter 174
- 41 **34A-6-103**, as last amended by Laws of Utah 2011, Chapter 413
- 42 **34A-6-202**, as last amended by Laws of Utah 2011, Chapter 297
- 43 **35A-3-207**, as last amended by Laws of Utah 2008, Chapter 382
- 44 **53A-1a-601**, as last amended by Laws of Utah 2011, Chapter 342
- 45 **58-20a-102**, as last amended by Laws of Utah 1997, Chapter 10
- 46 **58-20a-302**, as last amended by Laws of Utah 2009, Chapter 183
- 47 **58-37c-3**, as last amended by Laws of Utah 2008, Chapter 382
- 48 **58-37c-8**, as last amended by Laws of Utah 2010, Chapter 240
- 49 **58-37c-11**, as last amended by Laws of Utah 1999, Chapter 21
- 50 **58-37c-19**, as last amended by Laws of Utah 2000, Chapter 1
- 51 **58-37c-19.5**, as last amended by Laws of Utah 2004, Chapter 280
- 52 **58-37c-19.7**, as enacted by Laws of Utah 2000, Chapter 272
- 53 **58-37c-19.9**, as enacted by Laws of Utah 2000, Chapter 272
- 54 **58-37c-20**, as last amended by Laws of Utah 2007, Chapter 358
- 55 **58-37d-3**, as last amended by Laws of Utah 2003, Chapter 115
- 56 **58-54-102**, as renumbered and amended by Laws of Utah 2011, Chapter 61
- 57 **58-54-302**, as last amended by Laws of Utah 2012, Chapter 369
- 58 **62A-5a-104**, as last amended by Laws of Utah 2008, Chapter 382

59 **63I-1-263 (Effective 05/01/13)**, as last amended by Laws of Utah 2012, Chapters 126,
60 206, 347, 369, and 395

61 **63J-1-201**, as last amended by Laws of Utah 2012, Chapters 242 and 341

62 **65A-1-1**, as last amended by Laws of Utah 2012, Chapter 361

63 **65A-1-4**, as last amended by Laws of Utah 2009, Chapter 344

64 **65A-1-9**, as repealed and reenacted by Laws of Utah 1994, Chapter 294

65 **79-2-201**, as renumbered and amended by Laws of Utah 2009, Chapter 344

66 REPEALS:

67 **10-6-153**, as last amended by Laws of Utah 2010, Chapter 286

68 **17-36-5**, as last amended by Laws of Utah 2010, Chapters 286 and 324

69 **34A-5-105**, as last amended by Laws of Utah 2010, Chapter 286

70 **34A-6-106**, as last amended by Laws of Utah 2010, Chapter 286

71 **53-3-908**, as last amended by Laws of Utah 2010, Chapters 286 and 324

72 **53A-1a-602**, as last amended by Laws of Utah 2010, Chapter 286

73 **58-20a-201**, as enacted by Laws of Utah 1995, Chapter 95

74 **58-37c-4**, as last amended by Laws of Utah 1993, Chapter 297

75 **58-54-201**, as renumbered and amended by Laws of Utah 2011, Chapter 61

76 **63M-1-1501**, as renumbered and amended by Laws of Utah 2008, Chapter 382

77 **63M-1-1502**, as last amended by Laws of Utah 2010, Chapter 218

78 **63M-1-1503**, as last amended by Laws of Utah 2012, Chapter 212

79 **63M-1-1504**, as renumbered and amended by Laws of Utah 2008, Chapter 382

80 **63M-1-1505**, as renumbered and amended by Laws of Utah 2008, Chapter 382

81 **63M-9-101**, as renumbered and amended by Laws of Utah 2008, Chapter 382

82 **63M-9-102**, as renumbered and amended by Laws of Utah 2008, Chapter 382

83 **63M-9-103**, as last amended by Laws of Utah 2011, Chapter 366

84 **63M-9-104**, as renumbered and amended by Laws of Utah 2008, Chapter 382

85 **63M-9-201**, as last amended by Laws of Utah 2010, Chapter 286

86 **63M-9-202**, as last amended by Laws of Utah 2010, Chapter 286

87 **63M-9-203**, as renumbered and amended by Laws of Utah 2008, Chapter 382

88 **63M-9-301**, as last amended by Laws of Utah 2010, Chapter 324

89 **63M-9-401**, as last amended by Laws of Utah 2008, Chapter 3 and renumbered and

90 amended by Laws of Utah 2008, Chapter 382

91 **63M-9-402**, as renumbered and amended by Laws of Utah 2008, Chapter 382

92 **63M-9-501**, as renumbered and amended by Laws of Utah 2008, Chapter 382

93 **65A-1-2**, as last amended by Laws of Utah 2009, Chapter 344

94 **65A-1-3**, as last amended by Laws of Utah 2010, Chapter 286

95

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

97 Section 1. Section **10-6-154** is amended to read:

98 **10-6-154. Duties of state auditor -- Adoption and expansion of uniform system.**

99 (1) The state auditor [~~with the assistance, advice, and recommendations of the~~
100 ~~municipal government fiscal committee~~] shall:

101 (a) prescribe uniform accounting and reporting procedures for cities, in conformity
102 with generally accepted accounting principles;

103 (b) conduct a continuing review and modification of such procedures to improve them;

104 (c) prepare and supply each city with suitable budget and reporting forms; and

105 (d) prepare instructional materials, conduct training programs and render other services
106 deemed necessary to assist cities in implementing the uniform accounting, budgeting and
107 reporting procedures.

108 (2) The Uniform Accounting Manual for Utah Cities shall prescribe reasonable
109 exceptions and modifications for fourth and fifth class cities to the uniform system of
110 accounting, budgeting, and reporting.

111 (3) The [~~advisory committee~~] state auditor shall establish and conduct a continuing
112 review of suggested measurements and procedures for program and performance budgeting and
113 reporting which may be evaluated on a statewide basis.

114 (4) Cities may expand the uniform accounting and reporting procedures to better serve
115 their needs; however, no deviations from or alterations to the basic prescribed classification
116 systems for the identity of funds and accounts shall be made.

117 Section 2. Section **17-36-4** is amended to read:

118 **17-36-4. State auditor -- Duties.**

119 (1) The state auditor[~~, with the assistance, advice, and recommendation of the advisory~~
120 ~~committee,~~] shall:

- 121 (a) prescribe a uniform system of fiscal procedures for the several counties;
122 (b) conduct a constant review and modification of such procedures to improve them;
123 (c) prepare and supply each county budget officer with suitable budget forms; and
124 (d) prepare instructional materials, conduct training programs, and render other
125 services deemed necessary to assist counties in implementing the uniform system.

126 (2) The uniform system of procedure may include reasonable exceptions and
127 modifications applicable to counties with a population of 25,000 or less, such population to be
128 determined by the Utah Population Work Committee. Counties may expand the uniform
129 system to serve better their needs. Deviations from or alterations to the basic prescribed
130 classification system for the identity of funds and accounts should not be made.

131 Section 3. Section **34A-1-202** is amended to read:

132 **34A-1-202. Divisions and office -- Creation -- Duties -- Labor Relations Board,**
133 **Appeals Board, councils, and panel.**

134 (1) There is created within the commission the following divisions and office:

- 135 (a) the Division of Industrial Accidents that shall administer the regulatory
136 requirements of this title concerning industrial accidents and occupational disease;
137 (b) the Division of Occupational Safety and Health that shall administer the regulatory
138 requirements of Chapter 6, Utah Occupational Safety and Health Act;
139 (c) the Division of Boiler and Elevator Safety that shall administer the regulatory
140 requirements of Chapter 7, Safety;

141 (d) the Division of Antidiscrimination and Labor that shall administer the regulatory
142 requirements of:

- 143 (i) Title 34, Labor in General, when specified by statute;
144 (ii) Chapter 5, Utah Antidiscrimination Act;
145 (iii) this title, when specified by statute; and
146 (iv) Title 57, Chapter 21, Utah Fair Housing Act;
147 (e) the Division of Adjudication that shall adjudicate claims or actions brought under
148 this title; and

149 (f) the Utah Office of Coal Mine Safety created in Section 40-2-201.

150 (2) In addition to the divisions created under this section, within the commission are
151 the following:

- 152 (a) the Labor Relations Board created in Section 34-20-3;
- 153 (b) the Appeals Board created in Section 34A-1-205;
- 154 (c) the following program advisory councils:
- 155 (i) the workers' compensation advisory council created in Section 34A-2-107;
- 156 [~~(ii) the antidiscrimination and labor advisory council created in Section 34A-5-105;~~]
- 157 [~~(iii) the occupational safety and health advisory council created in Section~~

158 ~~34A-6-106;~~]

159 [~~(iv)~~] (ii) the Mine Safety Technical Advisory Council created in Section 40-2-203;

160 and

161 [~~(v)~~] (iii) the Coal Miner Certification Panel created in Section 40-2-204.

162 (3) In addition to the responsibilities described in this section, the commissioner may
163 assign to a division a responsibility granted to the commission by law.

164 Section 4. Section **34A-6-103** is amended to read:

165 **34A-6-103. Definitions -- Unincorporated entities.**

166 (1) As used in this chapter:

167 (a) "Administrator" means the director of the Division of Occupational Safety and
168 Health.

169 (b) "Amendment" means such modification or change in a code, standard, rule, or
170 order intended for universal or general application.

171 (c) "Commission" means the Labor Commission.

172 [~~(d) "Council" means the Utah Occupational Safety and Health Advisory Council.~~]

173 [~~(e)~~] (d) "Division" means the Division of Occupational Safety and Health.

174 [~~(f)~~] (e) "Employee" includes any person suffered or permitted to work by an employer.

175 [~~(g)~~] (f) "Employer" means:

176 (i) the state;

177 (ii) a county, city, town, and school district in the state; and

178 (iii) a person, including a public utility, having one or more workers or operatives
179 regularly employed in the same business, or in or about the same establishment, under any
180 contract of hire.

181 [~~(h)~~] (g) "Hearing" means a proceeding conducted by the commission.

182 [~~(i)~~] (h) "Imminent danger" means a danger exists which reasonably could be expected

183 to cause an occupational disease, death, or serious physical harm immediately, or before the
184 danger could be eliminated through enforcement procedures under this chapter.

