

1 **CONSTRUCTION AND FIRE CODE RELATED**

2 **AMENDMENTS**

3 2010 GENERAL SESSION

4 STATE OF UTAH

6 **LONG TITLE**

7 **General Description:**

8 This bill modifies the Utah Fire Prevention and Safety Act and Utah Uniform Building
9 Standards Act to address the process for adopting and modifying a state construction
10 code or state fire code.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ clarifies the enforcement of the state fire code;
- 14 ▶ addresses the adoption and amendment process for a state fire code;
- 15 ▶ addresses the adoption and amendment process for a state construction code; and
- 16 ▶ makes technical and conforming changes.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

- 23 **26-15-3**, as last amended by Laws of Utah 2009, Chapter 339
- 24 **53-7-102**, as renumbered and amended by Laws of Utah 1993, Chapter 234
- 25 **53-7-103**, as last amended by Laws of Utah 2002, Chapter 301
- 26 **53-7-104**, as last amended by Laws of Utah 2007, Chapter 329
- 27 **53-7-106**, as last amended by Laws of Utah 2009, Chapter 339
- 28 **53-7-202**, as last amended by Laws of Utah 2009, Chapter 339
- 29 **53-7-204**, as last amended by Laws of Utah 2009, Chapter 339
- 30 **53-7-209**, as last amended by Laws of Utah 2009, Chapter 339
- 31 **53A-20c-102**, as last amended by Laws of Utah 2008, Chapter 382

- 32 **58-55-305**, as last amended by Laws of Utah 2009, Chapter 228
 33 **58-56-3**, as last amended by Laws of Utah 2009, Chapter 339
 34 **58-56-4**, as last amended by Laws of Utah 2009, Chapter 339
 35 **58-56-5**, as last amended by Laws of Utah 2009, Chapter 339
 36 **58-56-6**, as last amended by Laws of Utah 2009, Chapter 339
 37 **58-56-7**, as last amended by Laws of Utah 2009, Chapter 339
 38 **58-56-9.3**, as last amended by Laws of Utah 2008, Chapter 382
 39 **58-56-12**, as last amended by Laws of Utah 2004, Chapter 75
 40 **58-56-13**, as enacted by Laws of Utah 1990, Chapter 293
 41 **58-56-14**, as enacted by Laws of Utah 1990, Chapter 293
 42 **58-56-15**, as last amended by Laws of Utah 2004, Chapter 75
 43 **58-56-17.5**, as enacted by Laws of Utah 1997, Chapter 385
 44 **58-56-20**, as last amended by Laws of Utah 2009, Chapters 50 and 129
 45 **58-56-21**, as enacted by Laws of Utah 2009, Chapter 129

46 REPEALS:

- 47 **53-7-205**, as last amended by Laws of Utah 2001, Chapter 25

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

50 Section 1. Section **26-15-3** is amended to read:

51 **26-15-3. Department to advise regarding the plumbing code.**

52 (1) The department shall advise the Division of Occupational and Professional
 53 Licensing and the Uniform Building Code Commission with respect to the adoption of a state
 54 construction code [and] under Section 58-56-4, including providing recommendations as to:

55 (a) a specific edition of a plumbing code adopted by a nationally recognized code
 56 authority [to be administered by the Division of Occupational and Professional Licensing]; and

57 (b) any amendments to [that code as provided for under Section 58-56-5] a nationally
 58 recognized code.

59 (2) The department may enforce the plumbing code adopted [~~by the Division of~~
 60 ~~Occupational and Professional Licensing]~~ under Section 58-56-4. [~~The provisions of]~~

61 (3) Section 58-56-9 [~~do~~] does not apply to health inspectors acting under this section.

62 Section 2. Section **53-7-102** is amended to read:

63 **53-7-102. Definitions.**

64 As used in this chapter:

65 (1) "Board" means the Utah Fire Prevention Board created in Section 53-7-203, except
66 as provided in Part 3, Liquefied Petroleum Gas Act.67 [~~(1)~~] (2) "Director" means the state fire marshal appointed in accordance with Section
68 53-7-103.69 [~~(2)~~] (3) "Division" means the State Fire Marshal Division created in Section 53-7-103.70 [~~(3)~~] (4) "Fire officer" means:

71 (a) the state fire marshal;

72 (b) the state fire marshal's deputies or salaried assistants;

73 (c) the fire chief or fire marshal of any county, city, or town fire department;

74 (d) the fire officer of any fire district;

75 (e) the fire officer of any special service district organized for fire protection purposes;

76 and

77 (f) authorized personnel of any of the persons specified in Subsections (4)(a) through

78 (e).

79 (5) "Legislative action" includes legislation that:80 (a) adopts a state fire code;81 (b) amends a state fire code; or82 (c) repeals one or more provisions of a state fire code.83 (6) "State fire code" means the code adopted under Section 53-7-106.84 [~~(4)~~] (7) "State fire marshal" means the fire marshal appointed director by the
85 commissioner under Section 53-7-103.86 Section 3. Section **53-7-103** is amended to read:87 **53-7-103. State Fire Marshal Division -- Creation -- State fire marshal --**88 **Appointment, qualifications, duties, and compensation.**

89 (1) There is created within the department the State Fire Marshal Division.

