

1 **STATUTORY REQUIRED REPORTS AMENDMENTS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Val L. Peterson**

5 Senate Sponsor: Curtis S. Bramble

7 **LONG TITLE**

8 **Committee Note:**

9 The Business and Labor Interim Committee recommended this bill.

10 **General Description:**

11 This bill modifies provisions regarding statutory related reports.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ clarifies that various reports are to be written;
- 15 ▶ clarifies the Business and Labor Interim Committee's study requirements;
- 16 ▶ changes dates when certain reports are due;
- 17 ▶ deletes obsolete language;
- 18 ▶ provides that certain reports go to staff of committees; and
- 19 ▶ makes technical changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **13-14-310**, as last amended by Laws of Utah 2016, Chapter 187

27 **15A-1-204**, as last amended by Laws of Utah 2016, Chapters 249 and 286



- 28 **15A-1-403**, as last amended by Laws of Utah 2016, Chapter 249
- 29 **31A-3-305**, as enacted by Laws of Utah 2011, Chapter 275
- 30 **31A-22-614.7**, as enacted by Laws of Utah 2013, Chapter 361
- 31 **34-47-202**, as last amended by Laws of Utah 2016, Chapter 187
- 32 **34A-2-107**, as last amended by Laws of Utah 2016, Chapter 242
- 33 **34A-5-104**, as last amended by Laws of Utah 2016, Chapter 132
- 34 **36-23-106**, as last amended by Laws of Utah 2013, Chapter 323
- 35 **53-2a-204**, as last amended by Laws of Utah 2016, Chapter 329
- 36 **53-7-204**, as last amended by Laws of Utah 2011, Chapter 14
- 37 **63M-2-802**, as enacted by Laws of Utah 2016, Chapter 240
- 38 **63N-6-301**, as last amended by Laws of Utah 2015, Chapter 420 and renumbered and
- 39 amended by Laws of Utah 2015, Chapter 283
- 40 **63N-11-106**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 41 **67-5-32**, as last amended by Laws of Utah 2014, Chapter 209
- 42 **68-3-14**, as repealed and reenacted by Laws of Utah 2013, Chapter 271

43

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

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

46 **13-14-310. Reporting requirement.**

47 By September 1 of each year, the advisory board shall submit, in accordance with
48 Section 68-3-14, an annual written report to the Business and Labor Interim Committee that,
49 for the fiscal year immediately preceding the day on which the report is submitted, describes:

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

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

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

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

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

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

57 Section 2. Section **15A-1-204** is amended to read:

58 **15A-1-204. Adoption of State Construction Code -- Amendments by commission**

59 -- Approved codes -- Exemptions.

60 (1) (a) The State Construction Code is the construction codes adopted with any
61 modifications in accordance with this section that the state and each political subdivision of the
62 state shall follow.

63 (b) A person shall comply with the applicable provisions of the State Construction
64 Code when:

65 (i) new construction is involved; and

66 (ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

67 (A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation,
68 conservation, or reconstruction of the building; or

69 (B) changing the character or use of the building in a manner that increases the
70 occupancy loads, other demands, or safety risks of the building.

71 (c) On and after July 1, 2010, the State Construction Code is the State Construction
72 Code in effect on July 1, 2010, until in accordance with this section:

73 (i) a new State Construction Code is adopted; or

74 (ii) one or more provisions of the State Construction Code are amended or repealed in
75 accordance with this section.

76 (d) A provision of the State Construction Code may be applicable:

77 (i) to the entire state; or

78 (ii) within a county, city, or town.

79 (2) (a) The Legislature shall adopt a State Construction Code by enacting legislation
80 that adopts a nationally recognized construction code with any modifications.

81 (b) Legislation described in Subsection (2)(a) shall state that the legislation takes effect
82 on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the
83 legislation.

84 (c) Subject to Subsection (6), a State Construction Code adopted by the Legislature is
85 the State Construction Code until, in accordance with this section, the Legislature adopts a new
86 State Construction Code by:

87 (i) adopting a new State Construction Code in its entirety; or

88 (ii) amending or repealing one or more provisions of the State Construction Code.

89 (3) (a) Except as provided in Subsection (3)(b), for each update of a nationally

90 recognized construction code, the commission shall prepare a report described in Subsection
91 (4).

92 (b) For the provisions of a nationally recognized construction code that apply only to
93 detached one- and two-family dwellings and townhouses not more than three stories above
94 grade plane in height with separate means of egress and their accessory structures, the
95 commission shall:

96 (i) prepare a report described in Subsection (4) in 2021 and, thereafter, for every
97 second update of the nationally recognized construction code; and

98 (ii) not prepare a report described in Subsection (4) in 2018.

99 (4) (a) In accordance with Subsection (3), on or before September 1 of the same year as
100 the year designated in the title of a nationally recognized construction code, the commission
101 shall prepare and submit, in accordance with Section 68-3-14, a written report to the Business
102 and Labor Interim Committee that:

103 (i) states whether the commission recommends the Legislature adopt the update with
104 any modifications; and

105 (ii) describes the costs and benefits of each recommended change in the update or in
106 any modification.

107 (b) After the Business and Labor Interim Committee receives the report described in
108 Subsection (4)(a), the Business and Labor Interim Committee shall:

109 (i) study the recommendations [~~during the remainder of the interim~~]; and

110 (ii) if the Business and Labor Interim Committee decides to recommend legislative
111 action to the Legislature, prepare legislation for consideration by the Legislature in the next
112 general session.

113 (5) (a) (i) The commission shall, by no later than [~~November 30~~] September 1 of each
114 year in which the commission is not required to submit a report described in Subsection (4),
115 [~~recommend in a~~] submit, in accordance with Section 68-3-14, a written report to the Business
116 and Labor Interim Committee recommending whether the Legislature should amend or repeal
117 one or more provisions of the State Construction Code.

118 (ii) As part of a recommendation described in Subsection (5)(a)(i), the commission
119 shall describe the costs and benefits of each proposed amendment or repeal.

120 (b) The commission may recommend legislative action related to the State

121 Construction Code:

122 (i) on its own initiative;

123 (ii) upon the recommendation of the division; or

124 (iii) upon the receipt of a request by one of the following that the commission

125 recommend legislative action related to the State Construction Code:

126 (A) a local regulator;

127 (B) a state regulator;

128 (C) a state agency involved with the construction and design of a building;

129 (D) the Construction Services Commission;

130 (E) the Electrician Licensing Board;

131 (F) the Plumbers Licensing Board; or

132 (G) a recognized construction-related association.

133 (c) If the Business and Labor Interim Committee decides to recommend legislative

134 action to the Legislature, the Business and Labor Interim Committee shall prepare legislation

135 for consideration by the Legislature in the next general session.

136 (6) (a) Notwithstanding the provisions of this section, the commission may, in

137 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State

138 Construction Code if the commission determines that waiting for legislative action in the next

139 general legislative session would:

140 (i) cause an imminent peril to the public health, safety, or welfare; or

141 (ii) place a person in violation of federal or other state law.

142 (b) If the commission amends the State Construction Code in accordance with this

143 Subsection (6), the commission shall file with the division:

144 (i) the text of the amendment to the State Construction Code; and

145 (ii) an analysis that includes the specific reasons and justifications for the commission's

146 findings.

147 (c) If the State Construction Code is amended under this Subsection (6), the division

148 shall:

149 (i) publish the amendment to the State Construction Code in accordance with Section

150 [15A-1-205](#); and

151 (ii) ~~notify~~ prepare and submit, in accordance with Section [68-3-14](#), a written notice to

152 the Business and Labor Interim Committee [of] containing the amendment to the State
153 Construction Code, including a copy of the commission's analysis described in Subsection
154 (6)(b)(ii).

155 (d) If not formally adopted by the Legislature at the next annual general session, an
156 amendment to the State Construction Code under this Subsection (6) is repealed on the July 1
157 immediately following the next annual general session that follows the adoption of the
158 amendment.