185 ~~[(j)]~~ (i) "National consensus standard" means any occupational safety and health
186 standard or modification:

187 (i) adopted by a nationally recognized standards-producing organization under
188 procedures where it can be determined by the administrator and division that persons interested
189 and affected by the standard have reached substantial agreement on its adoption;

190 (ii) formulated in a manner which affords an opportunity for diverse views to be
191 considered; and

192 (iii) designated as such a standard by the Secretary of the United States Department of
193 Labor.

194 ~~[(k)]~~ (j) "Person" means the general public, one or more individuals, partnerships,
195 associations, corporations, legal representatives, trustees, receivers, and the state and its
196 political subdivisions.

197 ~~[(l)]~~ (k) "Publish" means publication in accordance with Title 63G, Chapter 3, Utah
198 Administrative Rulemaking Act.

199 ~~[(m)]~~ (l) "Secretary" means the Secretary of the United States Department of Labor.

200 ~~[(n)]~~ (m) "Standard" means an occupational health and safety standard or group of
201 standards which requires conditions, or the adoption or use of one or more practices, means,
202 methods, operations, or processes, reasonably necessary to provide safety and healthful
203 employment and places of employment.

204 ~~[(o)]~~ (n) "Unincorporated entity" means an entity organized or doing business in the
205 state that is not:

206 (i) an individual;

207 (ii) a corporation; or

208 (iii) publicly traded.

209 ~~[(p)]~~ (o) "Variance" means a special, limited modification or change in the code or
210 standard applicable to the particular establishment of the employer or person petitioning for the
211 modification or change.

212 ~~[(q)]~~ (p) "Workplace" means any place of employment.

213 (2) (a) For purposes of this chapter, an unincorporated entity that is required to be

214 licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to
 215 be the employer of each individual who, directly or indirectly, holds an ownership interest in
 216 the unincorporated entity.

217 (b) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3,
 218 Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption
 219 under Subsection (2)(a) for an individual by establishing by clear and convincing evidence that
 220 the individual:

221 (i) is an active manager of the unincorporated entity;
 222 (ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated
 223 entity; or

224 (iii) is not subject to supervision or control in the performance of work by:

225 (A) the unincorporated entity; or

226 (B) a person with whom the unincorporated entity contracts.

227 (c) As part of the rules made under Subsection (2)(b), the commission may define:

228 (i) "active manager";

229 (ii) "directly or indirectly holds at least an 8% ownership interest"; and

230 (iii) "subject to supervision or control in the performance of work."

231 Section 5. Section **34A-6-202** is amended to read:

232 **34A-6-202. Standards -- Procedure for issuance, modification, or revocation by**
 233 **division -- Emergency temporary standard -- Variances from standards -- Statement of**
 234 **reasons for administrator's actions -- Judicial review -- Priority for establishing**
 235 **standards.**

236 (1) (a) The division, as soon as practicable, shall issue as standards any national
 237 consensus standard, any adopted federal standard, or any adopted Utah standard, unless it
 238 determines that issuance of the standard would not result in improved safety or health.

239 (b) All codes, standards, and rules adopted under Subsection (1)(a) shall take effect 30
 240 days after publication unless otherwise specified.

241 (c) If any conflict exists between standards, the division shall issue the standard that
 242 assures the greatest protection of safety or health for affected employees.

243 (2) The division may issue, modify, or revoke any standard as follows:

244 ~~[(a) (i) Whenever the administrator determines upon the basis of information submitted~~

245 in writing by an interested person, a representative of any organization of employers or
246 employees, a nationally recognized standards-producing organization, the Department of
247 Health, or a state agency or political subdivision, or on information developed by the division
248 or otherwise available, that a rule should be promulgated to promote the objectives of this
249 chapter, the administrator may request recommendations from the advisory council.]

250 [(ii) The administrator shall provide the advisory council with proposals, together with
251 all pertinent factual information developed by the division, or otherwise available, including
252 the results of research, demonstrations, and experiments.]

253 [(iii) The advisory council shall submit to the administrator its recommendations
254 regarding the rule to be promulgated within a period as prescribed by the administrator.]

255 [(b)] (a) The division shall publish a proposed rule issuing, modifying, or revoking an
256 occupational safety or health standard and shall afford interested parties an opportunity to
257 submit written data or comments as prescribed by Title 63G, Chapter 3, Utah Administrative
258 Rulemaking Act. When the administrator determines that a rule should be issued, the division
259 shall publish the proposed rule after the [submission of the advisory council's recommendations
260 or the] expiration of the period prescribed by the administrator for submission.

261 [(c)] (b) The administrator, in issuing standards for toxic materials or harmful physical
262 agents under this subsection, shall set the standard which most adequately assures, to the extent
263 feasible, on the basis of the best available evidence, that no employee will suffer material
264 impairment of health or functional capacity even if the employee has regular exposure to the
265 hazard during an employee's working life. Development of standards under this subsection
266 shall be based upon research, demonstrations, experiments, and other information deemed
267 appropriate. In addition to the attainment of the highest degree of health and safety protection
268 for the employee, other considerations shall be the latest available scientific data in the field,
269 the feasibility of the standards, and experience under this and other health and safety laws.
270 Whenever practicable, the standard shall be expressed in terms of objective criteria and of the
271 performance desired.

272 [(d)] (c) (i) Any employer may apply to the administrator for a temporary order
273 granting a variance from a standard issued under this section. Temporary orders shall be
274 granted only if the employer:

275 (A) files an application which meets the requirements of Subsection (2)[(d)](c)(iv);

276 (B) establishes that the employer is unable to comply with a standard by its effective
277 date because of unavailability of professional or technical personnel or of materials and
278 equipment needed for compliance with the standard or because necessary construction or
279 alteration of facilities cannot be completed by the effective date;

280 (C) establishes that the employer is taking all available steps to safeguard the
281 employer's employees against hazards; and

282 (D) establishes that the employer has an effective program for compliance as quickly as
283 practicable.

284 (ii) Any temporary order shall prescribe the practices, means, methods, operations, and
285 processes which the employer shall adopt and use while the order is in effect and state in detail
286 the employer's program for compliance with the standard. A temporary order may be granted
287 only after notice to employees and an opportunity for a public hearing; provided, that the
288 administrator may issue one interim order effective until a decision is made after public
289 hearing.

290 (iii) A temporary order may not be in effect longer than the period reasonably required
291 by the employer to achieve compliance. In no case shall the period of a temporary order
292 exceed one year.

293 (iv) An application for a temporary order under Subsection (2)~~(d)~~(c) shall contain:

294 (A) a specification of the standard or part from which the employer seeks a variance;

295 (B) a representation by the employer, supported by representations from qualified
296 persons having first-hand knowledge of the facts represented, that the employer is unable to
297 comply with the standard or some part of the standard;

298 (C) a detailed statement of the reasons the employer is unable to comply;

299 (D) a statement of the measures taken and anticipated with specific dates, to protect
300 employees against the hazard;

301 (E) a statement of when the employer expects to comply with the standard and what
302 measures the employer has taken and those anticipated, giving specific dates for compliance;
303 and

304 (F) a certification that the employer has informed the employer's employees of the
305 application by:

306 (I) giving a copy to their authorized representative;

307 (II) posting a statement giving a summary of the application and specifying where a
308 copy may be examined at the place or places where notices to employees are normally posted;
309 and

310 (III) by other appropriate means.

311 (v) The certification required under Subsection (2)~~(f)~~(c)(iv) shall contain a
312 description of how employees have been informed.

313 (vi) The information to employees required under Subsection (2)~~(f)~~(c)(v) shall
314 inform the employees of their right to petition the division for a hearing.

315 (vii) The administrator is authorized to grant a variance from any standard or some part
316 of the standard when the administrator determines that it is necessary to permit an employer to
317 participate in a research and development project approved by the administrator to demonstrate
318 or validate new and improved techniques to safeguard the health or safety of workers.

319 ~~(e)~~ (d) (i) Any standard issued under this subsection shall prescribe the use of labels
320 or other forms of warning necessary to ensure that employees are apprised of all hazards,
321 relevant symptoms and emergency treatment, and proper conditions and precautions of safe use
322 or exposure. When appropriate, a standard shall prescribe suitable protective equipment and
323 control or technological procedures for use in connection with such hazards and provide for
324 monitoring or measuring employee exposure at such locations and intervals, and in a manner
325 necessary for the protection of employees. In addition, any such standard shall prescribe the
326 type and frequency of medical examinations or other tests which shall be made available by the
327 employer, or at the employer's cost, to employees exposed to hazards in order to most
328 effectively determine whether the health of employees is adversely affected by exposure. If
329 medical examinations are in the nature of research as determined by the division, the
330 examinations may be furnished at division expense. The results of such examinations or tests
331 shall be furnished only to the division; and, at the request of the employee, to the employee's
332 physician.

333 (ii) The administrator may by rule make appropriate modifications in requirements for
334 the use of labels or other forms of warning, monitoring or measuring, and medical
335 examinations warranted by experience, information, or medical or technological developments
336 acquired subsequent to the promulgation of the relevant standard.

337 ~~(f)~~ (e) Whenever a rule issued by the administrator differs substantially from an

338 existing national consensus standard, the division shall publish a statement of the reasons why
339 the rule as adopted will better effectuate the purposes of this chapter than the national
340 consensus standard.

341 ~~(g)~~ (f) Whenever a rule, standard, or national consensus standard is modified by the
342 secretary so as to make less restrictive the federal Williams-Steiger Occupational Safety and
343 Health Act of 1970, the less restrictive modification shall be immediately applicable to this
344 chapter and shall be immediately implemented by the division.

345 (3) (a) The administrator shall provide an emergency temporary standard to take
346 immediate effect upon publication if the administrator determines that:

347 (i) employees are exposed to grave danger from exposure to substances or agents
348 determined to be toxic or physically harmful or from new hazards; and

349 (ii) that the standard is necessary to protect employees from danger.

350 (b) An emergency standard shall be effective until superseded by a standard issued in
351 accordance with the procedures prescribed in Subsection (3)(c).

352 (c) Upon publication of an emergency standard the division shall commence a
353 proceeding in accordance with Subsection (2) and the standard as published shall serve as a
354 proposed rule for the proceedings. The division shall issue a standard under Subsection (3) no
355 later than 120 days after publication of the emergency standard.