90 (2) (a) The director of the division is the state fire marshal, who shall be appointed by
91 the commissioner upon the recommendation of the Utah Fire Prevention Board created in
92 Section 53-7-203 and with the approval of the governor.

93 (b) The state fire marshal is the executive and administrative head of the division, and

94 shall be qualified by experience and education to:

95 (i) enforce the state fire code;

96 (ii) enforce rules made under this chapter; and

97 (iii) perform the duties prescribed by the commissioner.

98 (3) The state fire marshal acts under the supervision and control of the commissioner
99 and may be removed from [~~his~~] the position at the will of the commissioner.

100 (4) The state fire marshal shall:

101 (a) enforce the state fire code rules made under this chapter [~~as provided~~] in accordance
102 with Section 53-7-104;

103 (b) complete the duties assigned by the commissioner;

104 (c) examine plans and specifications for school buildings, as required by Section
105 53A-20-104;

106 (d) approve criteria established by the state superintendent for building inspectors;

107 (e) promote and support injury prevention public education programs; and

108 (f) perform all other duties provided in this chapter.

109 (5) The state fire marshal shall receive compensation as provided by Title 67, Chapter
110 19, Utah State Personnel Management Act.

111 Section 4. Section **53-7-104** is amended to read:

112 **53-7-104. Enforcement of state fire code and rules -- Division of authority and**
113 **responsibility.**

114 (1) The authority and responsibility for enforcing the state fire code and rules made
115 under this chapter is divided as provided in this section.

116 (2) The fire officers of any city or county shall enforce the state fire code and rules of
117 the state fire marshal in their respective areas.

118 (3) The state fire marshal may enforce the state fire code and rules in:

119 (a) areas outside of corporate cities, fire protection districts, and other local districts or
120 special service districts organized for fire protection purposes; [~~and~~]

121 (b) state-owned property, school district owned property, and privately owned property
122 used for schools located within corporate cities and county fire protection districts, asylums,
123 mental hospitals, hospitals, sanitariums, homes for the aged, residential health-care facilities,
124 children's homes or institutions, or similar institutional type occupancy of any capacity[-]; and

125 ~~[(4)]~~ (c) ~~[The state fire marshal may enforce the rules in]~~ corporate cities, counties, fire
126 protection districts, and special service districts organized for fire protection purposes upon
127 receiving a request from the chief fire official or the local governing body.

128 Section 5. Section **53-7-106** is amended to read:

129 **53-7-106. Adoption of state fire code.**

130 (1) ~~[A]~~ (a) The state fire code is:

131 (i) a code promulgated by a nationally recognized code authority ~~[and]~~ that is adopted
132 by the Legislature under ~~[Section 58-56-4 is the state fire code;]~~ this section with any
133 modifications; and

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

136 (b) On and after May 12, 2009, the state fire code is the state fire code in effect on May
137 11, 2009, until in accordance with this section:

138 (i) a new state fire code is adopted; or

139 (ii) one or more provisions of the state fire code are amended or repealed in accordance
140 with this section.

141 (c) A provision of the state fire code may be applicable to:

142 (i) the entire state; or

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

144 (2) (a) The Legislature shall adopt a state fire code by enacting legislation that adopts a
145 nationally recognized fire code with any modifications.

146 (b) Legislation enacted under this Subsection (2) shall state that it takes effect on the
147 July 1 after the day on which the legislation is enacted, unless otherwise stated in the
148 legislation.

149 (c) Subject to Subsection (5), a state fire code adopted by the Legislature is the state
150 fire code until in accordance with this section the Legislature adopts a new state fire code by:

151 (i) adopting a new state fire code in its entirety; or

152 (ii) amending or repealing one or more provisions of the state fire code.

153 (3) (a) The board shall by no later than November 30 of each year recommend to the
154 Business and Labor Interim Committee whether the Legislature should:

155 (i) amend or repeal one or more provisions of the state fire code; or

156 (ii) in a year of a regularly scheduled update of a nationally recognized fire code, adopt
157 with any modifications the nationally recognized fire code.

158 (b) The board may recommend legislative action related the state fire code:

159 (i) on its own initiative; or

160 (ii) upon the receipt of a request by a city, county, or fire protection district that the
161 board recommend legislative action related to the state fire code.

162 (c) Within 45 days after receipt of a request under Subsection (3)(b), the board shall
163 direct the division to convene an informal hearing concerning the request.

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

166 (e) The board shall decide whether to include in the report required under Subsection
167 (3)(a) whether to recommend the legislative action raised by a request.

168 (f) Within 15 days following the completion of a hearing of the board under this
169 Subsection (3), the board shall direct the division to notify the entity that made the request of
170 the board's decision regarding the request. The division shall provide the notice:

171 (i) in writing; and

172 (ii) in a form prescribed by the board.

173 (4) If the Business and Labor Interim Committee decides to recommend legislative
174 action to the Legislature, the Business and Labor Interim Committee shall prepare legislation
175 for consideration by the Legislature in the next general session that if passed by the Legislature
176 would:

177 (a) adopt a new state fire code in its entirety; or

178 (b) amend or repeal one or more provisions of the state fire code.