159 (7) (a) The division, in consultation with the commission, may approve, without
160 adopting, one or more approved codes, including a specific edition of a construction code, for
161 use by a compliance agency.

162 (b) If the code adopted by a compliance agency is an approved code described in
163 Subsection (7)(a), the compliance agency may:

- 164 (i) adopt an ordinance requiring removal, demolition, or repair of a building;
- 165 (ii) adopt, by ordinance or rule, a dangerous building code; or
- 166 (iii) adopt, by ordinance or rule, a building rehabilitation code.

167 (8) Except as provided in Subsections (6), (7), (9), and (10), or as expressly provided in
168 state law, a state executive branch entity or political subdivision of the state may not, after
169 December 1, 2016, adopt or enforce a rule, ordinance, or requirement that applies to a subject
170 specifically addressed by, and that is more restrictive than, the State Construction Code.

171 (9) A state executive branch entity or political subdivision of the state may:

- 172 (a) enforce a federal law or regulation;
- 173 (b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or
174 requirement applies only to a facility or construction owned or used by a state entity or a
175 political subdivision of the state; or

176 (c) enforce a rule, ordinance, or requirement:

177 (i) that the state executive branch entity or political subdivision adopted or made
178 effective before July 1, 2015; and

179 (ii) for which the state executive branch entity or political subdivision can demonstrate,
180 with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an
181 individual from a condition likely to cause imminent injury or death.

182 (10) The Department of Health or the Department of Environmental Quality may

183 enforce a rule or requirement adopted before January 1, 2015.

184 (11) (a) Except as provided in Subsection (11)(b), a structure used solely in
185 conjunction with agriculture use, and not for human occupancy, or a structure that is no more
186 than 1,500 square feet and used solely for the type of sales described in Subsection
187 59-12-104(20), is exempt from the permit requirements of the State Construction Code.

188 (b) (i) Unless exempted by a provision other than Subsection (11)(a), a plumbing,
189 electrical, and mechanical permit may be required when that work is included in a structure
190 described in Subsection (11)(a).

191 (ii) Unless located in whole or in part in an agricultural protection area created under
192 Title 17, Chapter 41, Agriculture and Industrial Protection Areas, a structure described in
193 Subsection (11)(a) is not exempt from a permit requirement if the structure is located on land
194 that is:

195 (A) within the boundaries of a city or town, and less than five contiguous acres; or

196 (B) within a subdivision for which the county has approved a subdivision plat under
197 Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

198 Section 3. Section **15A-1-403** is amended to read:

199 **15A-1-403. Adoption of State Fire Code.**

200 (1) (a) The State Fire Code is:

201 (i) a code promulgated by a nationally recognized code authority that is adopted by the
202 Legislature under this section with any modifications; and

203 (ii) a code to which cities, counties, fire protection districts, and the state shall adhere
204 in safeguarding life and property from the hazards of fire and explosion.

205 (b) On and after July 1, 2010, the State Fire Code is the State Fire Code in effect on
206 July 1, 2010, until in accordance with this section:

207 (i) a new State Fire Code is adopted; or

208 (ii) one or more provisions of the State Fire Code are amended or repealed in
209 accordance with this section.

210 (c) A provision of the State Fire Code may be applicable:

211 (i) to the entire state; or

212 (ii) within a city, county, or fire protection district.

213 (2) (a) The Legislature shall adopt a State Fire Code by enacting legislation that adopts

214 a nationally recognized fire code with any modifications.

215 (b) Legislation described in Subsection (2)(a) shall state that the legislation takes effect
216 on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the
217 legislation.

218 (c) Subject to Subsection (6), a State Fire Code adopted by the Legislature is the State
219 Fire Code until in accordance with this section the Legislature adopts a new State Fire Code by:

220 (i) adopting a new State Fire Code in its entirety; or

221 (ii) amending or repealing one or more provisions of the State Fire Code.

222 (3) (a) Except as provided in Subsection (3)(b), for each update of a nationally
223 recognized fire code, the board shall prepare a report described in Subsection (4).

224 (b) For the provisions of a nationally recognized fire code that apply only to detached
225 one- and two-family dwellings and townhouses not more than three stories above grade plane
226 in height with separate means of egress and their accessory structures, the board shall:

227 (i) prepare a report described in Subsection (4) in 2021 and, thereafter, for every
228 second update of the nationally recognized fire code; and

229 (ii) not prepare a report described in Subsection (4) in 2018.

230 (4) (a) In accordance with Subsection (3), on or before September 1 of the same year as
231 the year designated in the title of an update of a nationally recognized fire code, the board shall
232 prepare and submit, in accordance with Section 68-3-14, a written report to the Business and
233 Labor Interim Committee that:

234 (i) states whether the board recommends the Legislature adopt the update with any
235 modifications; and

236 (ii) describes the costs and benefits of each recommended change in the update or in
237 any modification.

238 (b) After the Business and Labor Interim Committee receives the report described in
239 Subsection (4)(a), the Business and Labor Interim Committee shall:

240 (i) study the recommendations [~~during the remainder of the interim~~]; and

241 (ii) if the Business and Labor Interim Committee decides to recommend legislative
242 action to the Legislature, prepare legislation for consideration by the Legislature in the next
243 general session.

244 (5) (a) (i) The board shall, by no later than [~~November 30~~] September 1 of each year in

245 which the board is not required to submit a report described in Subsection (4), [~~recommend in~~
246 a] submit, in accordance with Section [68-3-14](#), a written report to the Business and Labor
247 Interim Committee recommending whether the Legislature should amend or repeal one or more
248 provisions of the State Fire Code.

249 (ii) As part of a recommendation described in Subsection (5)(a)(i), the board shall
250 describe the costs and benefits of each proposed amendment or repeal.

251 (b) The board may recommend legislative action related to the State Fire Code:

252 (i) on its own initiative; or

253 (ii) upon the receipt of a request by a city, county, or fire protection district that the
254 board recommend legislative action related to the State Fire Code.

255 (c) Within 45 days after the day on which the board receives a request under
256 Subsection (5)(b), the board shall direct the division to convene an informal hearing concerning
257 the request.

258 (d) The board shall conduct a hearing under this section in accordance with the rules of
259 the board.

260 (e) The board shall decide whether to include the request in the report described in
261 Subsection (5)(a).

262 (f) (i) Within 15 days after the day on which the board conducts a hearing, the board
263 shall direct the division to notify the entity that made the request of the board's decision
264 regarding the request.

265 (ii) The division shall provide the notice:

266 (A) in writing; and

267 (B) in a form prescribed by the board.

268 (g) If the Business and Labor Interim Committee decides to recommend legislative
269 action to the Legislature, the Business and Labor Interim Committee shall prepare legislation
270 for consideration by the Legislature in the next general session that, if passed by the
271 Legislature, would amend or repeal one or more provisions of the State Fire Code.