356 (4) (a) Any affected employer may apply to the division for a rule or order for a
357 variance from a standard issued under this section. Affected employees shall be given notice of
358 each application and may participate in a hearing. The administrator shall issue a rule or order
359 if the administrator determines on the record, after opportunity for an inspection where
360 appropriate and a hearing, that the proponent of the variance has demonstrated by a
361 preponderance of the evidence that the conditions, practices, means, methods, operations, or
362 processes used or proposed to be used by an employer will provide employment and a
363 workplace to the employer's employees that are as safe and healthful as those which would
364 prevail if the employer complied with the standard.

365 (b) The rule or order issued under Subsection (4)(a) shall prescribe the conditions the
366 employer must maintain, and the practices, means, methods, operations and processes that the
367 employer must adopt and use to the extent they differ from the standard in question.

368 (c) A rule or order issued under Subsection (4)(a) may be modified or revoked upon

369 application by an employer, employees, or by the administrator on its own motion, in the
370 manner prescribed for its issuance under Subsection (4) at any time after six months from its
371 issuance.

372 (5) The administrator shall include a statement of reasons for the administrator's
373 actions when the administrator:

374 (a) issues any code, standard, rule, or order;

375 (b) grants any exemption or extension of time; or

376 (c) compromises, mitigates, or settles any penalty assessed under this chapter.

377 (6) Any person adversely affected by a standard issued under this section, at any time
378 prior to 60 days after a standard is issued, may file a petition challenging its validity with the
379 district court having jurisdiction for judicial review. A copy of the petition shall be served
380 upon the division by the petitioner. The filing of a petition may not, unless otherwise ordered
381 by the court, operate as a stay of the standard. The determinations of the division shall be
382 conclusive if supported by substantial evidence on the record as a whole.

383 (7) In determining the priority for establishing standards under this section, the division
384 shall give due regard to the urgency of the need for mandatory safety and health standards for
385 particular industries, trades, crafts, occupations, businesses, workplaces or work environments.
386 The administrator shall also give due regard to the recommendations of the Department of
387 Health about the need for mandatory standards in determining the priority for establishing the
388 standards.

389 Section 6. Section **35A-3-207** is amended to read:

390 **35A-3-207. Community-based prevention programs.**

391 (1) As used in this section:

392 (a) "political subdivision" means a town, city, county, or school district;

393 (b) "qualified sponsor" means a:

394 (i) political subdivision;

395 (ii) community nonprofit, religious, or charitable organization;

396 (iii) regional or statewide nonprofit organization; or

397 (iv) private for profit or nonprofit child care organization with experience and expertise
398 in operating community-based prevention programs described in Subsection (2) and that are
399 licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities.

400 (2) Within appropriations from the Legislature, the department may provide grants to
401 qualified sponsors for community-based prevention programs that:

402 (a) support parents in their primary care giving role to children;

403 (b) provide positive alternatives to idleness for school-aged children when school is not
404 in session; and

405 (c) support other community-based prevention programs.

406 (3) In awarding grants under this section, the department shall:

407 (a) request proposals for funding from potential qualified sponsors; and

408 (b) comply with the requirements of Subsection (4).

409 (4) In awarding these grants, the department shall ensure that each dollar of funds from
410 political subdivisions or private funds is matched for each dollar received from the department.

411 The value of in-kind contributions such as materials, supplies, paid labor, volunteer labor, and
412 the incremental increase in building maintenance and operation expenses incurred attributable
413 to the prevention program may be considered in meeting this match requirement.

414 (5) In awarding a grant under this section, the department shall consider:

415 (a) the cash portion of the proposed match in relation to the financial resources of the
416 qualified sponsor; and

417 (b) the extent to which the qualified sponsor has:

418 (i) consulted and collaborated with parents of children who are likely to participate,
419 local parent-teacher organizations, and other parent organizations[~~and the appropriate local~~
420 ~~interagency council established under Section 63M-9-301~~];

421 (ii) identified at risk factors that will be ameliorated through the proposed prevention
422 program;

423 (iii) identified protective factors and developmental assets that will be supported and
424 strengthened through the proposed prevention program; and

425 (iv) the financial support of parents and the organizations specified in Subsection
426 (5)(b)(i).

427 (6) At least 50 percent of the grants awarded under this section shall be awarded to
428 organizations described in Subsection (1)(b)(iv).

429 (7) No federal funds shall be used as matching funds under this act.

430 Section 7. Section **53A-1a-601** is amended to read:

431 **53A-1a-601. Job enhancements for mathematics, science, technology, and special**
432 **education training.**

433 (1) As used in this part, "special education teacher" includes occupational therapist.

434 (2) The Public Education Job Enhancement Program is established to attract, train, and
435 retain highly qualified:

436 (a) secondary teachers with expertise in mathematics, physics, chemistry, physical
437 science, learning technology, or information technology;

438 (b) special education teachers; and

439 (c) teachers in grades four through six with mathematics endorsements.

440 (3) The program shall provide for the following:

441 (a) application by a school district superintendent or the principal of a school on behalf
442 of a qualified teacher;

443 (b) an award of up to \$20,000 or a scholarship to cover the tuition costs for a master's
444 degree, an endorsement, or graduate education in the areas identified in Subsection (2) to be
445 given to selected public school teachers on a competitive basis:

446 (i) whose applications are approved under Subsection 53A-1a-602(4); and

447 (ii) who teach in the state's public education system for four years in the areas
448 identified in Subsection (2);

449 (c) (i) as to the cash awards under Subsection (3)(b), payment of the award in two
450 installments, with an initial payment of up to \$10,000 at the beginning of the term and up to
451 \$10,000 at the conclusion of the term;

452 (ii) repayment of a portion of the initial payment by the teacher if the teacher fails to
453 complete two years of the four-year teaching term in the areas identified in Subsection (2) as
454 provided by rule of the State Board of Education in accordance with Title 63G, Chapter 3, Utah
455 Administrative Rulemaking Act, unless waived for good cause by the [~~Job Enhancement~~
456 ~~Committee created in Section 53A-1a-602]~~ State Board of Education; and

457 (iii) nonpayment of the second installment if the teacher fails to complete the four-year
458 teaching term; and

459 (d) (i) as to the scholarships awarded under Subsection (3)(b), provision for the
460 providing institution to certify adequate performance in obtaining the master's degree,
461 endorsement, or graduate education in order for the teacher to maintain the scholarship; and

462 (ii) repayment by the teacher of a prorated portion of the scholarship, if the teacher fails
463 to complete the authorized classes or program or to teach in the state system of public
464 education in the areas identified in Subsection (2) for four years after obtaining the master's
465 degree, the endorsement, or graduate education.

466 (4) An individual teaching in the public schools under a letter of authorization may
467 participate in the cash award program if:

468 (a) the individual has taught under the letter of authorization for at least one year in the
469 areas referred to in Subsection (2); and

470 (b) the application made under Subsection (3)(a) is based in large part upon the
471 individual receiving a superior evaluation as a classroom teacher.

472 (5) (a) The program may provide for the expenditure of up to \$1,000,000 of available
473 money, if at least an equal amount of matching money becomes available, to provide
474 professional development training to superintendents, administrators, and principals in the
475 effective use of technology in public schools.

476 (b) An award granted under this Subsection (5) shall be made in accordance with
477 criteria developed and adopted by the ~~[Job Enhancement Committee created in Section~~
478 ~~53A-1a-602]~~ State Board of Education and in accordance with Title 63G, Chapter 3, Utah
479 Administrative Rulemaking Act.

480 (c) An amount up to \$120,000 of the \$1,000,000 authorized in Subsection (5)(a) may
481 be expended, regardless of the matching money being available.

482 Section 8. Section **58-20a-102** is amended to read:

483 **58-20a-102. Definitions.**

484 In addition to the definitions in Section 58-1-102, as used in this chapter:

485 ~~[(1) "Board" means the Environmental Health Scientist Board created in Section~~
486 ~~58-20a-201.]~~

487 ~~[(2)]~~ (1) "General supervision" means the supervising environmental health scientist is
488 available for immediate voice communication with the person he or she is supervising.

489 ~~[(3)]~~ (2) "Practice of environmental health science" means:

490 (a) the enforcement of, the issuance of permits required by, or the inspection for the
491 purpose of enforcing state and local public health laws in the following areas:

492 (i) air quality;

- 493 (ii) food quality;
- 494 (iii) solid, hazardous, and toxic substances disposal;
- 495 (iv) consumer product safety;
- 496 (v) housing;
- 497 (vi) noise control;
- 498 (vii) radiation protection;
- 499 (viii) water quality;
- 500 (ix) vector control;
- 501 (x) drinking water quality;
- 502 (xi) milk sanitation;
- 503 (xii) rabies control;
- 504 (xiii) public health nuisances;
- 505 (xiv) indoor clean air regulations;
- 506 (xv) institutional and residential sanitation; or
- 507 (xvi) recreational facilities sanitation; or
- 508 (b) representing oneself in any manner as, or using the titles "environmental health
509 scientist," "environmental health scientist-in-training," or "registered sanitarian."
- 510 ~~[(4)]~~ (3) "Unlawful conduct" is as defined in Section 58-1-501.
- 511 ~~[(5)]~~ (4) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-20a-501
512 and as may be further defined by division rule.
- 513 Section 9. Section **58-20a-302** is amended to read:
- 514 **58-20a-302. Qualifications for licensure.**
- 515 (1) Except as provided in Subsection (2), an applicant for licensure as an
516 environmental health scientist shall:
- 517 (a) submit an application in a form prescribed by the division;
- 518 (b) pay a fee determined by the department under Section 63J-1-504;
- 519 (c) be of good moral character;
- 520 (d) hold a bachelor's degree from an accredited program in a university or college,
521 which degree includes completion of specific coursework as defined by rule;
- 522 (e) pass an examination as determined by division rule ~~[in collaboration with the~~
523 ~~board]~~; and

524 (f) pass the Utah Law and Rules Examination for Environmental Health Scientists
525 administered by the division.

526 (2) An applicant for licensure who is currently actively engaged in the practice of
527 environmental health science in Utah on July 1, 1995, and has been practicing in Utah for at
528 least three consecutive months immediately prior to July 1, 1995, shall:

529 (a) submit an application in a form prescribed by the division;

530 (b) pay a fee determined by the department under Section 63J-1-504;

531 (c) be of good moral character;

532 (d) hold a bachelor's degree from an accredited program in a university or college,
533 which degree includes completion of specific coursework as defined by rule;

534 (e) pass the Utah Law and Rules Examination for Environmental Health Scientists
535 administered by the division; and

536 (f) submit an affidavit from the applicant's immediate supervisor in the applicant's
537 employment, attesting to the applicant's competence to practice environmental health science.