179 (5) (a) Notwithstanding Subsection (3), the board may, in accordance with Title 63G,
180 Chapter 3, Utah Administrative Rulemaking Act, amend a state fire code if the board
181 determines that waiting for legislative action in the next general legislative session would:

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

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

184 (b) If the board amends a state fire code in accordance with this Subsection (5), the
185 board shall:

186 (i) publish the state fire code with the amendment; and

187 (ii) notify the Business and Labor Interim Committee of the adoption, including a copy
 188 of an analysis by the board identifying specific reasons and justifications for its findings.

189 (c) If not formally adopted by the Legislature at its next annual general session, an
 190 amendment to a state fire code adopted under this Subsection (5) is repealed on the July 1
 191 immediately following the next annual general session that follows the adoption of the
 192 amendment.

193 ~~[(2)]~~ (6) (a) The legislative body of a political subdivision may make ordinances that
 194 are more restrictive in its fire code requirements than the state fire code, in order to meet the
 195 public safety needs of the political subdivision.

196 (b) The legislative body of a political subdivision shall provide to the [~~Utah Fire~~
 197 ~~Prevention Board~~] board one copy of each ordinance enacted under this Subsection ~~[(2)(a)]~~ (6).

198 (c) The state fire marshal shall keep an indexed copy of the ordinances.

199 ~~[(Copies of the ordinances are available from the state fire marshal)]~~ The state fire
 200 marshal shall make a copy of an ordinance adopted under this Subsection (6) available on
 201 request.

202 Section 6. Section **53-7-202** is amended to read:

203 **53-7-202. Definitions.**

204 As used in this part:

205 (1) "Agricultural and wildlife fireworks" means a class C dangerous explosive that:

206 (a) uses sound or light when deployed; and

207 (b) is designated to prevent crop damage or unwanted animals from entering a
 208 specified area.

209 ~~[(2) "Board" means the Utah Fire Prevention Board created in Section 53-7-203.]~~

210 ~~[(3)]~~ (2) "Class A explosive" means a division 1.1 or 1.2 explosive as defined by the
 211 [~~U.S.~~] United States Department of Transportation in Part 173, Title 49, Code of Federal
 212 Regulations.

213 ~~[(4)]~~ (3) "Class B explosive" means a division 1.2 or 1.3G explosive as defined by the
 214 [~~U.S.~~] United States Department of Transportation in Part 173, Title 49, Code of Federal
 215 Regulations.

216 ~~[(5)]~~ (4) "Class C explosive" means a division 1.4G explosive as defined by the [~~U.S.~~]
 217 United States Department of Transportation in Part 173, Title 49, Code of Federal Regulations.

218 ~~(6)~~ (5) (a) "Class C common state approved explosive" means a class C explosive
219 that is:

220 (i) a cardboard or heavy paper cylindrical tube or cone that:

221 (A) produces a shower of color and sparks that reach a maximum height of 15 feet;

222 (B) may whistle or pop; and

223 (C) is not designed to explode or leave the ground;

224 (ii) a pyrotechnic wheel device that:

225 (A) may be attached to a post or tree; and

226 (B) contains up to six "driver" units or tubes;

227 (iii) any device that:

228 (A) spins, jumps, or emits popping sounds when placed on the ground;

229 (B) does not exceed a height of 15 feet when discharged; and

230 (C) does not travel laterally more than ten feet on a smooth surface when discharged;

231 (iv) a morning glory, suzuki, or flitter sparkler; and

232 (v) a single tube day type parachute that does not carry any flare or flame upon descent.

233 (b) "Class C common state approved explosive" does not mean:

234 (i) class C dangerous explosives; or

235 (ii) exempt explosives.

236 ~~(7)~~ (6) (a) "Class C dangerous explosive" means a class C explosive that is:

237 (i) a firecracker, cannon cracker, salute, cherry bomb, or other similar explosive;

238 (ii) a skyrocket or any device other than a model rocket that uses combustible or

239 explosive material and rises more than 15 feet when discharged;

240 (iii) a roman candle or other device that discharges balls of fire over 15 feet in height;

241 (iv) a tube or cone aerial firework that propels comets, shells, salutes, flash shells, or

242 similar devices more than 15 feet into the air; and

243 (v) a chaser, whistler, or other device that darts or travels more than ten feet laterally

244 on a smooth surface or exceeds 15 feet in height when discharged.

245 (b) A "class C dangerous explosive" does not mean:

246 (i) class C common state approved explosives; or

247 (ii) exempt explosives.

248 ~~(8)~~ (7) "Display fireworks" means an aerial shell, salute, flash shell, comet, sky battle,

249 mine, and any similar class C explosive or class B explosive.

250 ~~[(9)]~~ (8) (a) "Display operator" means the person who purchases and is responsible for
251 setting up and discharging display fireworks.

252 (b) "Display operator" does not mean a fire department.

253 ~~[(10)]~~ (9) "Exempt explosive" means a model rocket, toy pistol cap, emergency signal
254 flare, snake or glow worm, party popper, trick noisemaker, match, and wire sparkler under 12
255 inches in length.

256 ~~[(11)]~~ (10) (a) "Fireworks" means:

257 (i) class C explosives;

258 (ii) class C dangerous explosives; and

259 (iii) class C common state approved explosives.

260 (b) "Fireworks" does not mean:

261 (i) exempt explosives;

262 (ii) class A explosives; and

263 (iii) class B explosives.

264 ~~[(12)]~~ (11) "Importer" means a person who brings class B or class C explosives into
265 Utah for the general purpose of resale within the state or exportation to other states.