272 (6) (a) Notwithstanding the provisions of this section, the board may, in accordance
273 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend a State Fire Code if
274 the board determines that waiting for legislative action in the next general legislative session
275 would:

- 276 (i) cause an imminent peril to the public health, safety, or welfare; or
- 277 (ii) place a person in violation of federal or other state law.
- 278 (b) If the board amends a State Fire Code in accordance with this Subsection (6), the
- 279 board shall:
 - 280 (i) publish the State Fire Code with the amendment; and
 - 281 (ii) ~~notify~~ prepare and submit, in accordance with Section 68-3-14, written notice to
 - 282 the Business and Labor Interim Committee of the adoption, including a copy of an analysis by
 - 283 the board identifying specific reasons and justifications for its findings.
- 284 (c) If not formally adopted by the Legislature at the next annual general session, an
- 285 amendment to a State Fire Code adopted under this Subsection (6) is repealed on the July 1
- 286 immediately following the next annual general session that follows the adoption of the
- 287 amendment.
- 288 (7) (a) Except as provided in Subsection (7)(b), a legislative body of a political
- 289 subdivision may enact an ordinance in the political subdivision's fire code that is more
- 290 restrictive than the State Fire Code:
 - 291 (i) in order to meet a public safety need of the political subdivision; and
 - 292 (ii) subject to the requirements of Subsection (7)(c).
- 293 (b) Except as provided in Subsections (7)(c), (10), and (11), or as expressly provided in
- 294 state law, a political subdivision may not, after December 1, 2016, enact or enforce a rule or
- 295 ordinance that applies to a structure built in accordance with the International Residential
- 296 Code, as adopted in the State Construction Code, that is more restrictive than the State Fire
- 297 Code.
- 298 (c) A political subdivision may adopt:
 - 299 (i) the appendices of the International Fire Code, 2015 edition; and
 - 300 (ii) a fire sprinkler ordinance in accordance with Section 15A-5-203.
- 301 (d) A legislative body of a political subdivision that enacts an ordinance under
- 302 Subsection (7)(a) shall:
 - 303 (i) notify the board in writing at least 30 days before the day on which the legislative
 - 304 body enacts the ordinance and include in the notice a statement as to the proposed subject
 - 305 matter of the ordinance; and
 - 306 (ii) after the legislative body enacts the ordinance, report to the board before the board

307 makes the report required under Subsection (7)(e), including providing the board:

308 (A) a copy of the ordinance enacted under this Subsection (7); and

309 (B) a description of the public safety need that is the basis of enacting the ordinance.

310 (e) The board shall submit, in accordance with Section 68-3-14, to the Business and
311 Labor Interim Committee each year with the recommendations submitted in accordance with
312 Subsection (4):

313 (i) a list of the ordinances enacted under this Subsection (7) during the fiscal year
314 immediately preceding the report; and

315 (ii) recommendations, if any, for legislative action related to an ordinance enacted
316 under this Subsection (7).

317 (f) (i) The state fire marshal shall keep an indexed copy of an ordinance enacted under
318 this Subsection (7).

319 (ii) The state fire marshal shall make a copy of an ordinance enacted under this
320 Subsection (7) available on request.

321 (g) The board may make rules in accordance with Title 63G, Chapter 3, Utah
322 Administrative Rulemaking Act, to establish procedures for a legislative body of a political
323 subdivision to follow to provide the notice and report required under this Subsection (7).

324 (8) Except as provided in Subsections (9), (10), and (11), or as expressly provided in
325 state law, a state executive branch entity may not, after December 1, 2016, adopt or enforce a
326 rule or requirement that:

327 (a) is more restrictive than the State Fire Code; and

328 (b) applies to detached one- and two-family dwellings and townhouses not more than
329 three stories above grade plane in height with a separate means of egress and their accessory
330 structures.

331 (9) A state government entity may adopt a rule or requirement regarding a residential
332 occupancy that is regulated by:

333 (a) the State Fire Prevention Board;

334 (b) the Department of Health; or

335 (c) the Department of Human Services.

336 (10) A state executive branch entity or political subdivision of the state may:

337 (a) enforce a federal law or regulation;

338 (b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or
339 requirement applies only to a facility or construction owned or used by a state entity or a
340 political subdivision of the state; or

341 (c) enforce a rule, ordinance, or requirement:

342 (i) that the state executive branch entity or political subdivision adopted or made
343 effective before July 1, 2015; and

344 (ii) for which the state executive branch entity or political subdivision can demonstrate,
345 with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an
346 individual from a condition likely to cause imminent injury or death.

347 (11) The Department of Health or the Department of Environmental Quality may
348 enforce a rule or requirement adopted before January 1, 2015.

349 Section 4. Section **31A-3-305** is amended to read:

350 **31A-3-305. Agreement related to nonadmitted insurance taxes.**

351 (1) As used in this section:

352 (a) "Agreement" means a cooperative agreement, reciprocal agreement, or compact
353 with one or more other states.

354 (b) (i) "Home state," except as provided in Subsections (1)(b)(ii) and (iii), with respect
355 to an insured, means:

356 (A) the state in which the insured maintains its principal place of business or, in the
357 case of an individual, the individual's principal residence; or

358 (B) if 100% of the insured risk is located out of the state described in Subsection
359 (1)(b)(i)(A), the state to which the greatest percentage of the insured's taxable premium for that
360 insurance contract is allocated.

361 (ii) If more than one insured from an affiliated group are named insureds on a single
362 nonadmitted insurance contract, "home state" means the home state determined under
363 Subsection (1)(b)(i) of the member of the affiliated group that has the largest percentage of
364 premium attributed to it under the nonadmitted insurance contract.

365 (iii) (A) When a group policyholder pays 100% of the premium from its own money,
366 "home state" means the home state determined under Subsection (1)(b)(i) of the group policy
367 holder.

368 (B) When a group policyholder does not pay 100% of the premium from its own

369 money, "home state" means the home state determined under Subsection (1)(b)(i) of the group
370 member.

371 (c) "Principal place of business," for purposes of determining the home state of an
372 insured, means:

373 (i) the state where the insured maintains its headquarters and where the insured's
374 high-level officers direct, control, and coordinate the business activities;

375 (ii) if the insured's high-level officers direct, control, and coordinate the business
376 activities in more than one state, the state in which the greatest percentage of the insured's
377 taxable premium for that insurance contract is allocated; or

378 (iii) if the insured maintains its headquarters or the insured's high-level officers direct,
379 control, and coordinate the business activities outside any state, the state to which the greatest
380 percentage of the insured's taxable premium for that insurance contract is allocated.

381 (d) "Principal residence," with respect to determining the home state of an insured,
382 means:

383 (i) the state where the insured resides for the greatest number of days during a calendar
384 year; or

385 (ii) if the insured's principal residence is located outside any state, the state to which
386 the greatest percentage of the insured's taxable premium for that insurance contract is allocated.

387 (2) The commissioner may enter into an agreement to:

388 (a) facilitate the collection, allocation, and disbursement of premium taxes attributable
389 to the placement of nonadmitted insurance;

390 (b) provide for uniform methods of allocation and reporting among nonadmitted
391 insurance risk classifications; and

392 (c) share information among states relating to nonadmitted insurance premium taxes.

393 (3) If the commissioner enters into an agreement under Subsection (2), the following
394 apply:

395 (a) In addition to the full amount of gross premiums charged by the insurer for the
396 insurance, a surplus lines producer shall collect and pay to the commissioner a sum based on
397 the total gross premiums charged, less any return premiums, for surplus lines insurance
398 provided by the surplus lines producer.

399 (b) When surplus lines insurance covers property, risks, or exposures located or to be

400 performed in and out of this state, the sum payable is calculated as follows:

401 (i) calculate an amount equal to the applicable tax rates under this part on that portion
402 of the gross premiums allocated to this state pursuant to the agreement;

403 (ii) add to the amount under Subsection (3)(b)(i) an amount equal to the portion of the
404 premiums allocated to other states or territories on the basis of the tax rates and fees applicable
405 to properties, risks, or exposures located or to be performed outside of this state pursuant to the
406 agreement; and

407 (iii) subtract from the amount under Subsection (3)(b)(ii) the amount of gross
408 premiums allocated to this state and returned to the insured.

409 (c) The tax on any portion of the premium unearned at termination of insurance having
410 been credited by the state to the licensee shall be returned to the policyholder directly by the
411 surplus lines producer. A surplus lines producer may not absorb or rebate, for any reason, any
412 part of the tax.

413 (4) The commissioner may participate in a clearinghouse established through an
414 agreement described in Subsection (2) for the purpose of collecting or disbursing to reciprocal
415 states any money collected pursuant to Subsection (3) applicable to properties, risks, or
416 exposures located or to be performed outside of this state. To the extent that other states where
417 portions of the properties, risks, or exposures reside have failed to enter into an agreement with
418 this state, the state shall retain the net premium tax collected.