538 (3) An applicant for licensure as an environmental health scientist-in-training shall:

539 (a) submit an application in a form prescribed by the division;

540 (b) pay a fee determined by the department under Section 63J-1-504;

541 (c) be of good moral character;

542 (d) hold a bachelor's degree from an accredited program in a university or college,
543 which degree includes completion of specific coursework as defined by rule;

544 (e) pass the Utah Law and Rules Examination for Environmental Health Scientists
545 administered by the division; and

546 (f) present evidence acceptable to the division [~~and the board~~] that the applicant, when
547 licensed, will practice as an environmental health scientist-in-training only under the general
548 supervision of a supervising environmental health scientist licensed under this chapter.

549 Section 10. Section **58-37c-3** is amended to read:

550 **58-37c-3. Definitions.**

551 In addition to the definitions in Section 58-1-102, as used in this chapter:

552 [~~(1) "Board" means the Controlled Substance Precursor Advisory Board created in~~
553 ~~Section 58-37c-4.]~~

554 [~~(2)~~ (1) "Controlled substance precursor" includes a chemical reagent and means any

555 of the following:

- 556 (a) Phenyl-2-propanone;
- 557 (b) Methylamine;
- 558 (c) Ethylamine;
- 559 (d) D-lysergic acid;
- 560 (e) Ergotamine and its salts;
- 561 (f) Diethyl malonate;
- 562 (g) Malonic acid;
- 563 (h) Ethyl malonate;
- 564 (i) Barbituric acid;
- 565 (j) Piperidine and its salts;
- 566 (k) N-acetylanthranilic acid and its salts;
- 567 (l) Pyrrolidine;
- 568 (m) Phenylacetic acid and its salts;
- 569 (n) Anthranilic acid and its salts;
- 570 (o) Morpholine;
- 571 (p) Ephedrine;
- 572 (q) Pseudoephedrine;
- 573 (r) Norpseudoephedrine;
- 574 (s) Phenylpropanolamine;
- 575 (t) Benzyl cyanide;
- 576 (u) Ergonovine and its salts;
- 577 (v) 3,4-Methylenedioxyphenyl-2-propanone;
- 578 (w) propionic anhydride;
- 579 (x) Insosafrole;
- 580 (y) Safrole;
- 581 (z) Piperonal;
- 582 (aa) N-Methylephedrine;
- 583 (bb) N-ethylephedrine;
- 584 (cc) N-methylpseudoephedrine;
- 585 (dd) N-ethylpseudoephedrine;

- 586 (ee) Hydriotic acid;
- 587 (ff) gamma butyrolactone (GBL), including butyrolactone, 1,2 butanolide,
- 588 2-oxanolone, tetrahydro-2-furanone, dihydro-2(3H)-furanone, and tetramethylene glycol, but
- 589 not including gamma aminobutric acid (GABA);
- 590 (gg) 1,4 butanediol;
- 591 (hh) any salt, isomer, or salt of an isomer of the chemicals listed in Subsections (2)(a)
- 592 through (gg);
- 593 (ii) Crystal iodine;
- 594 (jj) Iodine at concentrations greater than 1.5% by weight in a solution or matrix;
- 595 (kk) Red phosphorous, except as provided in Section 58-37c-19.7;
- 596 (ll) anhydrous ammonia, except as provided in Section 58-37c-19.9;
- 597 (mm) any controlled substance precursor listed under the provisions of the Federal
- 598 Controlled Substances Act which is designated by the director under the emergency listing
- 599 provisions set forth in Section 58-37c-14; and
- 600 (nn) any chemical which is designated by the director under the emergency listing
- 601 provisions set forth in Section 58-37c-14.
- 602 [~~(3)~~] (2) "Deliver," "delivery," "transfer," or "furnish" means the actual, constructive,
- 603 or attempted transfer of a controlled substance precursor.
- 604 [~~(4)~~] (3) "Matrix" means something, as a substance, in which something else
- 605 originates, develops, or is contained.
- 606 [~~(5)~~] (4) "Person" means any individual, group of individuals, proprietorship,
- 607 partnership, joint venture, corporation, or organization of any type or kind.
- 608 [~~(6)~~] (5) "Practitioner" means a physician, dentist, podiatric physician, veterinarian,
- 609 pharmacist, scientific investigator, pharmacy, hospital, pharmaceutical manufacturer, or other
- 610 person licensed, registered, or otherwise permitted to distribute, dispense, conduct research
- 611 with respect to, administer, or use in teaching, or chemical analysis a controlled substance in
- 612 the course of professional practice or research in this state.
- 613 [~~(7)~~] (6) (a) "Regulated distributor" means a person within the state who provides,
- 614 sells, furnishes, transfers, or otherwise supplies a listed controlled substance precursor
- 615 chemical in a regulated transaction.
- 616 (b) "Regulated distributor" does not include any person excluded from regulation under

617 this chapter.

618 ~~[(8)]~~ (7) (a) "Regulated purchaser" means any person within the state who receives a
619 listed controlled substance precursor chemical in a regulated transaction.

620 (b) "Regulated purchaser" does not include any person excluded from regulation under
621 this chapter.

622 ~~[(9)]~~ (8) "Regulated transaction" means any actual, constructive or attempted:

623 (a) transfer, distribution, delivery, or furnishing by a person within the state to another
624 person within or outside of the state of a threshold amount of a listed precursor chemical; or

625 (b) purchase or acquisition by any means by a person within the state from another
626 person within or outside the state of a threshold amount of a listed precursor chemical.

627 ~~[(10)]~~ (9) "Retail distributor" means a grocery store, general merchandise store, drug
628 store, or other entity or person whose activities as a distributor are limited almost exclusively to
629 sales for personal use:

630 (a) in both number of sales and volume of sales; and

631 (b) either directly to walk-in customers or in face-to-face transactions by direct sales.

632 ~~[(11)]~~ (10) "Threshold amount of a listed precursor chemical" means any amount of a
633 controlled substance precursor or a specified amount of a controlled substance precursor in a
634 matrix; however, the division may exempt from the provisions of this chapter a specific
635 controlled substance precursor in a specific amount and in certain types of transactions which
636 provisions for exemption shall be defined by the division by rule adopted pursuant to Title
637 63G, Chapter 3, Utah Administrative Rulemaking Act.

638 ~~[(12)]~~ (11) "Unlawful conduct" as defined in Section 58-1-501 includes knowingly and
639 intentionally:

640 (a) engaging in a regulated transaction without first being appropriately licensed or
641 exempted from licensure under this chapter;

642 (b) acting as a regulated distributor and selling, transferring, or in any other way
643 conveying a controlled substance precursor to a person within the state who is not appropriately
644 licensed or exempted from licensure as a regulated purchaser, or selling, transferring, or
645 otherwise conveying a controlled substance precursor to a person outside of the state and
646 failing to report the transaction as required;

647 (c) acting as a regulated purchaser and purchasing or in any other way obtaining a

648 controlled substance precursor from a person within the state who is not a licensed regulated
649 distributor, or purchasing or otherwise obtaining a controlled substance precursor from a
650 person outside of the state and failing to report the transaction as required;

651 (d) engaging in a regulated transaction and failing to submit reports and keep required
652 records of inventories required under the provisions of this chapter or rules adopted pursuant to
653 this chapter;

654 (e) making any false statement in any application for license, in any record to be kept,
655 or on any report submitted as required under this chapter;

656 (f) with the intent of causing the evasion of the recordkeeping or reporting
657 requirements of this chapter and rules related to this chapter, receiving or distributing any listed
658 controlled substance precursor chemical in any manner designed so that the making of records
659 or filing of reports required under this chapter is not required;

660 (g) failing to take immediate steps to comply with licensure, reporting, or
661 recordkeeping requirements of this chapter because of lack of knowledge of those
662 requirements, upon becoming informed of the requirements;

663 (h) presenting false or fraudulent identification where or when receiving or purchasing
664 a listed controlled substance precursor chemical;

665 (i) creating a chemical mixture for the purpose of evading any licensure, reporting or
666 recordkeeping requirement of this chapter or rules related to this chapter, or receiving a
667 chemical mixture created for that purpose;

668 (j) if the person is at least 18 years of age, employing, hiring, using, persuading,
669 inducing, enticing, or coercing another person under 18 years of age to violate any provision of
670 this chapter, or assisting in avoiding detection or apprehension for any violation of this chapter
671 by any federal, state, or local law enforcement official; and

672 (k) obtaining or attempting to obtain or to possess any controlled substance precursor
673 or any combination of controlled substance precursors knowing or having a reasonable cause to
674 believe that the controlled substance precursor is intended to be used in the unlawful
675 manufacture of any controlled substance.

676 ~~[(13)]~~ (12) "Unprofessional conduct" as defined in Section 58-1-102 and as may be
677 further defined by rule includes the following:

678 (a) violation of any provision of this chapter, the Controlled Substance Act of this state

679 or any other state, or the Federal Controlled Substance Act; and

680 (b) refusing to allow agents or representatives of the division or authorized law
681 enforcement personnel to inspect inventories or controlled substance precursors or records or
682 reports relating to purchases and sales or distribution of controlled substance precursors as such
683 records and reports are required under this chapter.

684 Section 11. Section **58-37c-8** is amended to read:

685 **58-37c-8. License -- Exceptions from licensure or regulation.**

686 (1) Any person engaged in a regulated transaction under this chapter shall hold a
687 controlled substance precursor license issued under Section 58-37c-7, unless excepted from
688 licensure under this chapter.

689 (2) The division shall:

690 (a) establish the form of application for a license, the requirements for licensure, and
691 fees for initial licensure and renewal; and

692 (b) identify required information to be contained in the application as a condition of
693 licensure.

694 (3) A practitioner who holds a Utah Controlled Substance License and a Controlled
695 Substance Registration issued by the Drug Enforcement Administration of the U.S.
696 Government is excepted from licensure under this chapter.

697 (4) Any purchase, sale, transfer, furnishing, or receipt of any drug intended for lawful
698 use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other
699 animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or
700 phenylpropanolamine, if the drug is lawfully purchased, sold, transferred, or furnished as an
701 over-the-counter medication without prescription pursuant to the federal Food, Drug and
702 Cosmetic Act, 21 USC, Sec. 301 et seq., or regulations adopted under that act, are excepted
703 from licensure, reporting, and recordkeeping under this chapter, except that products
704 containing ephedrine, pseudoephedrine, or phenylpropanolamine are subject to Section
705 58-37c-20.5.