266 ~~[(13)]~~ (12) (a) "Pyrotechnic" means any composition or device manufactured or used to
267 produce a visible or audible effect by combustion, deflagration, or detonation.

268 (b) "Pyrotechnic" does not mean exempt explosives.

269 ~~[(14)]~~ (13) "Retail seller" means a person who sells class C common state approved
270 explosives to the public during the period authorized under Section 53-7-225.

271 ~~[(15) "State fire code" means a nationally recognized fire code administered by the
272 Utah Fire Prevention Board pursuant to Section 53-7-204.]~~

273 ~~[(16)]~~ (14) "Trick noisemaker" includes a:

274 (a) tube or sphere containing pyrotechnic composition that produces a white or colored
275 smoke as its primary effect when ignited; and

276 (b) device that produces a small report intended to surprise the user, including a:

277 (i) "booby trap," which is a small tube with a string protruding from both ends that
278 ignites the friction sensitive composition in the tube when the string is pulled;

279 (ii) "snapper," which is a small paper-wrapped device containing a minute quantity of

- 280 explosive composition coated on bits of sand that explodes producing a small report;
- 281 (iii) "trick match," which is a kitchen or book match coated with a small quantity of
- 282 explosive or pyrotechnic composition that produces a small shower of sparks when ignited;
- 283 (iv) "cigarette load," which is a small wooden peg coated with a small quantity of
- 284 explosive composition that produces a small report when the cigarette is ignited; and
- 285 (v) "auto burglar alarm," which is a tube that:
- 286 (A) contains pyrotechnic composition that produces a loud whistle and smoke when
- 287 ignited;
- 288 (B) may contain a small quantity of explosive to produce a small explosive noise; and
- 289 (C) is ignited by a squib.
- 290 [(17)] (15) "Unclassified fireworks" means any of the following:
- 291 (a) a pyrotechnic device that is used, given away, or offered for sale, that has not been
- 292 tested, approved, and classified by the [U.S.] United States Department of Transportation;
- 293 (b) an approved device that has been altered or redesigned since obtaining approval by
- 294 the [U.S.] United States Department of Transportation; and
- 295 (c) a pyrotechnic device that is being tested by a manufacturer, importer, or wholesaler
- 296 before receiving approval by the [U.S.] United States Department of Transportation.
- 297 [(18)] (16) "Wholesaler" means any of the following:
- 298 (a) a person who sells class C common state approved explosives to a retailer; and
- 299 (b) a person who sells class B explosives or class C dangerous explosives for display
- 300 use.

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

302 **53-7-204. Duties of Utah Fire Prevention Board -- Local administrative duties.**

303 (1) The board shall:

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

305 [(a)] (b) subject to the state fire code, make rules in accordance with Title 63G,

306 Chapter 3, Utah Administrative Rulemaking Act:

307 [(i) administer a nationally recognized fire code and the specific edition of that fire

308 code as the state fire code to be used as the standard;]

309 [(ii)] (i) establishing minimum standards for the prevention of fire and for the

310 protection of life and property against fire and panic in any:

311 (A) publicly owned building, including all public and private schools, colleges, and
312 university buildings;

313 (B) building or structure used or intended for use as an asylum, a mental hospital, a
314 hospital, a sanitarium, a home for the aged, an assisted living facility, a children's home or day
315 care center, or any similar institutional type occupancy of any capacity; and

316 (C) place of assemblage where 50 or more persons may gather together in a building,
317 structure, tent, or room for the purpose of amusement, entertainment, instruction, or education;

318 ~~[(iii)]~~ (ii) establishing safety and other requirements for placement and discharge of
319 display fireworks ~~[based upon]~~ on the basis of:

320 (A) the ~~[specific edition of the nationally recognized fire code adopted by the~~
321 ~~Legislature under Section 58-56-4]~~ state fire code; and

322 (B) relevant publications of the National Fire Protection Association;

323 ~~[(iv)]~~ (iii) establishing minimum safety standards for retail storage, handling, and sale
324 of class C common state approved explosives;

325 ~~[(v)]~~ (iv) defining methods to establish proof of competence to place and discharge
326 display fireworks;

327 ~~[(vi)]~~ (v) for deputizing qualified persons to act as deputy fire marshals, and to secure
328 special services in emergencies;

329 ~~[(vii)]~~ (vi) implementing ~~[Sections 53-7-106 and 53-7-205]~~ Section 53-7-106;

330 ~~[(viii)]~~ (vii) setting guidelines for use of funding;

331 ~~[(ix)]~~ (viii) establishing criteria for training and safety equipment grants for fire
332 departments enrolled in firefighter certification; and

333 ~~[(x)]~~ (ix) establishing minimum ongoing training standards for hazardous materials
334 emergency response agencies;

335 ~~[(b)]~~ (c) recommend to the commissioner a state fire marshal;

336 ~~[(c)]~~ (d) develop policies under which the state fire marshal and the state fire marshal's
337 authorized representatives will perform;

338 ~~[(d)]~~ (e) provide for the employment of field assistants and other salaried personnel as
339 required;

340 ~~[(e)]~~ (f) prescribe the duties of the state fire marshal and the state fire marshal's
341 authorized representatives;

342 ~~[(f)]~~ (g) establish a statewide fire prevention, fire education, and fire service training
343 program in cooperation with the Board of Regents;