419 (5) The commissioner may adopt an allocation schedule included in an agreement
420 described in Subsection (2) for the purpose of allocating risk and computing the tax due on the
421 portion of premium attributable to each risk classification and to each state where properties,
422 risks, or exposures reside.

423 (6) The commissioner may apply the definition of "home state" in Subsection (1) when
424 implementing an agreement described in Subsection (2).

425 (7) The commissioner shall submit, in accordance with Section 68-3-14, a written
426 report to the Business and Labor Interim Committee regarding the nature and status of any
427 agreement into which the commissioner enters under Subsection (2).

428 Section 5. Section **31A-22-614.7** is amended to read:

429 **31A-22-614.7. Uniform claims processing -- Electronic exchange of prescription**
430 **drug pre-authorization.**

431 [(H)] The commissioner shall consult with national and state organizations involved
 432 with the standardized exchange of health data, and the electronic exchange of health data, to
 433 study and review:

434 [(a)] (1) the process of prior authorization of prescription drugs; and

435 [(b)] (2) the standards for the use and electronic exchange of a uniform prescription
 436 drug prior authorization form that meet federal mandatory minimum standards and follow the
 437 adoption of national requirements for transaction and data elements in the federal Health
 438 Insurance Portability and Accountability Act.

439 ~~[(2) The commissioner and the organization described in Subsection (1) shall report
 440 their progress and findings to the Legislature's Business and Labor Interim Committee before
 441 October 1, 2013 and before November 1, 2014.]~~

442 Section 6. Section **34-47-202** is amended to read:

443 **34-47-202. Duties and powers of the council.**

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

447 (2) (a) The council shall ~~[provide]~~ submit, in accordance with Section 68-3-14, a
 448 written report by no later than September 1 of each year regarding the previous fiscal year to:

449 (i) the governor; and

450 (ii) the Business and Labor Interim Committee.

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

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

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

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

455 (iv) recommended legislative changes, if any.

456 (c) As part of the report required by this Subsection (2), the council shall provide an
 457 opportunity to the following to include in the report comments on the effectiveness of the
 458 council:

459 (i) the attorney general; and

460 (ii) each member agency.

461 (3) The council may study:

- 462 (a) how to reduce costs to the state resulting from misclassification;
- 463 (b) how to extend outreach and education efforts regarding the nature and requirements
- 464 of classifying an individual;
- 465 (c) how to promote efficient and effective information sharing amongst the member
- 466 agencies; and
- 467 (d) the need, if any, to create by statute a database or other method to facilitate sharing
- 468 of information related to misclassification.

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

- 471 (a) the information is public information; or
- 472 (b) providing the information is otherwise permitted by law other than this chapter.

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

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

- 479 (i) necessary to take an administrative action by a member agency;
- 480 (ii) necessary to prosecute a criminal act; or
- 481 (iii) that the record is:

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

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

485 Section 7. Section **34A-2-107** is amended to read:

486 **34A-2-107. Appointment of workers' compensation advisory council --**
 487 **Composition -- Terms of members -- Duties -- Compensation.**

488 (1) The commissioner shall appoint a workers' compensation advisory council
 489 composed of:

- 490 (a) the following voting members:
- 491 (i) five employer representatives; and
- 492 (ii) five employee representatives; and

493 (b) the following nonvoting members:

494 (i) a representative of the Workers' Compensation Fund;

495 (ii) a representative of a private insurance carrier;

496 (iii) a representative of health care providers;

497 (iv) the Utah insurance commissioner or the insurance commissioner's designee; and

498 (v) the commissioner or the commissioner's designee.

499 (2) Employers and employees shall consider nominating members of groups who
500 historically may have been excluded from the council, such as women, minorities, and
501 individuals with disabilities.

502 (3) (a) Except as required by Subsection (3)(b), as terms of current council members
503 expire, the commissioner shall appoint each new member or reappointed member to a two-year
504 term beginning July 1 and ending June 30.

505 (b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at
506 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of
507 council members are staggered so that approximately half of the council is appointed every two
508 years.

509 (4) (a) When a vacancy occurs in the membership for any reason, the replacement shall
510 be appointed for the unexpired term.

511 (b) The commissioner shall terminate the term of a council member who ceases to be
512 representative as designated by the member's original appointment.

513 (5) The council shall confer at least quarterly for the purpose of advising the
514 commission, the division, and the Legislature on:

515 (a) the Utah workers' compensation and occupational disease laws;

516 (b) the administration of the laws described in Subsection (5)(a); and

517 (c) rules related to the laws described in Subsection (5)(a).

518 (6) Regarding workers' compensation, rehabilitation, and reemployment of employees
519 who acquire a disability because of an industrial injury or occupational disease the council
520 shall:

521 (a) offer advice on issues requested by:

522 (i) the commission;

523 (ii) the division; and

- 524 (iii) the Legislature; and
- 525 (b) make recommendations to:
- 526 (i) the commission; and
- 527 (ii) the division.
- 528 (7) The council shall study how hospital costs may be reduced for purposes of medical
- 529 benefits for workers' compensation. [~~The~~] By no later than November 30, 2017, the council
- 530 shall submit, in accordance with Section 68-3-14, a written report to the Business and Labor
- 531 Interim Committee containing the council's recommendations [~~by no later than November 30,~~
- 532 ~~2017~~].
- 533 (8) The commissioner or the commissioner's designee shall serve as the chair of the
- 534 council and call the necessary meetings.
- 535 (9) The commission shall provide staff support to the council.
- 536 (10) A member may not receive compensation or benefits for the member's service, but
- 537 may receive per diem and travel expenses in accordance with:
- 538 (a) Section 63A-3-106;
- 539 (b) Section 63A-3-107; and
- 540 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
- 541 63A-3-107.
- 542 Section 8. Section 34A-5-104 is amended to read:
- 543 **34A-5-104. Powers.**
- 544 (1) (a) The commission has jurisdiction over the subject of employment practices and
- 545 discrimination made unlawful by this chapter.
- 546 (b) The commission may adopt, publish, amend, and rescind rules, consistent with, and
- 547 for the enforcement of this chapter.
- 548 (2) The division may:
- 549 (a) appoint and prescribe the duties of an investigator, other employee, or agent of the
- 550 commission that the commission considers necessary for the enforcement of this chapter;
- 551 (b) receive, reject, investigate, and pass upon complaints alleging:
- 552 (i) discrimination in:
- 553 (A) employment;
- 554 (B) an apprenticeship program;

- 555 (C) an on-the-job training program; or
- 556 (D) a vocational school; or
- 557 (ii) the existence of a discriminatory or prohibited employment practice by:
- 558 (A) a person;
- 559 (B) an employer;
- 560 (C) an employment agency;
- 561 (D) a labor organization;
- 562 (E) an employee or member of an employment agency or labor organization;
- 563 (F) a joint apprenticeship committee; and
- 564 (G) a vocational school;
- 565 (c) investigate and study the existence, character, causes, and extent of discrimination
- 566 in employment, apprenticeship programs, on-the-job training programs, and vocational schools
- 567 in this state by:
- 568 (i) employers;
- 569 (ii) employment agencies;
- 570 (iii) labor organizations;
- 571 (iv) joint apprenticeship committees; and
- 572 (v) vocational schools;
- 573 (d) formulate plans for the elimination of discrimination by educational or other
- 574 means;
- 575 (e) hold hearings upon complaint made against:
- 576 (i) a person;
- 577 (ii) an employer;
- 578 (iii) an employment agency;
- 579 (iv) a labor organization;
- 580 (v) an employee or member of an employment agency or labor organization;
- 581 (vi) a joint apprenticeship committee; or
- 582 (vii) a vocational school;
- 583 (f) issue publications and reports of investigations and research that:
- 584 (i) promote good will among the various racial, religious, and ethnic groups of the
- 585 state; and

586 (ii) minimize or eliminate discrimination in employment because of race, color, sex,
587 religion, national origin, age, disability, sexual orientation, or gender identity;

588 (g) prepare and transmit to the governor, at least once each year, reports describing:

589 (i) the division's proceedings, investigations, and hearings;

590 (ii) the outcome of those hearings;

591 (iii) decisions the division renders; and

592 (iv) the other work performed by the division;

593 (h) recommend policies to the governor, and submit recommendation to employers,
594 employment agencies, and labor organizations to implement those policies;

595 (i) recommend legislation to the governor that the division considers necessary
596 concerning discrimination because of:

597 (i) race;

598 (ii) sex;

599 (iii) color;

600 (iv) national origin;

601 (v) religion;

602 (vi) age;

603 (vii) disability;

604 (viii) sexual orientation; or

605 (ix) gender identity; and

606 (j) within the limits of appropriations made for its operation, cooperate with other
607 agencies or organizations, both public and private, in the planning and conducting of
608 educational programs designed to eliminate discriminatory practices prohibited under this
609 chapter.