706 (5) Any purchase, sale, transfer, receipt, or manufacture of any dietary supplement,
707 vitamins, minerals, herbs, or other similar substances, including concentrates or extracts, which
708 are not otherwise prohibited by law, and which may contain naturally occurring amounts of
709 chemicals or substances listed in this chapter, or in rules adopted pursuant to Title 63G,

710 Chapter 3, Utah Administrative Rulemaking Act, are exempt from licensure under this chapter.

711 (6) A purchaser of two ounces or less of crystal iodine in a single transaction is not
712 required to be licensed as a regulated purchaser if the transaction complies with Section
713 58-37c-18.

714 (7) Any purchase, sale, transfer, receipt, or manufacture of any product that contains
715 any precursor chemical listed in Subsection 58-37c-3[(2)](1)(ff) or (gg) and that is not intended
716 for human consumption is exempt from licensure or regulation and is not subject to criminal
717 penalties under this chapter.

718 Section 12. Section **58-37c-11** is amended to read:

719 **58-37c-11. Penalty for unlawful conduct.**

720 (1) Any person who violates the unlawful conduct provision defined in Subsections
721 58-37c-3[(+2)](11)(a) through (j) is guilty of a class A misdemeanor.

722 (2) Any person who violates the unlawful conduct provisions defined in Subsection
723 58-37c-3[(+2)](11)(k) is guilty of a second degree felony.

724 Section 13. Section **58-37c-19** is amended to read:

725 **58-37c-19. Possession or sale of crystal iodine.**

726 (1) Any person licensed to engage in a regulated transaction is guilty of a class B
727 misdemeanor who, under circumstances not amounting to a violation of Subsection
728 58-37d-4(1)(c), offers to sell, sells, or distributes more than two ounces of crystal iodine to
729 another person who is:

- 730 (a) not licensed as a regulated purchaser of crystal iodine;
- 731 (b) not excepted from licensure; or
- 732 (c) not excepted under Subsection (3).

733 (2) Any person who is not licensed to engage in regulated transactions and not
734 excepted from licensure is guilty of a class A misdemeanor who, under circumstances not
735 amounting to a violation of Subsection 58-37c-3[(+2)](11)(k) or Subsection 58-37d-4(1)(a):

- 736 (a) possesses more than two ounces of crystal iodine; or
- 737 (b) offers to sell, sells, or distributes crystal iodine to another.
- 738 (3) Subsection (2)(a) does not apply to:
 - 739 (a) a chemistry laboratory maintained by:
 - 740 (i) a public or private regularly established secondary school; or

741 (ii) a public or private institution of higher education that is accredited by a regional or
742 national accrediting agency recognized by the United States Department of Education;

743 (b) a veterinarian licensed to practice under Title 58, Chapter 28, Veterinary Practice
744 Act; or

745 (c) a general acute hospital.

746 Section 14. Section **58-37c-19.5** is amended to read:

747 **58-37c-19.5. Iodine solution greater than 1.5% -- Prescription or permit required**
748 **-- Penalties.**

749 (1) As used in this section, "iodine matrix" means iodine at concentrations greater than
750 1.5% by weight in a matrix or solution.

751 (2) A person may offer to sell, sell, or distribute an iodine matrix only:

752 (a) as a prescription drug, pursuant to a prescription issued by a veterinarian or
753 physician licensed within the state; or

754 (b) to a person who is actively engaged in the legal practice of animal husbandry of
755 livestock, as defined in Section 4-1-8.

756 (3) Prescriptions issued under this section:

757 (a) shall provide for a specified number of refills;

758 (b) may be issued by electronic means, in accordance with Title 58, Chapter 17b,
759 Pharmacy Practice Act; and

760 (c) may be filled by a person other than the veterinarian or physician issuing the
761 prescription.

762 (4) A retailer offering iodine matrix for sale:

763 (a) shall store the iodine matrix so that the public does not have access to the iodine
764 matrix without the direct assistance or intervention of a retail employee;

765 (b) shall keep a record, which may consist of sales receipts, of each person purchasing
766 iodine matrix; and

767 (c) may, if necessary to ascertain the identity of the purchaser, ask for proof of
768 identification from the purchaser.

769 (5) A person engaging in a regulated transaction under Subsection (2) is guilty of a
770 class B misdemeanor if the person, under circumstances not amounting to a violation of
771 Subsection 58-37d-4(1)(c), offers to sell, sells, or distributes an iodine matrix to a person who:

772 (a) does not present a prescription or is not engaged in animal husbandry, as required
773 under Subsection (2); or

774 (b) is not excepted under Subsection (7).

775 (6) A person is guilty of a class A misdemeanor who, under circumstances not
776 amounting to a violation of Subsection 58-37c-3[~~(12)~~](11)(k) or 58-37d-4(1)(a):

777 (a) possesses an iodine matrix without proof of obtaining the solution in compliance
778 with Subsection (2); or

779 (b) offers to sell, sells, or distributes an iodine matrix in violation of Subsection (2).

780 (7) Subsection (6)(a) does not apply to:

781 (a) a chemistry or chemistry-related laboratory maintained by:

782 (i) a public or private regularly established secondary school; or

783 (ii) a public or private institution of higher education that is accredited by a regional or
784 national accrediting agency recognized by the United States Department of Education;

785 (b) a veterinarian licensed to practice under Title 58, Chapter 28, Veterinary Practice
786 Act;

787 (c) a general acute hospital; or

788 (d) a veterinarian, physician, pharmacist, retail distributor, wholesaler, manufacturer,
789 warehouseman, or common carrier, or an agent of any of these persons who possesses an
790 iodine matrix in the regular course of lawful business activities.

791 Section 15. Section **58-37c-19.7** is amended to read:

792 **58-37c-19.7. Red phosphorus is a precursor -- Affirmative defense.**

793 (1) A person is guilty of a class A misdemeanor who is not licensed to engage in a
794 regulated transaction and is not excepted from licensure who, under circumstances not
795 amounting to a violation of Subsection 58-37c-3[~~(12)~~](11)(k) or 58-37d-4(1)(a), possesses any
796 amount of red phosphorus.

797 (2) It is an affirmative defense to a charge under Subsection (1) that the person in
798 possession of red phosphorus:

799 (a) is conducting a licensed business which involves red phosphorus in the
800 manufacture of any of the following:

801 (i) the striking surface used for lighting matches, which is sometimes referred to as the
802 striker plate;

803 (ii) flame retardant in polymers; or
804 (iii) fireworks, for which the person or entity possesses a federal license to manufacture
805 explosives as required under 27 CFR Chapter 1, Part 55, Commerce in Explosives; or

806 (b) (i) is a wholesaler, manufacturer, warehouseman, or common carrier handling red
807 phosphorus, or is an agent of any of these persons; and

808 (ii) possesses the substances in the regular course of lawful business activities.

809 (3) (a) The defendant shall provide written notice of intent to claim an affirmative
810 defense under this section as soon as practicable, but not later than 10 days prior to trial. The
811 court may waive the notice requirement in the interest of justice for good cause shown, if the
812 prosecutor is not unfairly prejudiced by the lack of timely notice.

813 (b) The notice shall include the specifics of the affirmative defense.

814 (c) The defendant shall establish the affirmative defense by a preponderance of the
815 evidence. If the defense is established, it is a complete defense to the charges.

816 (4) Subsection (1) does not apply to:

817 (a) a chemistry or chemistry-related laboratory maintained by:

818 (i) a public or private regularly established secondary school; or

819 (ii) a public or private institution of higher education that is accredited by a regional or
820 national accrediting agency recognized by the United States Department of Education; or

821 (b) a retail distributor, wholesaler, manufacturer, warehouseman, or common carrier, or
822 an agent of any of these persons who possesses red phosphorus in the regular course of lawful
823 business activities.

824 Section 16. Section **58-37c-19.9** is amended to read:

825 **58-37c-19.9. Anhydrous ammonia is a precursor -- Requirements regarding**
826 **purposes and containers.**

827 (1) A person is guilty of a class A misdemeanor who is not licensed to engage in a
828 regulated transaction and is not excepted from licensure or exempted under Subsection (2), and
829 who possesses any amount of anhydrous ammonia under circumstances not amounting to a
830 violation of Subsection 58-37c-3~~(12)~~(11)(k) or 58-37d-4(1)(a).

831 (2) A person who possesses anhydrous ammonia has an affirmative defense to a charge
832 under Subsection (1) if the person is:

833 (a) directly involved in or actively operating land in agricultural use as defined in

834 Section 59-2-502;

835 (b) a retail distributor, wholesaler, manufacturer, warehouseman, or common carrier, or
836 an agent of any of these persons, who possesses anhydrous ammonia in the regular course of
837 lawful business activities;

838 (c) directly involved in or actively operating a business or other lawful activity
839 providing or using anhydrous ammonia for refrigeration applications; or

840 (d) directly involved in or actively operating a lawful business enterprise, including an
841 industrial enterprise, that uses anhydrous ammonia in the regular course of its business
842 activities.

843 Section 17. Section **58-37c-20** is amended to read:

844 **58-37c-20. Possession of ephedrine, pseudoephedrine, or phenylpropanolamine --**
845 **Penalties.**

846 (1) Any person is guilty of a class A misdemeanor:

847 (a) who is not licensed to engage in regulated transactions and is not excepted from
848 licensure; and

849 (b) who, under circumstances not amounting to a violation of Subsection
850 58-37c-3[~~(12)~~](11)(k) or Subsection 58-37d-4(1)(a), possesses more than 9 grams of ephedrine,
851 pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a
852 combination of any of these substances.

853 (2) It is an affirmative defense to a charge under Subsection (1) that the person in
854 possession of ephedrine, pseudoephedrine, phenylpropanolamine, or a combination of these
855 two substances:

856 (a) (i) is a physician, pharmacist, retail distributor, wholesaler, manufacturer,
857 warehouseman, or common carrier, or an agent of any of these persons; and

858 (ii) possesses the substances in the regular course of lawful business activities; or

859 (b) possesses the substance pursuant to a valid prescription as defined in Section
860 58-37-2.

861 (3) (a) The defendant shall provide written notice of intent to claim an affirmative
862 defense under this section as soon as practicable, but not later than 10 days prior to trial. The
863 court may waive the notice requirement in the interest of justice for good cause shown, if the
864 prosecutor is not unfairly prejudiced by the lack of timely notice.