344 ~~[(g)]~~ (h) establish a statewide fire statistics program for the purpose of gathering fire
345 data from all political subdivisions of the state;

346 ~~[(h)]~~ (i) establish a fire academy in accordance with Section 53-7-204.2;

347 ~~[(i)]~~ (j) coordinate the efforts of all people engaged in fire suppression in the state;

348 ~~[(j)]~~ (k) work aggressively with the local political subdivisions to reduce fire losses;

349 ~~[(k)]~~ (l) regulate the sale and servicing of portable fire extinguishers and automatic fire
350 suppression systems in the interest of safeguarding lives and property;

351 ~~[(l)]~~ (m) establish a certification program for persons who inspect and test automatic
352 fire sprinkler systems;

353 ~~[(m)]~~ (n) establish a certification program for persons who inspect and test fire alarm
354 systems;

355 ~~[(n)]~~ (o) establish a certification for persons who provide response services regarding
356 hazardous materials emergencies; and

357 ~~[(o)]~~ (p) in accordance with Section ~~[58-56-4, make a]~~ 53-7-106 report to the Business
358 and Labor Interim Committee ~~[by:]~~.

359 ~~[(i) no later than November 30 of each year recommending any amendments to the~~
360 ~~currently adopted fire code; and]~~

361 ~~[(ii) no later than November 30 in a year of a regularly scheduled update cycle of a~~
362 ~~nationally promulgated fire code recommending the adoption of, amendment to, or repeal of~~
363 ~~the updated nationally promulgated fire code.]~~

364 (2) The board may incorporate in its rules by reference, in whole or in part[;];

365 (a) the state fire code; or

366 (b) subject to the state fire code, a nationally recognized and readily available

367 ~~[standards and codes adopted by the Legislature]~~ standard pertaining to the protection of life
368 and property from fire, explosion, or panic.

369 ~~[(3)(a) The board shall recommend to the Legislature in accordance with Subsection~~
370 ~~(1)(o) amendments to the state fire code adopted by the Legislature in accordance with Section~~
371 ~~58-56-7.]~~

372 ~~[(b) The amendments, as adopted by the Legislature, may be applicable to the entire~~

373 ~~state or within a city, county, or fire protection district.]~~

374 (4) The following functions shall be administered locally by a city, county, or fire
375 protection district:

376 (a) issuing permits, including open burning permits pursuant to Sections 11-7-1 and
377 19-2-114;

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

379 (c) establishing, modifying, or deleting fire flow and water supply requirements.

380 Section 8. Section **53-7-209** is amended to read:

381 **53-7-209. Inspection of buildings by officials.**

382 (1) A fire chief or officer may enter [~~any~~] a building or premises not used as a private
383 dwelling at any reasonable hour to inspect the building or premises and enforce the rules made
384 under this part[~~, including~~] and the state fire code [~~adopted under Section 58-56-4~~].

385 (2) The owner, lessee, manager, or operator of [~~any~~] a building or premises not used as
386 a private dwelling shall permit inspections under this section.

387 Section 9. Section **53A-20c-102** is amended to read:

388 **53A-20c-102. Energy Efficiency Fund -- Contents -- Use of fund monies.**

389 (1) As used in this section:

390 (a) "Board" means the Board of the Utah Geological Survey.

391 (b) "Energy code" means the energy efficiency code adopted [~~by the Division of~~
392 ~~Occupational and Professional Licensing~~] under Section 58-56-4.

393 (c) "Energy efficiency project" means:

394 (i) for existing buildings, a retrofit to improve energy efficiency; or

395 (ii) for new buildings, an enhancement to improve energy efficiency beyond the
396 minimum required by the energy code.

397 (d) "Fund" means the Energy Efficiency Fund created by this part.

398 (2) There is created a revolving loan fund known as the Energy Efficiency Fund.

399 (3) The fund shall consist of:

400 (a) monies appropriated to it by the Legislature;

401 (b) monies received for the repayment of loans made from the fund;

402 (c) monies made available to the state for energy efficiency from any source; and

403 (d) interest earned on the fund.

404 (4) (a) The board shall make loans from the fund only to school districts to finance
405 energy efficiency projects in school district buildings, including paying the costs of
406 construction, engineering, investigation, inspection, and other related expenses.

407 (b) The board may not:

408 (i) make loans from the fund to finance a school district's compliance with the energy
409 code in the construction of a new building;

410 (ii) make a loan from the fund with a term of less than two years or more than 12 years;
411 or

412 (iii) make loans from the fund to any entity other than a school district.

413 (5) (a) (i) Each school district seeking a loan shall submit an application to the board in
414 the form and containing the information that the board requires, which shall include the plans
415 and specifications for the proposed energy efficiency project.

416 (ii) In the application, the school district may request a loan to cover all or part of the
417 cost of an energy efficiency project.

418 (b) If an application is rejected, the board shall notify the applicant stating the reasons
419 for the rejection.

420 (6) (a) By following the procedures and requirements of Title 63G, Chapter 3, Utah
421 Administrative Rulemaking Act, the board shall make rules establishing criteria for:

422 (i) determining eligibility for loans; and

423 (ii) determining appropriate priorities among projects.