610 (3) The division shall investigate an alleged discriminatory practice involving an
611 officer or employee of state government if requested to do so by the Career Service Review
612 Office.

613 (4) (a) In a hearing held under this chapter, the division may:

614 (i) subpoena witnesses and compel their attendance at the hearing;

615 (ii) administer oaths and take the testimony of a person under oath; and

616 (iii) compel a person to produce for examination a book, paper, or other information

617 relating to the matters raised by the complaint.

618 (b) The division director or a hearing examiner appointed by the division director may
619 conduct a hearing.

620 (c) If a witness fails or refuses to obey a subpoena issued by the division, the division
621 may petition the district court to enforce the subpoena.

622 (d) If a witness asserts a privilege against self-incrimination, testimony and evidence
623 from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants of Immunity.

624 (5) In 2018, before November 1, the division shall submit, in accordance with Section
625 68-3-14, a written report to the Business and Labor Interim Committee on the effectiveness of
626 the commission and state law in addressing discrimination in matters of compensation.

627 Section 9. Section **36-23-106** is amended to read:

628 **36-23-106. Duties -- Reporting.**

629 (1) The committee shall:

630 (a) for each application submitted in accordance with Section **36-23-105**, conduct a
631 sunrise review in accordance with Section **36-23-107** before November 1:

632 (i) of the year in which the application is submitted, if the application is submitted on
633 or before July 1; or

634 (ii) of the year following the year in which the application is submitted, if the
635 application is submitted after July 1;

636 (b) (i) conduct a sunset review for all statutes regarding a licensed occupation or
637 profession under Title 58, Occupations and Professions, that are scheduled for termination
638 under Section **631-1-258**;

639 (ii) conduct a sunset review under this Subsection (1)(b) before November 1 of the year
640 prior to the last general session of the Legislature that is scheduled to meet before the
641 scheduled termination date; and

642 (iii) conduct a review or study regarding any other occupational or professional
643 licensure matter referred to the committee by the Legislature, the Legislative Management
644 Committee, or other legislative committee.

645 (2) The committee shall submit, in accordance with Section 68-3-14, an annual written
646 report before November 1 to:

647 (a) the Legislative Management Committee; and

- 648 (b) the Business and Labor Interim Committee.
- 649 (3) The written report required by Subsection (2) shall include:
- 650 (a) all findings and recommendations made by the committee in the calendar year; and
- 651 (b) a summary report of each review or study conducted by the committee stating:
- 652 (i) whether the review or study included a review of specific proposed or existing
- 653 statutory language;
- 654 (ii) action taken by the committee as a result of the review or study; and
- 655 (iii) a record of the vote for each action taken by the committee.

656 Section 10. Section **53-2a-204** is amended to read:

657 **53-2a-204. Authority of governor -- Federal assistance -- Fraud or willful**
658 **misstatement in application for financial assistance -- Penalty.**

659 (1) In addition to any other authorities conferred upon the governor, if the governor
660 issues an executive order declaring a state of emergency, the governor may:

661 (a) utilize all available resources of state government as reasonably necessary to cope
662 with a state of emergency;

663 (b) employ measures and give direction to state and local officers and agencies that are
664 reasonable and necessary for the purpose of securing compliance with the provisions of this
665 part and with orders, rules, and regulations made pursuant to this part;

666 (c) recommend and advise the evacuation of all or part of the population from any
667 stricken or threatened area within the state if necessary for the preservation of life;

668 (d) recommend routes, modes of transportation, and destination in connection with
669 evacuation;

670 (e) in connection with evacuation, suspend or limit the sale, dispensing, or
671 transportation of alcoholic beverages, explosives, and combustibles, not to include the lawful
672 bearing of arms;

673 (f) control ingress and egress to and from a disaster area, the movement of persons
674 within the area, and recommend the occupancy or evacuation of premises in a disaster area;

675 (g) clear or remove from publicly or privately owned land or water debris or wreckage
676 that is an immediate threat to public health, public safety, or private property, including
677 allowing an employee of a state department or agency designated by the governor to enter upon
678 private land or waters and perform any tasks necessary for the removal or clearance operation if

679 the political subdivision, corporation, organization, or individual that is affected by the removal
680 of the debris or wreckage:

681 (i) presents an unconditional authorization for removal of the debris or wreckage from
682 private property; and

683 (ii) agrees to indemnify the state against any claim arising from the removal of the
684 debris or wreckage;

685 (h) enter into agreement with any agency of the United States:

686 (i) for temporary housing units to be occupied by victims of a state of emergency or
687 persons who assist victims of a state of emergency; and

688 (ii) to make the housing units described in Subsection (1)(h)(i) available to a political
689 subdivision of this state;

690 (i) assist any political subdivision of this state to acquire sites and utilities necessary for
691 temporary housing units described in Subsection (1)(h)(i) by passing through any funds made
692 available to the governor by an agency of the United States for this purpose;

693 (j) subject to Sections 53-2a-209 and 53-2a-214, temporarily suspend or modify by
694 executive order, during the state of emergency, any public health, safety, zoning, transportation,
695 or other requirement of a statute or administrative rule within this state if such action is
696 essential to provide temporary housing described in Subsection (1)(h)(i);

697 (k) upon determination that a political subdivision of the state will suffer a substantial
698 loss of tax and other revenues because of a state of emergency and the political subdivision so
699 affected has demonstrated a need for financial assistance to perform its governmental
700 functions, in accordance with Utah Constitution, Article XIV, Sections 3 and 4, and Section
701 10-8-6:

702 (i) apply to the federal government for a loan on behalf of the political subdivision if
703 the amount of the loan that the governor applies for does not exceed 25% of the annual
704 operating budget of the political subdivision for the fiscal year in which the state of emergency
705 occurs; and

706 (ii) receive and disburse the amount of the loan to the political subdivision;

707 (l) accept funds from the federal government and make grants to any political
708 subdivision for the purpose of removing debris or wreckage from publicly owned land or
709 water;

710 (m) upon determination that financial assistance is essential to meet expenses related to
 711 a state of emergency of individuals or families adversely affected by the state of emergency that
 712 cannot be sufficiently met from other means of assistance, apply for, accept, and expend a grant
 713 by the federal government to fund the financial assistance, subject to the terms and conditions
 714 imposed upon the grant;

715 (n) recommend to the Legislature other actions the governor considers to be necessary
 716 to address a state of emergency; or

717 (o) authorize the use of all water sources as necessary for fire suppression.

718 (2) A person who fraudulently or willfully makes a misstatement of fact in connection
 719 with an application for financial assistance under this section shall, upon conviction of each
 720 offense, be subject to a fine of not more than \$5,000 or imprisonment for not more than one
 721 year, or both.