865 (b) The notice shall include the specifics of the asserted defense.

866 (c) The defendant shall establish the affirmative defense by a preponderance of the
867 evidence. If the defense is established, it is a complete defense to the charges.

868 (4) This section does not apply to dietary supplements, herbs, or other natural products,
869 including concentrates or extracts, which:

870 (a) are not otherwise prohibited by law; and

871 (b) may contain naturally occurring ephedrine, ephedrine alkaloids, or
872 pseudoephedrine, or their salts, isomers, or salts of isomers, or a combination of these
873 substances, that:

874 (i) are contained in a matrix of organic material; and

875 (ii) do not exceed 15% of the total weight of the natural product.

876 Section 18. Section **58-37d-3** is amended to read:

877 **58-37d-3. Definitions.**

878 (1) As used in this chapter:

879 (a) "Booby trap" means any concealed or camouflaged device designed to cause bodily
880 injury when triggered by any action of a person making contact with the device. This term
881 includes guns, ammunition, or explosive devices attached to trip wires or other triggering
882 mechanisms, sharpened stakes, nails, spikes, electrical devices, lines or wires with hooks
883 attached, and devices for the production of toxic fumes or gases.

884 (b) "Clandestine laboratory operation" means the:

885 (i) purchase or procurement of chemicals, supplies, equipment, or laboratory location
886 for the illegal manufacture of specified controlled substances;

887 (ii) transportation or arranging for the transportation of chemicals, supplies, or
888 equipment for the illegal manufacture of specified controlled substances;

889 (iii) setting up of equipment or supplies in preparation for the illegal manufacture of
890 specified controlled substances;

891 (iv) activity of compounding, synthesis, concentration, purification, separation,
892 extraction, or other physical or chemical processing of any substance, including a controlled
893 substance precursor, or the packaging, repackaging, labeling, or relabeling of a container
894 holding a substance that is a product of any of these activities, when the substance is to be used
895 for the illegal manufacture of specified controlled substances;

896 (v) illegal manufacture of specified controlled substances; or

897 (vi) distribution or disposal of chemicals, equipment, supplies, or products used in or
898 produced by the illegal manufacture of specified controlled substances.

899 (c) "Controlled substance precursor" means those chemicals designated in Title 58,
900 Chapter 37c, Utah Controlled Substance Precursor Act, except those substances designated in
901 Subsections 58-37c-3~~(2)~~(1)(kk) and (ll).

902 (d) "Disposal" means the abandonment, discharge, deposit, injection, dumping,
903 spilling, leaking, or placing of any hazardous or dangerous material into or on any property,
904 land or water so that the material may enter the environment, be emitted into the air, or
905 discharged into any waters, including groundwater.

906 (e) "Hazardous or dangerous material" means any substance which because of its
907 quantity, concentration, physical characteristics, or chemical characteristics may cause or
908 significantly contribute to an increase in mortality, an increase in serious illness, or may pose a
909 substantial present or potential future hazard to human health or the environment when
910 improperly treated, stored, transported, disposed of, or otherwise improperly managed.

911 (f) "Illegal manufacture of specified controlled substances" means in violation of Title
912 58, Chapter 37, Utah Controlled Substances Act, the:

913 (i) compounding, synthesis, concentration, purification, separation, extraction, or other
914 physical or chemical processing for the purpose of producing methamphetamine, other
915 amphetamine compounds as listed in Schedule I of the Utah Controlled Substances Act,
916 phencyclidine, narcotic analgesic analogs as listed in Schedule I of the Utah Controlled
917 Substances Act, lysergic acid diethylamide, or mescaline;

918 (ii) conversion of cocaine or methamphetamine to their base forms; or

919 (iii) extraction, concentration, or synthesis of marijuana as that drug is defined in
920 Section 58-37-2.

921 (2) Unless otherwise specified, the definitions in Section 58-37-2 also apply to this
922 chapter.

923 Section 19. Section **58-54-102** is amended to read:

924 **58-54-102. Definitions.**

925 In addition to the definition in Section 58-1-102, as used in this chapter:

926 ~~[(1) "Board" means the Radiologic Technologist Licensing Board established under~~

927 ~~this chapter.]~~

928 ~~[(2)]~~ (1) "General supervision" means the supervising radiologist is available to
929 provide immediate communication with the supervised person and is aware of the procedure
930 before it is performed.

931 ~~[(3)]~~ (2) "Indirect supervision" means the supervising radiologist:

932 (a) has given either written or verbal instructions to the person being supervised;

933 (b) is present in the facility in which the person being supervised is providing services;

934 and

935 (c) is available to provide immediate face-to-face communications with the person
936 being supervised.

937 ~~[(4)]~~ (3) "Practice of radiologic technology" means using radiation from a radioactive
938 substance, radiology equipment, or any other source, in amounts beyond normal background
939 levels, for diagnostic or therapeutic purposes on humans.

940 ~~[(5)]~~ (4) "Practice of radiologist assistant" means the performance of non-invasive and
941 minimally invasive radiological procedures:

942 (a) delegated to a radiologist assistant by a radiologist; and

943 (b) performed under the indirect supervision of a radiologist.

944 ~~[(6)]~~ (5) "Radiologic technologist" means a person licensed under this chapter to
945 engage in the practice of radiologic technology under the general supervision of a radiologist or
946 radiology practitioner including the administration of parenteral contrast media, radionuclides,
947 and other medications incidental to radiology procedures provided the administrations are
948 under the direct supervision of a qualified physician and the technologist is currently certified
949 in cardiopulmonary resuscitation (CPR) and appropriate patient care procedures.

950 ~~[(7)]~~ (6) "Radiologist" means a physician certified by the American Board of
951 Radiology, the American Osteopathic Board of Radiology, the British Royal College of
952 Radiology, or the Canadian College of Physicians and Surgeons.

953 ~~[(8)]~~ (7) "Radiologist assistant" means a person licensed under this chapter to engage
954 in the practice of a radiologist assistant.

955 ~~[(9)]~~ (8) "Radiology equipment" means any medical radiation device that emits
956 ionizing or nonionizing radiation or detects that radiation for the purpose or intended purpose
957 of:

- 958 (a) diagnosing disease or other medical conditions in humans; or
- 959 (b) treating, curing, mitigating, or preventing disease in humans.

960 ~~[(10)]~~ (9) "Radiology practical technician" means a person licensed under this chapter
 961 to engage in a practice of radiologic technology performing limited diagnostic radiology
 962 procedures:

963 (a) as defined and permitted by rule in accordance with Title 63G, Chapter 3, Utah
 964 Administrative Rulemaking Act; and

965 (b) under the supervision of a radiologist or radiology practitioner.

966 ~~[(11)]~~ (10) "Radiology practitioner" means any person or individual licensed in this
 967 state as a physician and surgeon, osteopathic physician, podiatric physician, chiropractic
 968 physician, dentist, dental hygienist, or a physician's assistant, nurse practitioner, or nurse
 969 specialist practicing under the supervision of an approved supervising physician and in
 970 accordance with an approved protocol and utilization plan.

971 ~~[(12)]~~ (11) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-54-501.

972 ~~[(13)]~~ (12) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-54-501
 973 and as may be further defined by administrative rule adopted by the division.

974 Section 20. Section **58-54-302** is amended to read:

975 **58-54-302. Requirements for licensure.**

976 (1) Each applicant for licensure as a radiologic technologist, radiology assistant, or
 977 radiology practical technician shall:

978 (a) submit an application in a form prescribed by the division ~~[in collaboration with the~~
 979 ~~board]~~;

980 (b) pay a fee as determined by the department pursuant to Section 63J-1-504; and

981 (c) be of good moral character.

982 (2) Each applicant for licensure as a radiologic technologist shall, in addition to the
 983 requirements of Subsection (1):

984 (a) be a graduate of an accredited educational program in radiologic technology or
 985 certified by the American Registry of Radiologic Technologists or any equivalent educational
 986 program approved by the division ~~[in collaboration with the board]~~; and

987 (b) have passed an examination approved by the division ~~[in collaboration with the~~
 988 ~~board]~~.

989 (3) Each applicant for licensure as a radiology practical technician shall, in addition to
990 the requirements of Subsection (1), have passed a basic examination and one or more specialty
991 examinations that are competency based, using a task analysis of the scope of practice of
992 radiology practical technicians in the state. The basic examination and the specialty
993 examination shall be approved by the division [~~in collaboration with the board and the~~
994 ~~licensing board of the profession within which the radiology practical technician will be~~
995 ~~practicing~~].

996 (4) The division shall provide for administration of the radiology practical technician
997 examination not less than monthly at offices designated by the division and located:

998 (a) in Salt Lake City; and

999 (b) within each local health department jurisdictional area.

1000 (5) (a) Except as provided in Subsection (5)(b), each applicant for licensure as a
1001 radiologist assistant shall:

1002 (i) meet the requirements of Subsections (1) and (2);

1003 (ii) have a Bachelor of Science degree; and

1004 (iii) be certified as:

1005 (A) a radiologist assistant by the American Registry of Radiologic Technologists; or

1006 (B) a radiology practitioner assistant by the Certification Board of Radiology

1007 Practitioner Assistants.

1008 (b) An individual who meets the requirements of Subsections (5)(a)(i) and (iii), but not
1009 Subsection (5)(a)(ii), may be licensed as a radiologist assistant under this chapter until May 31,
1010 2013, at which time, the individual must have completed the Bachelor of Science degree in
1011 order to retain the license of radiologist assistant.

1012 Section 21. Section **62A-5a-104** is amended to read:

1013 **62A-5a-104. Powers of council.**

1014 (1) The council has authority, after local or individual efforts have failed [~~including,~~
1015 ~~with regard to persons under 22 years of age, actions by local interagency councils established~~
1016 ~~under Section 63M-9-301~~], to:

1017 (a) coordinate the appropriate transition of persons with disabilities who receive
1018 services and support from one state agency to receive services and support from another state
1019 agency;

1020 (b) coordinate policies governing the provision of services and support for persons
1021 with disabilities by state agencies; and

1022 (c) consider issues regarding eligibility for services and support and, where possible,
1023 develop uniform eligibility standards for state agencies.

1024 (2) The council may receive appropriations from the Legislature to purchase services
1025 and supports for persons with disabilities as the council deems appropriate.