424 (b) In making rules governing determining priorities for eligible projects, the board
425 may consider:

426 (i) possible additional sources of revenue;

427 (ii) the feasibility and practicality of the project;

428 (iii) the energy savings attributable to an eligible energy efficiency project;

429 (iv) the annual energy cost savings attributable to an eligible energy efficiency project;

430 (v) the projected energy cost payback of an eligible energy efficiency project;

431 (vi) the financial need of the public facility owner;

432 (vii) the environmental and other benefits to the state and local community attributable
433 to an eligible energy efficiency project; and

434 (viii) the availability of federal funds for the project.

- 435 (7) (a) In approving a project, the board shall:
- 436 (i) review the loan application and the plans and specifications for the project;
- 437 (ii) determine whether or not to grant the loan by applying its eligibility criteria; and
- 438 (iii) if the loan is granted, prioritize the project by applying its priority criteria.
- 439 (b) The board may condition approval of a loan request and the availability of funds on
- 440 assurances from the school district that the board considers necessary to ensure that:
- 441 (i) the proceeds of the loan will be used to pay the cost of the project; and
- 442 (ii) the project will be completed.
- 443 (8) Employees of the state energy program shall serve as staff to the board when it
- 444 performs the duties established in this section.

445 Section 10. Section **58-55-305** is amended to read:

446 **58-55-305. Exemptions from licensure.**

- 447 (1) In addition to the exemptions from licensure in Section 58-1-307, the following
- 448 persons may engage in acts or practices included within the practice of construction trades,
- 449 subject to the stated circumstances and limitations, without being licensed under this chapter:
- 450 (a) an authorized representative of the United States government or an authorized
- 451 employee of the state or any of its political subdivisions when working on construction work of
- 452 the state or the subdivision, and when acting within the terms of the person's trust, office, or
- 453 employment;
- 454 (b) a person engaged in construction or operation incidental to the construction and
- 455 repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation
- 456 districts, and drainage districts or construction and repair relating to farming, dairying,
- 457 agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel
- 458 excavations, well drilling, as defined in Section 73-3-25, hauling to and from construction
- 459 sites, and lumbering;
- 460 (c) public utilities operating under the rules of the Public Service Commission on
- 461 construction work incidental to their own business;
- 462 (d) sole owners of property engaged in building:
- 463 (i) no more than one residential structure per year and no more than three residential
- 464 structures per five years on their property for their own noncommercial, nonpublic use; except,
- 465 a person other than the property owner or individuals described in Subsection (1)(e), who

466 engages in building the structure must be licensed under this chapter if the person is otherwise
467 required to be licensed under this chapter; or

468 (ii) structures on their property for their own noncommercial, nonpublic use which are
469 incidental to a residential structure on the property, including sheds, carports, or detached
470 garages;

471 (e) (i) a person engaged in construction or renovation of a residential building for
472 noncommercial, nonpublic use if that person:

473 (A) works without compensation other than token compensation that is not considered
474 salary or wages; and

475 (B) works under the direction of the property owner who engages in building the
476 structure; and

477 (ii) as used in this Subsection (1)(e), "token compensation" means compensation paid
478 by a sole owner of property exempted from licensure under Subsection (1)(d) to a person
479 exempted from licensure under this Subsection (1)(e), that is:

480 (A) minimal in value when compared with the fair market value of the services
481 provided by the person;

482 (B) not related to the fair market value of the services provided by the person; and

483 (C) is incidental to the providing of services by the person including paying for or
484 providing meals or refreshment while services are being provided, or paying reasonable
485 transportation costs incurred by the person in travel to the site of construction;

486 (f) a person engaged in the sale or merchandising of personal property that by its design
487 or manufacture may be attached, installed, or otherwise affixed to real property who has
488 contracted with a person, firm, or corporation licensed under this chapter to install, affix, or
489 attach that property;

490 (g) a contractor submitting a bid on a federal aid highway project, if, before
491 undertaking construction under that bid, the contractor is licensed under this chapter;

492 (h) (i) a person engaged in the alteration, repair, remodeling, or addition to or
493 improvement of a building with a contracted or agreed value of less than \$3,000, including
494 both labor and materials, and including all changes or additions to the contracted or agreed
495 upon work; and

496 (ii) notwithstanding Subsection (1)(h)(i) and except as otherwise provided in this

497 section:

498 (A) work in the plumbing and electrical trades on a Subsection (1)(h)(i) project within
499 any six month period of time:

500 (I) must be performed by a licensed electrical or plumbing contractor, if the project
501 involves an electrical or plumbing system; and

502 (II) may be performed by a licensed journeyman electrician or plumber or an individual
503 referred to in Subsection (1)(h)(ii)(A)(I), if the project involves a component of the system
504 such as a faucet, toilet, fixture, device, outlet, or electrical switch;

505 (B) installation, repair, or replacement of a residential or commercial gas appliance or a
506 combustion system on a Subsection (1)(h)(i) project must be performed by a person who has
507 received certification under Subsection 58-55-308(2) except as otherwise provided in
508 Subsection 58-55-308(2)(d) or 58-55-308(3);

509 (C) installation, repair, or replacement of water-based fire protection systems on a
510 Subsection (1)(h)(i) project must be performed by a licensed fire suppression systems
511 contractor or a licensed journeyman plumber;

512 (D) work as an alarm business or company or as an alarm company agent shall be
513 performed by a licensed alarm business or company or a licensed alarm company agent, except
514 as otherwise provided in this chapter;