722 ~~Ĥ→ [(3) The division shall conduct a feasibility study regarding the establishment of an~~
 723 ~~agreement with the United States Postal Service regarding the use of employees, resources, and~~
 724 ~~assets within the Postal Service Network to provide the following services:~~

725 ~~—— (a) identify residential or commercial structures that have been damaged;~~

726 ~~—— (b) identify persons who reside in a damaged area and the emergent medical or~~
 727 ~~physical needs of those persons;~~

728 ~~—— (c) help assess the damage to neighborhoods or communities; and~~

729 ~~—— (d) any other activity that the division determines to be necessary to assist in~~
 730 ~~responding to a declared disaster.] ←Ĥ~~

731 ~~[(4) The division shall provide a report to the Business and Labor Interim Committee~~
 732 ~~and the Law Enforcement and Criminal Justice Interim Committee regarding the feasibility~~
 733 ~~study conducted under Subsection (3) no later than November 30, 2016.]~~

734 Section 11. Section **53-7-204** is amended to read:

735 **53-7-204. Duties of Utah Fire Prevention Board -- Unified Code Analysis Council**
 736 **-- Local administrative duties.**

737 (1) The board shall:

738 (a) administer the state fire code as the standard in the state;

739 (b) subject to the state fire code, make rules in accordance with Title 63G, Chapter 3,
 740 Utah Administrative Rulemaking Act:

- 741 (i) establishing standards for the prevention of fire and for the protection of life and
742 property against fire and panic in any:
- 743 (A) publicly owned building, including all public and private schools, colleges, and
744 university buildings;
- 745 (B) building or structure used or intended for use as an asylum, a mental hospital, a
746 hospital, a sanitarium, a home for the elderly, an assisted living facility, a children's home or
747 day care center, or any building or structure used for a similar purpose; or
- 748 (C) place of assemblage where 50 or more persons may gather together in a building,
749 structure, tent, or room for the purpose of amusement, entertainment, instruction, or education;
- 750 (ii) establishing safety and other requirements for placement and discharge of display
751 fireworks on the basis of:
- 752 (A) the state fire code; and
- 753 (B) relevant publications of the National Fire Protection Association;
- 754 (iii) establishing safety standards for retail storage, handling, and sale of class C
755 common state approved explosives;
- 756 (iv) defining methods to establish proof of competence to place and discharge display
757 fireworks, special effects fireworks, and flame effects;
- 758 (v) deputizing qualified persons to act as deputy fire marshals, and to secure special
759 services in emergencies;
- 760 (vi) implementing Section [15A-1-403](#);
- 761 (vii) setting guidelines for use of funding;
- 762 (viii) establishing criteria for training and safety equipment grants for fire departments
763 enrolled in firefighter certification; and
- 764 (ix) establishing ongoing training standards for hazardous materials emergency
765 response agencies;
- 766 (c) recommend to the commissioner a state fire marshal;
- 767 (d) develop policies under which the state fire marshal and the state fire marshal's
768 authorized representatives will perform;
- 769 (e) provide for the employment of field assistants and other salaried personnel as
770 required;
- 771 (f) prescribe the duties of the state fire marshal and the state fire marshal's authorized

772 representatives;

773 (g) establish a statewide fire prevention, fire education, and fire service training
774 program in cooperation with the Board of Regents;

775 (h) establish a statewide fire statistics program for the purpose of gathering fire data
776 from all political subdivisions of the state;

777 (i) establish a fire academy in accordance with Section [53-7-204.2](#);

778 (j) coordinate the efforts of all people engaged in fire suppression in the state;

779 (k) work aggressively with the local political subdivisions to reduce fire losses;

780 (l) regulate the sale and servicing of portable fire extinguishers and automatic fire
781 suppression systems in the interest of safeguarding lives and property;

782 (m) establish a certification program for persons who inspect and test automatic fire
783 sprinkler systems;

784 (n) establish a certification program for persons who inspect and test fire alarm
785 systems;

786 (o) establish a certification for persons who provide response services regarding
787 hazardous materials emergencies;

788 (p) in accordance with ~~[Section]~~ Sections [15A-1-403](#) and [68-3-14](#), submit a written
789 report to the Business and Labor Interim Committee; and

790 (q) jointly create the Unified Code Analysis Council with the Uniform Building Code
791 Commission in accordance with Section [15A-1-203](#).

792 (2) The board may incorporate in its rules by reference, in whole or in part:

793 (a) the state fire code; or

794 (b) subject to the state fire code, a nationally recognized and readily available standard
795 pertaining to the protection of life and property from fire, explosion, or panic.

796 (3) The following functions shall be administered locally by a city, county, or fire
797 protection district:

798 (a) issuing permits, including open burning permits pursuant to Sections [11-7-1](#) and
799 [19-2-114](#);

800 (b) creating a local board of appeals in accordance with the state fire code; and

801 (c) subject to the state fire code and the other provisions of this chapter, establishing,
802 modifying, or deleting fire flow and water supply requirements.

803 Section 12. Section **63M-2-802** is amended to read:

804 **63M-2-802. USTAR annual report.**

805 (1) (a) On or before October 1 of each year, the governing authority shall submit, in
806 accordance with Section [68-3-14](#), an annual written report for the preceding fiscal year to:

807 (i) the Business, Economic Development, and Labor Appropriations Subcommittee;

808 (ii) the Economic Development and Workforce Services Interim Committee;

809 (iii) the Business and Labor Interim Committee; and

810 (iv) the governor.

811 (b) An annual report under Subsection (1)(a) is subject to modification as provided in
812 Subsection (5) after an audit described in Section [63M-2-803](#) is released.

813 (2) An annual report described in Subsection (1) shall include:

814 (a) information reported to the governing authority:

815 (i) by an institution of higher education under Section [63M-2-702](#);

816 (ii) through the survey described in Section [63M-2-703](#); and

817 (iii) by a research university, under Section [63M-2-705](#);

818 (b) a clear description of the methodology used to arrive at any information in the
819 report that is based on an estimate;

820 (c) starting with fiscal year 2017 data as a baseline, data from previous years for
821 comparison with the annual data reported under this Subsection (2);

822 (d) relevant federal and state statutory references and requirements;

823 (e) contact information for the executive director;

824 (f) other information determined by the governing authority that promotes
825 accountability and transparency; and

826 (g) the written economic development objectives required under Subsection
827 [63M-2-302\(1\)\(e\)](#) and a description of progress or challenges in meeting the objectives.

828 (3) The governing authority shall design the annual report to provide clear, accurate,
829 and accessible information to the public, the governor, and the Legislature.

830 (4) The governing authority shall:

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

832 (b) place a link to the annual report and previous annual reports on USTAR's website.

833 (5) Following the completion of an annual audit described in Section [63M-2-803](#), the

834 governing authority shall:

835 (a) publicly issue a revised annual report that:

836 (i) addresses the audit;

837 (ii) responds to audit findings; and

838 (iii) incorporates any revisions to the annual report based on audit findings;

839 (b) publish the revised annual report on USTAR's website, with a link to the audit; and

840 (c) ~~provide~~ submit, in accordance with Section 68-3-14, written notification of any

841 revisions of the annual report to:

842 (i) the Business, Economic Development, and Labor Appropriations Subcommittee;

843 (ii) the Economic Development and Workforce Services Interim Committee;

844 (iii) the Business and Labor Interim Committee; and

845 (iv) the governor.