1026 Section 22. Section **63I-1-263 (Effective 05/01/13)** is amended to read:

1027 **63I-1-263 (Effective 05/01/13). Repeal dates, Titles 63A to 63M.**

1028 (1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to
1029 any public school district which chooses to participate, is repealed July 1, 2016.

1030 (2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

1031 (3) Section 63C-8-106, rural residency training program, is repealed July 1, 2015.

1032 (4) Title 63C, Chapter 13, Prison Relocation and Development Authority Act, is
1033 repealed July 1, 2014.

1034 (5) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a
1035 contract for a design-build transportation project in certain circumstances, is repealed July 1,
1036 2015.

1037 (6) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
1038 2020.

1039 (7) The Resource Development Coordinating Committee, created in Section
1040 63J-4-501, is repealed July 1, 2015.

1041 (8) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

1042 (9) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act, is
1043 repealed January 1, 2021.

1044 (b) Subject to Subsection (9)(c), Sections 59-7-610 and 59-10-1007 regarding tax
1045 credits for certain persons in recycling market development zones, are repealed for taxable
1046 years beginning on or after January 1, 2021.

1047 (c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

1048 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or
1049 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

1050 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if

1051 the expenditure is made on or after January 1, 2021.

1052 (d) Notwithstanding Subsections (9)(b) and (c), a person may carry forward a tax credit
1053 in accordance with Section 59-7-610 or 59-10-1007 if:

1054 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

1055 (ii) (A) for the purchase price of machinery or equipment described in Section
1056 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31,
1057 2020; or

1058 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the
1059 expenditure is made on or before December 31, 2020.

1060 (10) (a) Section 63M-1-2507, Health Care Compact is repealed on July 1, 2014.

1061 (b) (i) The Legislature shall, before reauthorizing the Health Care Compact:

1062 (A) direct the Health System Reform Task Force to evaluate the issues listed in
1063 Subsection (10)(b)(ii), and by January 1, 2013 develop and recommend criteria for the
1064 Legislature to use to negotiate the terms of the Health Care Compact; and

1065 (B) prior to July 1, 2014, seek amendments to the Health Care Compact among the
1066 member states that the Legislature determines are appropriate after considering the
1067 recommendations of the Health System Reform Task Force.

1068 (ii) The Health System Reform Task Force shall evaluate and develop criteria for the
1069 Legislature regarding:

1070 (A) the impact of the Supreme Court ruling on the Affordable Care Act;

1071 (B) whether Utah is likely to be required to implement any part of the Affordable Care
1072 Act prior to negotiating the compact with the federal government, such as Medicaid expansion
1073 in 2014;

1074 (C) whether the compact's current funding formula, based on adjusted 2010 state
1075 expenditures, is the best formula for Utah and other state compact members to use for
1076 establishing the block grants from the federal government;

1077 (D) whether the compact's calculation of current year inflation adjustment factor,
1078 without consideration of the regional medical inflation rate in the current year, is adequate to
1079 protect the state from increased costs associated with administering a state based Medicaid and
1080 a state based Medicare program;

1081 (E) whether the state has the flexibility it needs under the compact to implement and

1082 fund state based initiatives, or whether the compact requires uniformity across member states
1083 that does not benefit Utah;

1084 (F) whether the state has the option under the compact to refuse to take over the federal
1085 Medicare program;

1086 (G) whether a state based Medicare program would provide better benefits to the
1087 elderly and disabled citizens of the state than a federally run Medicare program;

1088 (H) whether the state has the infrastructure necessary to implement and administer a
1089 better state based Medicare program;

1090 (I) whether the compact appropriately delegates policy decisions between the
1091 legislative and executive branches of government regarding the development and
1092 implementation of the compact with other states and the federal government; and

1093 (J) the impact on public health activities, including communicable disease surveillance
1094 and epidemiology.

1095 (11) The Crime Victim Reparations and Assistance Board, created in Section
1096 63M-7-504, is repealed July 1, 2017.

1097 [~~(12) Title 63M, Chapter 9, Families, Agencies, and Communities Together for~~
1098 ~~Children and Youth At Risk Act, is repealed July 1, 2016.~~]

1099 [~~(13)~~ (12) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,
1100 2017.

1101 Section 23. Section **63J-1-201** is amended to read:

1102 **63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation**
1103 **-- Appropriations based on current tax laws and not to exceed estimated revenues.**

1104 (1) The governor shall deliver, not later than 30 days before the date the Legislature
1105 convenes in the annual general session, a confidential draft copy of the governor's proposed
1106 budget recommendations to the Office of the Legislative Fiscal Analyst according to the
1107 requirements of this section.

1108 (2) (a) When submitting a proposed budget, the governor shall, within the first three
1109 days of the annual general session of the Legislature, submit to the presiding officer of each
1110 house of the Legislature:

1111 (i) a proposed budget for the ensuing fiscal year;

1112 (ii) a schedule for all of the proposed changes to appropriations in the proposed budget,

1113 with each change clearly itemized and classified; and
1114 (iii) as applicable, a document showing proposed changes in estimated revenues that
1115 are based on changes in state tax laws or rates.

1116 (b) The proposed budget shall include:

1117 (i) a projection of the total estimated revenues and appropriations for the next fiscal
1118 year;

1119 (ii) the source of changes to all direct, indirect, and in-kind matching funds for all
1120 federal grants or assistance programs included in the budget;

1121 (iii) a plan of proposed changes to appropriations and estimated revenues for the next
1122 fiscal year that is based upon the current fiscal year state tax laws and rates;

1123 (iv) an itemized estimate of the proposed changes to appropriations for:

1124 (A) the Legislative Department as certified to the governor by the president of the
1125 Senate and the speaker of the House;

1126 (B) the Executive Department;

1127 (C) the Judicial Department as certified to the governor by the state court
1128 administrator;

1129 (D) changes to salaries payable by the state under the Utah Constitution or under law
1130 for lease agreements planned for the next fiscal year; and

1131 (E) all other changes to ongoing or one-time appropriations, including dedicated
1132 credits, restricted funds, nonlapsing balances, grants, and federal funds;

1133 (v) for each line item, the average annual dollar amount of staff funding associated
1134 with all positions that were vacant during the last fiscal year;

1135 (vi) deficits or anticipated deficits;

1136 (vii) the recommendations for each state agency for new full-time employees for the
1137 next fiscal year, which shall also be provided to the State Building Board as required by
1138 Subsection 63A-5-103(2);

1139 (viii) any explanation that the governor may desire to make as to the important features
1140 of the budget and any suggestion as to methods for the reduction of expenditures or increase of
1141 the state's revenue; and

1142 (ix) information detailing certain fee increases as required by Section 63J-1-504.

1143 (3) For the purpose of preparing and reporting the proposed budget:

1144 (a) The governor shall require the proper state officials, including all public and higher
1145 education officials, all heads of executive and administrative departments and state institutions,
1146 bureaus, boards, commissions, and agencies expending or supervising the expenditure of the
1147 state money, and all institutions applying for state money and appropriations, to provide
1148 itemized estimates of changes in revenues and appropriations.

1149 (b) The governor may require the persons and entities subject to Subsection (3)(a) to
1150 provide other information under these guidelines and at times as the governor may direct,
1151 which may include a requirement for program productivity and performance measures, where
1152 appropriate, with emphasis on outcome indicators.

1153 (c) The governor may require representatives of public and higher education, state
1154 departments and institutions, and other institutions or individuals applying for state
1155 appropriations to attend budget meetings.

1156 (4) In submitting the budgets for the Departments of Health and Human Services and
1157 the Office of the Attorney General, the governor shall consider a separate recommendation in
1158 the governor's budget for changes in funds to be contracted to:

1159 (a) local mental health authorities under Section 62A-15-110;

1160 (b) local substance abuse authorities under Section 62A-15-110;

1161 (c) area agencies under Section 62A-3-104.2;

1162 (d) programs administered directly by and for operation of the Divisions of Substance
1163 Abuse and Mental Health and Aging and Adult Services;

1164 (e) local health departments under Title 26A, Chapter 1, Local Health Departments;
1165 and

1166 (f) counties for the operation of Children's Justice Centers under Section 67-5b-102.

1167 (5) (a) In making budget recommendations, the governor shall consider an amount
1168 sufficient to grant the following entities the same percentage increase for wages and benefits
1169 that the governor includes in the governor's budget for persons employed by the state:

1170 (i) local health departments, local mental health authorities, local substance abuse
1171 authorities, and area agencies;

1172 (ii) local conservation districts and Utah Association of Conservation District
1173 employees, as related to the budget for the Department of Agriculture; and

1174 (iii) employees of corporations that provide direct services under contract with:

1175 (A) the Utah State Office of Rehabilitation and the Division of Services for People
1176 with Disabilities;

1177 (B) the Division of Child and Family Services; and

1178 (C) the Division of Juvenile Justice Services within the Department of Human
1179 Services.

1180 (b) If the governor does not include in the governor's budget an amount sufficient to
1181 grant an increase for any entity described in Subsection (5)(a), the governor shall include a
1182 message to the Legislature regarding the governor's reason for not including that amount.

1183 ~~[(6) (a) The Families, Agencies, and Communities Together Council may propose a~~
1184 ~~budget recommendation to the governor for collaborative service delivery systems operated~~
1185 ~~under Section 63M-9-402, as provided under Subsection 63M-9-201(4)(e).]~~

1186 ~~[(b) The Legislature may, through a specific program schedule, designate funds~~
1187 ~~appropriated for collaborative service delivery systems operated under Section 63M-9-402.]~~

1188 ~~[(7)]~~ (6) The governor shall include in the governor's budget the state's portion of the
1189 budget for the Utah Communications Agency Network established in Title 63C, Chapter 7,
1190 Utah Communications Agency Network Act.

1191 ~~[(8)]~~ (7) (a) The governor shall include a separate recommendation in the governor's
1192 budget for funds to maintain the operation and administration of the Utah Comprehensive
1193 Health Insurance Pool. In making the recommendation, the governor may consider:

1194 (i) actuarial analysis of growth or decline in enrollment projected over a period of at
1195 least three years;

1196 (ii) actuarial analysis of the medical and pharmacy claims costs projected over a period
1197 of at least three years;

1198 (iii) the annual Medical Care Consumer Price Index;

1199 (iv) the annual base budget for the pool established by the Business, Economic
1200 Development, and Labor Appropriations Subcommittee for each fiscal year;

1201 (v) the growth or decline in insurance premium taxes and fees collected by the State
1202 Tax Commission and the Insurance Department; and

1203 (vi) the availability of surplus General Fund revenue under Section 63J-1-312 and
1204 Subsection 59-14-204(5).