515 (E) installation, repair, or replacement of an alarm system on a Subsection (1)(h)(i)
516 project must be performed by a licensed alarm business or company or a licensed alarm
517 company agent;

518 (F) installation, repair, or replacement of a heating, ventilation, or air conditioning
519 system (HVAC) on a Subsection (1)(h)(i) project must be performed by an HVAC contractor
520 licensed by the division;

521 (G) installation, repair, or replacement of a radon mitigation system or a soil
522 depressurization system must be performed by a licensed contractor; and

523 (H) if the total value of the project is greater than \$1,000, the person shall file with the
524 division a one-time affirmation, subject to periodic reaffirmation as established by division
525 rule, that the person has:

526 (I) public liability insurance in coverage amounts and form established by division
527 rule; and

528 (II) if applicable, workers compensation insurance which would cover an employee of
529 the person if that employee worked on the construction project;

530 (i) a person practicing a specialty contractor classification or construction trade which
531 the director does not classify by administrative rule as significantly impacting the public's
532 health, safety, and welfare;

533 (j) owners and lessees of property and persons regularly employed for wages by owners
534 or lessees of property or their agents for the purpose of maintaining the property, are exempt
535 from this chapter when doing work upon the property;

536 (k) (i) a person engaged in minor plumbing work incidental to the replacement or
537 repair of a fixture or an appliance in a residential or small commercial building, or structure
538 used for agricultural use, as defined in Section [~~58-56-4~~] 58-56-3, provided that no
539 modification is made to:

540 (A) existing culinary water, soil, waste, or vent piping; or

541 (B) a gas appliance or combustion system; and

542 (ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or
543 an appliance is not included in the exemption provided under Subsection (1)(k)(i);

544 (l) a person who ordinarily would be subject to the plumber licensure requirements
545 under this chapter when installing or repairing a water conditioner or other water treatment
546 apparatus if the conditioner or apparatus:

547 (i) meets the appropriate state construction codes or local plumbing standards; and

548 (ii) is installed or repaired under the direction of a person authorized to do the work
549 under an appropriate specialty contractor license;

550 (m) a person who ordinarily would be subject to the electrician licensure requirements
551 under this chapter when employed by:

552 (i) railroad corporations, telephone corporations or their corporate affiliates, elevator
553 contractors or constructors, or street railway systems; or

554 (ii) public service corporations, rural electrification associations, or municipal utilities
555 who generate, distribute, or sell electrical energy for light, heat, or power;

556 (n) a person involved in minor electrical work incidental to a mechanical or service
557 installation;

558 (o) a student participating in construction trade education and training programs

559 approved by the commission with the concurrence of the director under the condition that:

560 (i) all work intended as a part of a finished product on which there would normally be
561 an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed
562 building inspector; and

563 (ii) a licensed contractor obtains the necessary building permits; and

564 (p) a delivery person when replacing any of the following existing equipment with a
565 new gas appliance, provided there is an existing gas shutoff valve at the appliance:

566 (i) gas range;

567 (ii) gas dryer;

568 (iii) outdoor gas barbeque; or

569 (iv) outdoor gas patio heater.

570 (2) A compliance agency as defined in Subsection 58-56-3(4) that issues a building
571 permit to a person requesting a permit as a sole owner of property referred to in Subsection
572 (1)(d) shall notify the division, in writing or through electronic transmission, of the issuance of
573 the permit.

574 Section 11. Section **58-56-3** is amended to read:

575 **58-56-3. Definitions.**

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

577 [~~(1)(a) "Adopted code" means:~~]

578 [~~(i) (A) a new edition of or amendment to an existing code, including the standards and
579 specifications contained in the code, adopted by the Legislature under Section 58-56-7; and]~~

580 [~~(B) administered by the division under Section 58-56-6; and]~~

581 [~~(ii) adopted by a nationally recognized code authority, including:]~~

582 [~~(A) a building code;]~~

583 [~~(B) the National Electrical Code promulgated by the National Fire Protection
584 Association;]~~