846 (6) In addition to the annual written report described in this section, the governing

847 authority shall:

848 (a) provide information and progress reports to a legislative committee upon request;

849 and

850 (b) on or before October 1, 2019, and every five years after October 1, 2019, include

851 with the annual report described in this section a written analysis and recommendations

852 concerning the usefulness of the information required in the annual report and USTAR's

853 ongoing effectiveness, including whether:

854 (i) the reporting requirements are effective at measuring USTAR's performance;

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

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

857 Section 13. Section **63N-6-301** is amended to read:

858 **63N-6-301. Utah Capital Investment Corporation -- Powers and purposes.**

859 (1) (a) There is created an independent quasi-public nonprofit corporation known as the

860 Utah Capital Investment Corporation.

861 (b) The corporation:

862 (i) may exercise all powers conferred on independent corporations under Section

863 [63E-2-106](#);

864 (ii) is subject to the prohibited participation provisions of Section [63E-2-107](#); and

865 (iii) is subject to the other provisions of Title 63E, Chapter 2, Independent
866 Corporations Act, except as otherwise provided in this part.

867 (c) The corporation shall file with the Division of Corporations and Commercial Code:

868 (i) articles of incorporation; and

869 (ii) any amendment to its articles of incorporation.

870 (d) In addition to the articles of incorporation, the corporation may adopt bylaws and
871 operational policies that are consistent with this chapter.

872 (e) Except as otherwise provided in this part, this part does not exempt the corporation
873 from the requirements under state law which apply to other corporations organized under Title
874 63E, Chapter 2, Independent Corporations Act.

875 (2) The purposes of the corporation are to:

876 (a) organize the Utah fund of funds;

877 (b) select an investment fund allocation manager to make venture capital and private
878 equity fund investments by the Utah fund of funds;

879 (c) negotiate the terms of a contract with the investment fund allocation manager;

880 (d) execute the contract with the selected investment fund manager on behalf of the
881 Utah fund of funds;

882 (e) receive funds paid by designated investors for the issuance of certificates by the
883 board for private investment in the Utah fund of funds;

884 (f) receive investment returns from the Utah fund of funds; and

885 (g) establish the redemption reserve to be used by the corporation to redeem
886 certificates.

887 (3) The corporation may not:

888 (a) exercise governmental functions;

889 (b) have members;

890 (c) pledge the credit or taxing power of the state or any political subdivision of the
891 state; or

892 (d) make its debts payable out of any money except money of the corporation.

893 (4) The obligations of the corporation are not obligations of the state or any political
894 subdivision of the state within the meaning of any constitutional or statutory debt limitations,
895 but are obligations of the corporation payable solely and only from the corporation's funds.

- 896 (5) The corporation may:
- 897 (a) engage consultants and legal counsel;
- 898 (b) expend funds;
- 899 (c) invest funds;
- 900 (d) issue debt and equity, and borrow funds;
- 901 (e) enter into contracts;
- 902 (f) insure against loss;
- 903 (g) hire employees; and
- 904 (h) perform any other act necessary to carry out its purposes.
- 905 (6) (a) The corporation shall, in consultation with the board, publish on or before
- 906 September 1 an annual report of the activities conducted by the Utah fund of funds and submit,
- 907 in accordance with Section [68-3-14](#), the written report to:
- 908 (i) the governor;
- 909 (ii) the Business, Economic Development, and Labor Appropriations Subcommittee;
- 910 (iii) the Business and Labor Interim Committee; and
- 911 (iv) the Retirement and Independent Entities Interim Committee.
- 912 (b) The annual report shall:
- 913 (i) be designed to provide clear, accurate, and accessible information to the public, the
- 914 governor, and the Legislature;
- 915 (ii) include a copy of the audit of the Utah fund of funds described in Section
- 916 [63N-6-405](#);
- 917 (iii) include a detailed balance sheet, revenue and expenses statement, and cash flow
- 918 statement;
- 919 (iv) include detailed information regarding new fund commitments made during the
- 920 year, including the amount of money committed;
- 921 (v) include the net rate of return of the Utah fund of funds from the inception of the
- 922 Utah fund of funds, after accounting for all expenses, including administrative and financing
- 923 costs;
- 924 (vi) include detailed information regarding:
- 925 (A) realized gains from investments and any realized losses; and
- 926 (B) unrealized gains and any unrealized losses based on the net present value of

927 ongoing investments;

928 (vii) include detailed information regarding all yearly expenditures, including:

929 (A) administrative, operating, and financing costs;

930 (B) aggregate compensation information for full- and part-time employees, including

931 benefit and travel expenses; and

932 (C) expenses related to the allocation manager;

933 (viii) include detailed information regarding all funding sources for administrative,

934 operations, and financing expenses, including expenses charged by or to the Utah fund of

935 funds, including management and placement fees;

936 (ix) review the progress of the investment fund allocation manager in implementing its

937 investment plan and provide a general description of the investment plan;

938 (x) for each individual fund that the Utah fund of funds is invested in that represents at

939 least 5% of the net assets of the Utah fund of funds, include the name of the fund, the total

940 value of the fund, the fair market value of the Utah fund of funds' investment in the fund, and

941 the percentage of the total value of the fund held by the Utah fund of funds;

942 (xi) include the number of companies in Utah where an investment was made from a

943 fund that the Utah fund of funds is invested in, and provide an aggregate count of new full-time

944 employees in the state added by all companies where investments were made by funds that the

945 Utah fund of funds is invested in;

946 (xii) include an aggregate total value for all funds the Utah fund of funds is invested in,

947 and an aggregate total amount of money invested in the state by the funds the Utah fund of

948 funds is invested in;

949 (xiii) describe any redemption or transfer of a certificate issued under this part;

950 (xiv) include actual and estimated potential appropriations the Legislature will be

951 required to provide as a result of redeemed certificates or tax credits during the following five

952 years;

953 (xv) include an evaluation of the state's progress in accomplishing the purposes stated

954 in Section [63N-6-102](#); and

955 (xvi) be directly accessible to the public via a link from the main page of the Utah fund

956 of fund's website.

957 (c) The annual report may not identify a specific designated investor who has redeemed

958 or transferred a certificate.

959 Section 14. Section **63N-11-106** is amended to read:

960 **63N-11-106. Reporting on federal health reform -- Prohibition of individual**
961 **mandate.**

962 (1) The Legislature finds that:

963 (a) the state has embarked on a rigorous process of implementing a strategic plan for
964 health system reform under Section [63N-11-105](#);

965 (b) the health system reform efforts for the state were developed to address the unique
966 circumstances within Utah and to provide solutions that work for Utah;

967 (c) Utah is a leader in the nation for health system reform which includes:

968 (i) developing and using health data to control costs and quality; and

969 (ii) creating a defined contribution insurance market to increase options for employers
970 and employees; and

971 (d) the federal government proposals for health system reform:

972 (i) infringe on state powers;

973 (ii) impose a uniform solution to a problem that requires different responses in
974 different states;

975 (iii) threaten the progress Utah has made towards health system reform; and

976 (iv) infringe on the rights of citizens of this state to provide for their own health care
977 by:

978 (A) requiring a person to enroll in a third party payment system;

979 (B) imposing fines, penalties, and taxes on a person who chooses to pay directly for
980 health care rather than use a third party payer;

981 (C) imposing fines, penalties, and taxes on an employer that does not meet federal
982 standards for providing health care benefits for employees; and

983 (D) threatening private health care systems with competing government supported
984 health care systems.

985 (2) (a) For purposes of this section:

986 (i) "Implementation" includes adopting or changing an administrative rule, applying for
987 or spending federal grant money, issuing a request for proposal to carry out a requirement of
988 PPACA, entering into a memorandum of understanding with the federal government regarding

989 a provision of PPACA, or amending the state Medicaid plan.

990 (ii) "PPACA" has the same meaning as defined in Section 31A-1-301.

991 (b) A department or agency of the state may not implement any part of PPACA unless,
992 prior to implementation, the department or agency [~~reports in writing,~~] submits, in accordance
993 with Section 68-3-14, a written report and, if practicable, reports in person if requested, to the
994 [~~Legislature's~~] Business and Labor Interim Committee, the Health Reform Task Force, or the
995 legislative Executive Appropriations Committee in accordance with Subsection (2)(d).

996 (c) The Legislature may pass legislation specifically authorizing or prohibiting the
997 state's compliance with, or participation in provisions of PPACA.