1205 (b) In considering the factors in Subsections ~~[(8)]~~ (7)(a)(i), (ii), and (iii), the governor

1206 may consider the actuarial data and projections prepared for the board of the Utah
1207 Comprehensive Health Insurance Pool as it develops the governor's financial statements and
1208 projections for each fiscal year.

1209 ~~[(9)]~~ (8) (a) In submitting the budget for the Department of Public Safety, the governor
1210 shall include a separate recommendation in the governor's budget for maintaining a sufficient
1211 number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to
1212 or below the number specified in Subsection 32B-1-201(2).

1213 (b) If the governor does not include in the governor's budget an amount sufficient to
1214 maintain the number of alcohol-related law enforcement officers described in Subsection ~~[(9)]~~
1215 (8)(a), the governor shall include a message to the Legislature regarding the governor's reason
1216 for not including that amount.

1217 ~~[(10)]~~ (9) (a) The governor may revise all estimates, except those relating to the
1218 Legislative Department, the Judicial Department, and those providing for the payment of
1219 principal and interest to the state debt and for the salaries and expenditures specified by the
1220 Utah Constitution or under the laws of the state.

1221 (b) The estimate for the Judicial Department, as certified by the state court
1222 administrator, shall also be included in the budget without revision, but the governor may make
1223 separate recommendations on the estimate.

1224 ~~[(11)]~~ (10) The total appropriations requested for expenditures authorized by the
1225 budget may not exceed the estimated revenues from taxes, fees, and all other sources for the
1226 next ensuing fiscal year.

1227 ~~[(12)]~~ (11) If any item of the budget as enacted is held invalid upon any ground, the
1228 invalidity does not affect the budget itself or any other item in it.

1229 Section 24. Section **65A-1-1** is amended to read:

TITLE 65A. DIVISION OF FORESTRY, FIRE, AND STATE LANDS

65A-1-1. Definitions.

As used in this title:

1233 ~~[(1) "Advisory council" or "council" means the Forestry, Fire, and State Lands~~
1234 ~~Advisory Council.]~~

1235 ~~[(2)]~~ (1) "Division" means the Division of Forestry, Fire, and State Lands.

1236 ~~[(3)]~~ (2) "Multiple use" means the management of various surface and subsurface

1237 resources in a manner that will best meet the present and future needs of the people of this
1238 state.

1239 ~~[(4)]~~ (3) "Public trust assets" means those lands and resources, including sovereign
1240 lands, administered by the division.

1241 ~~[(5)]~~ (4) "Sovereign lands" means those lands lying below the ordinary high water
1242 mark of navigable bodies of water at the date of statehood and owned by the state by virtue of
1243 its sovereignty.

1244 ~~[(6)]~~ (5) "State lands" means all lands administered by the division.

1245 ~~[(7)]~~ (6) "Sustained yield" means the achievement and maintenance of high level
1246 annual or periodic output of the various renewable resources of land without impairment of the
1247 productivity of the land.

1248 ~~[(8)]~~ (7) "Wildland" means an area where:

1249 (a) development is essentially non-existent, except for roads, railroads, powerlines, or
1250 similar transportation facilities; and

1251 (b) structures, if any, are widely scattered.

1252 ~~[(9)]~~ (8) "Wildland fire" means a fire that consumes:

1253 (a) wildland; or

1254 (b) wildland-urban interface, as defined in Section 65A-8a-102.

1255 Section 25. Section **65A-1-4** is amended to read:

1256 **65A-1-4. Division of Forestry, Fire, and State Lands -- Creation -- Power and**
1257 **authority.**

1258 (1) (a) The Division of Forestry, Fire, and State Lands is created within the Department
1259 of Natural Resources under the administration and general supervision of the executive director
1260 of the department.

1261 (b) The division is the executive authority for the management of sovereign lands, and
1262 the state's mineral estates on lands other than school and institutional trust lands, and shall
1263 provide for forestry and fire control activities as required in Section 65A-8-101.

1264 (2) The division shall adopt rules under Title 63G, Chapter 3, Utah Administrative
1265 Rulemaking Act, necessary to fulfill the purposes of this title.

1266 (3) The director of the Division of Forestry, Fire, and State Lands is the executive and
1267 administrative head of the division and shall be a person experienced in administration and

1268 management of natural resources.

1269 ~~[(4) The director shall inform the council:]~~

1270 ~~[(a) in an annual meeting of the division's plans, policies, and budget, and]~~

1271 ~~[(b) of policy changes and developing conflicts.]~~

1272 ~~[(5) The director shall give the council an opportunity to advise on the changes and~~
1273 ~~conflicts:]~~

1274 ~~[(6)]~~ (4) (a) An aggrieved party to a final action by the director may appeal that action
1275 to the executive director of the Department of Natural Resources within 20 days after the
1276 action.

1277 (b) The executive director shall rule on the director's action within 20 days after receipt
1278 of the appeal.

1279 Section 26. Section **65A-1-9** is amended to read:

1280 **65A-1-9. Application of Public Officers' and Employees' Ethics Act.**

1281 ~~[Council members and employees]~~ Employees and agents of the division are subject to
1282 Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

1283 Section 27. Section **79-2-201** is amended to read:

1284 **79-2-201. Department of Natural Resources created.**

1285 (1) There is created the Department of Natural Resources.

1286 (2) The department comprises the following:

1287 (a) Board of Water Resources, created in Section 73-10-1.5;

1288 ~~[(b) Forestry, Fire, and State Lands Advisory Council, created in Section 65A-1-2;]~~

1289 ~~[(c)]~~ (b) Board of Oil, Gas, and Mining, created in Section 40-6-4;

1290 ~~[(d)]~~ (c) Board of Parks and Recreation, created in Section 79-4-301;

1291 ~~[(e)]~~ (d) Wildlife Board, created in Section 23-14-2;

1292 ~~[(f)]~~ (e) Board of the Utah Geological Survey, created in Section 79-3-301;

1293 ~~[(g)]~~ (f) Water Development Coordinating Council, created in Section 73-10c-3;

1294 ~~[(h)]~~ (g) Division of Water Rights, created in Section 73-2-1.1;

1295 ~~[(i)]~~ (h) Division of Water Resources, created in Section 73-10-18;

1296 ~~[(j)]~~ (i) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;

1297 ~~[(k)]~~ (j) Division of Oil, Gas, and Mining, created in Section 40-6-15;

1298 ~~[(l)]~~ (k) Division of Parks and Recreation, created in Section 79-4-201;

- 1299 [~~(m)~~] (l) Division of Wildlife Resources, created in Section 23-14-1;
- 1300 [~~(n)~~] (m) Utah Geological Survey, created in Section 79-3-201;
- 1301 [~~(o)~~] (n) Heritage Trees Advisory Committee, created in Section 65A-8-306;
- 1302 [~~(p)~~] (o) Recreational Trails Advisory Council, authorized by Section 79-5-201;
- 1303 [~~(q)~~] (p) Boating Advisory Council, authorized by Section 73-18-3.5;
- 1304 [~~(r)~~] (q) Wildlife Board Nominating Committee, created in Section 23-14-2.5; and
- 1305 [~~(s)~~] (r) Wildlife Regional Advisory Councils, created in Section 23-14-2.6.
- 1306 Section 28. **Repealer.**
- 1307 This bill repeals:
- 1308 Section **10-6-153, Municipal government fiscal committee created -- Members --**
- 1309 **Terms -- Vacancies -- Recommendations.**
- 1310 Section **17-36-5, Creation of Citizens and County Officials Advisory Committee.**
- 1311 Section **34A-5-105, Antidiscrimination and Labor Advisory Council --**
- 1312 **Membership -- Appointment -- Term -- Powers and duties -- Chair.**
- 1313 Section **34A-6-106, Occupational Safety and Health Advisory Council --**
- 1314 **Appointment.**
- 1315 Section **53-3-908, Advisory committee.**
- 1316 Section **53A-1a-602, Job Enhancement Committee -- Composition -- Duties --**
- 1317 **Appropriation.**
- 1318 Section **58-20a-201, Board.**
- 1319 Section **58-37c-4, Board.**
- 1320 Section **58-54-201, Board created -- Membership -- Duties.**
- 1321 Section **63M-1-1501, Title.**
- 1322 Section **63M-1-1502, Definitions.**
- 1323 Section **63M-1-1503, Advisory board.**
- 1324 Section **63M-1-1504, Advisory board duties.**
- 1325 Section **63M-1-1505, Criteria for participation -- Report.**
- 1326 Section **63M-9-101, Title.**
- 1327 Section **63M-9-102, Purpose of chapter.**
- 1328 Section **63M-9-103, Definitions.**
- 1329 Section **63M-9-104, Relationship to political subdivisions.**

- 1330 Section **63M-9-201, Families, Agencies, and Communities Together State Council**
- 1331 **-- Composition -- Duties -- Interagency case management team.**
- 1332 Section **63M-9-202, Steering committee -- Membership -- Duties.**
- 1333 Section **63M-9-203, Staffing.**
- 1334 Section **63M-9-301, Local interagency council -- Composition -- Duties.**
- 1335 Section **63M-9-401, Prevention and early intervention programs -- Applicants --**
- 1336 **Selection process.**
- 1337 Section **63M-9-402, Plans for collaborative service delivery systems.**
- 1338 Section **63M-9-501, Evaluation of programs -- Report to legislative interim**
- 1339 **committee.**
- 1340 Section **65A-1-2, Forestry, Fire, and State Lands Advisory Council -- Creation --**
- 1341 **Responsibilities.**
- 1342 Section **65A-1-3, Forestry, Fire, and State Lands Advisory Council -- Membership**
- 1343 **-- Chair -- Terms -- Quorum -- Per diem and travel expenses -- Duties.**
- 1344 Section 29. **Effective date.**
- 1345 (1) Except as provided in Subsection (2), this bill takes effect on May 14, 2013.
- 1346 (2) If approved by two-thirds of all members elected to each house, the amendments to
- 1347 Section 63I-1-263 (Effective 05/01/13) take effect on May 1, 2013.

Legislative Review Note
as of 11-20-12 1:18 PM

Office of Legislative Research and General Counsel