998 (d) The report required under Subsection (2)(b) shall include:

999 (i) the specific federal statute or regulation that requires the state to implement a
1000 provision of PPACA;

1001 (ii) whether PPACA has any state waiver or options;

1002 (iii) exactly what PPACA requires the state to do, and how it would be implemented;

1003 (iv) who in the state will be impacted by adopting the federal reform provision, or not
1004 adopting the federal reform provision;

1005 (v) what is the cost to the state or citizens of the state to implement the federal reform
1006 provision;

1007 (vi) the consequences to the state if the state does not comply with PPACA;

1008 (vii) the impact, if any, of the PPACA requirements regarding:

1009 (A) the state's protection of a health care provider's refusal to perform an abortion on
1010 religious or moral grounds as provided in Section 76-7-306; and

1011 (B) abortion insurance coverage restrictions provided in Section 31A-22-726.

1012 (3) (a) The state [~~shall~~] may not require an individual in the state to obtain or maintain
1013 health insurance as defined in PPACA, regardless of whether the individual has or is eligible
1014 for health insurance coverage under any policy or program provided by or through the
1015 individual's employer or a plan sponsored by the state or federal government.

1016 (b) The provisions of this title may not be used to facilitate the federal PPACA
1017 individual mandate or to hold an individual in this state liable for any penalty, assessment, fee,
1018 or fine as a result of the individual's failure to procure or obtain health insurance coverage.

1019 (c) This section does not apply to an individual who voluntarily applies for coverage

1020 under a state administered program pursuant to Title XIX or Title XXI of the Social Security
1021 Act.

1022 Section 15. Section **67-5-32** is amended to read:

1023 **67-5-32. Rulemaking authority regarding the procurement of outside counsel,**
1024 **expert witnesses, and other litigation support services.**

1025 (1) [(a)] The attorney general shall, in accordance with Title 63G, Chapter 3, Utah
1026 Administrative Rulemaking Act, make rules to establish public disclosure, transparency,
1027 accountability, reasonable fees and limits on fees, and reporting in relation to the procurement
1028 of outside counsel, expert witnesses, and other litigation support services.

1029 [~~(b) On or before May 30, 2014, the attorney general shall submit to the Business and
1030 Labor Interim Committee, for its review, comment, and recommendations, the attorney
1031 general's proposed rules under Subsection (1)(a) relating to fee limits for outside counsel,
1032 including any provisions relating to exceptions to or a waiver of the fee limits.]~~

1033 [~~(c) Before September 1, 2014, the Business and Labor Interim Committee shall
1034 include the attorney general's proposed rules described in Subsection (1)(b) on a committee
1035 agenda for the purpose of allowing the committee to review, comment, and make
1036 recommendations on the proposed rules.]~~

1037 (2) The rules described in Subsection (1) shall:

1038 (a) ensure that a procurement for outside counsel is supported by a determination by
1039 the attorney general that the procurement is in the best interests of the state, in light of available
1040 resources of the attorney general's office;

1041 (b) provide for the fair and equitable treatment of all potential providers of outside
1042 counsel, expert witnesses, and other litigation support services;

1043 (c) ensure a competitive process, to the greatest extent possible, for the procurement of
1044 outside counsel, expert witnesses, and other litigation support services;

1045 (d) ensure that fees for outside counsel, whether based on an hourly rate, contingency
1046 fee, or other arrangement, are reasonable and consistent with industry standards;

1047 (e) ensure that contingency fee arrangements do not encourage high risk litigation that
1048 is not in the best interests of the citizens of the state;

1049 (f) provide for oversight and control, by the attorney general's office, in relation to
1050 outside counsel, regardless of the type of fee arrangement under which outside counsel is hired;

1051 (g) prohibit outside counsel from adding a party to a lawsuit or causing a new party to
1052 be served with process without the express written authorization of the attorney general's
1053 office;

1054 (h) establish for transparency regarding the procurement of outside counsel, expert
1055 witnesses, and other litigation support services, subject to:

1056 (i) Title 63G, Chapter 2, Government Records Access and Management Act; and

1057 (ii) other applicable provisions of law and the Utah Rules of Professional Conduct;

1058 (i) establish standard contractual terms for the procurement of outside counsel, expert
1059 witnesses, and other litigation support services; and

1060 (j) provide for the retention of records relating to the procurement of outside counsel,
1061 expert witnesses, and other litigation support services.

1062 Section 16. Section **68-3-14** is amended to read:

1063 **68-3-14. Submitting reports to the Legislature, governor, and state auditor.**

1064 (1) As used in this section:

1065 (a) "Governmental entity" means:

1066 (i) the state or any department, division, agency, or other instrumentality of the state; or

1067 (ii) a political subdivision of the state.

1068 (b) "Legislative committee" means a standing, interim, or other committee of the
1069 Legislature.

1070 (c) "Required annual report" means a written annual report that a governmental entity
1071 is required by statute to submit to the governor, whether or not the governmental entity is also
1072 required to submit the report to someone other than the governor.

1073 (d) "Required financial report" means a written report that a governmental entity is
1074 required by statute to submit to the state auditor.

1075 (e) "Specified report" means:

1076 (i) a written annual or other report that a governmental entity is required by statute to
1077 submit to the Legislature or a legislative committee, whether or not the governmental entity is
1078 also required to submit the report to someone other than the Legislature or a legislative
1079 committee; or

1080 (ii) a written report that a governmental entity submits to the Legislature or a
1081 legislative committee without a statutory requirement to do so.

1082 (2) A governmental entity may fulfill a statutory requirement to submit a required
1083 annual report to the governor by:

1084 (a) sending the governor:

1085 (i) an executive summary of the report, highlighting the contents of the report; and
1086 (ii) (A) the address of an electronic copy of the report; or
1087 (B) a hard copy of the report; and
1088 (b) providing an electronic copy of the report on the state's Internet web site.

1089 (3) ~~In order to~~ To submit a specified report to the Legislature or a legislative
1090 committee, a governmental entity shall:

1091 (a) electronically submit the report to:

1092 (i) each member of the Legislature, if the governmental entity submits the report to the
1093 Legislature; or
1094 (ii) each member of the legislative committee, if the governmental entity submits the
1095 report to a legislative committee;

1096 (b) provide a printed copy of the report to each member of the Legislature who requests
1097 a printed copy, but only if one or more members request a printed copy and only to the one or
1098 more members who request a printed copy;

1099 (c) (i) post an electronic copy of the report on the state's Internet web site, if the
1100 governmental entity is the state or a department, division, agency, or other instrumentality of
1101 the state; or
1102 (ii) post an electronic copy of the report on the Internet web site of the governmental
1103 entity, if the governmental entity is a political subdivision that has an Internet web site; and
1104 (d) (i) submit an electronic copy of the report to the director of the Office of Legislative
1105 Research and General Counsel, if the governmental entity submits the report to the
1106 Legislature[-]; and
1107 (ii) submit an electronic copy of the report to staff of the legislative committee, if the
1108 governmental entity submits the report to a legislative committee.

1109 (4) ~~In order to~~ To submit a required financial report to the state auditor, a
1110 governmental entity shall:

1111 (a) submit the report electronically to the state auditor, in the manner prescribed by the
1112 state auditor; and

1113 (b) provide a printed copy of the report to the state auditor, but only if the state auditor
1114 requests a printed copy.

1115 (5) Subsections (3) and (4) supersede any other statutory provision specifying the
1116 manner of a governmental entity submitting:

1117 (a) a specified report to the Legislature or a legislative committee; and

1118 (b) a required financial report to the state auditor.

1119 (6) Nothing in this section may be construed to require the disclosure of a report or
1120 information in a report that is not subject to disclosure under Title 63G, Chapter 2, Government
1121 Records Access and Management Act, or other applicable law.

Legislative Review Note
Office of Legislative Research and General Counsel