585 [~~(C) a residential one and two family dwelling code;]~~

586 [~~(D) a plumbing code;]~~

587 [~~(E) a mechanical code;]~~

588 [~~(F) a fuel gas code;]~~

589 [~~(G) an energy conservation code; and]~~

- 590 ~~[(H) a manufactured housing installation standard code.]~~
- 591 ~~[(b) "Adopted code" includes:]~~
- 592 ~~[(i) a fire code administered by the Fire Prevention Board under Section 53-7-204; and]~~
- 593 ~~[(ii) a code listed in Subsection (1)(a)(ii) that was adopted or amended by the division~~
- 594 ~~and Uniform Building Code Commission or the Fire Protection Board before May 12, 2009.]~~
- 595 (1) "Agricultural use" means a use that relates to the tilling of soil and raising of crops,
- 596 or keeping or raising domestic animals.
- 597 (2) (a) ~~[(i)]~~ "Approved code" means a code, including the standards and specifications
- 598 contained in the code, approved by the division under Section 58-56-4 for use by a compliance
- 599 agency~~[-and]~~.
- 600 ~~[(ii) administered by the division under Section 58-56-6.]~~
- 601 (b) "Approved code" does not include ~~[an adopted]~~ a state construction code ~~[listed~~
- 602 ~~under Subsection (1)(b)].~~
- 603 ~~[(3) "Board" means the Fire Prevention Board created in Section 53-7-203.]~~
- 604 ~~[(4)]~~ (3) "Building" means a structure used or intended for supporting or sheltering any
- 605 use or occupancy and any improvements attached to it.
- 606 (4) "Code" means:
- 607 (a) a state construction code; or
- 608 (b) an approved code.
- 609 (5) "Commission" means the Uniform Building Code Commission created under this
- 610 chapter.
- 611 (6) "Compliance agency" means:
- 612 (a) an agency of the state or any of its political subdivisions which issues permits for
- 613 construction regulated under the codes;
- 614 (b) any other agency of the state or its political subdivisions specifically empowered to
- 615 enforce compliance with the codes; or
- 616 (c) any other state agency which chooses to enforce codes adopted under this chapter
- 617 by authority given the agency under a title other than Title 58, Occupations and Professions.
- 618 (7) "Factory built housing" means manufactured homes or mobile homes.
- 619 (8) (a) "Factory built housing set-up contractor" means an individual licensed by the
- 620 division to set up or install factory built housing on a temporary or permanent basis.

621 (b) The scope of the work included under the license includes the placement or
 622 securing, or both placement and securing, of the factory built housing on a permanent or
 623 temporary foundation, securing the units together if required, and connection of the utilities to
 624 the factory built housing unit, but does not include site preparation, construction of a
 625 permanent foundation, and construction of utility services to the near proximity of the factory
 626 built housing unit.

627 (c) If a dealer is not licensed as a factory built housing set-up contractor, that individual
 628 must subcontract the connection services to individuals who are licensed by the division to
 629 perform those specific functions under Title 58, Chapter 55, Utah Construction Trades
 630 Licensing Act.

631 (9) "Construction code" means standards and specifications published by a nationally
 632 recognized code authority for use in circumstances described in Subsection 58-56-4(1),
 633 including:

634 (a) a building code;

635 (b) the National Electrical Code promulgated by the National Fire Protection
 636 Association;

637 (c) a residential one and two family dwelling code;

638 (d) a plumbing code;

639 (e) a mechanical code;

640 (f) a fuel gas code;

641 (g) an energy conservation code; and

642 (h) a manufactured housing installation standard code.

643 ~~[(9)]~~ (10) "HUD code" means the National Manufactured Housing Construction and
 644 Safety Standards Act, 42 U.S.C. Sec. 5401 et seq.

645 ~~[(10)]~~ (11) "Legislative action" ~~[means the Legislature's]~~ includes legislation that:

646 (a) ~~[adoption of]~~ adopts a new [adopted] state construction code;

647 (b) ~~[adoption of an amendment to an existing adopted]~~ amends a state construction
 648 code; or

649 (c) ~~[repeal of an adopted]~~ repeals one or more provisions of a state construction code[;

650 or].

651 ~~[(d) repeal of a provision of an adopted code.]~~

652 ~~[(11)]~~ (12) "Local regulator" means ~~[each]~~ a political subdivision of the state ~~[which]~~
653 that is empowered to engage in the regulation of construction, alteration, remodeling, building,
654 repair, and other activities subject to the codes.

655 ~~[(12)]~~ (13) (a) "Manufactured home" means a transportable factory built housing unit
656 constructed on or after June 15, 1976, according to the HUD Code, in one or more sections,
657 which:

658 (i) in the traveling mode, is eight body feet or more in width or 40 body feet or more in
659 length, or when erected on site, is 400 or more square feet; and

660 (ii) is built on a permanent chassis and designed to be used as a dwelling with or
661 without a permanent foundation when connected to the required utilities, and includes the
662 plumbing, heating, air-conditioning, and electrical systems.

663 (b) Manufactured homes constructed on or after June 15, 1976, shall be identifiable by
664 the manufacturer's data plate bearing the date the unit was manufactured and a HUD label
665 attached to the exterior of the home certifying the home was manufactured to HUD standards.

666 ~~[(13)]~~ (14) "Mobile home" means a transportable factory built housing unit built prior
667 to June 15, 1976, in accordance with a state mobile home code which existed prior to the HUD
668 Code.

669 ~~[(14)]~~ (15) "Modular unit" means a structure built from sections which are
670 manufactured in accordance with the state construction ~~[standards]~~ code adopted pursuant to
671 Section 58-56-4 and transported to a building site, the purpose of which is for human
672 habitation, occupancy, or use.

673 (16) "Not for human occupancy" means use of a structure for purposes other than
674 protection or comfort of human beings, but allows people to enter the structure for:

675 (a) maintenance and repair; and

676 (b) the care of livestock, crops, or equipment intended for agricultural use which are
677 kept there.

678 ~~[(15)]~~ (17) "Opinion" means a written, nonbinding, and advisory statement issued by
679 the commission concerning an interpretation of the meaning of the codes or the application of
680 the codes in a specific circumstance issued in response to a specific request by a party to the
681 issue.

682 (18) "State construction code" means a construction code adopted by the Legislature in

683 accordance with Section 58-56-4.

684 ~~[(16)]~~ (19) "State regulator" means an agency of the state which is empowered to
 685 engage in the regulation of construction, alteration, remodeling, building, repair, and other
 686 activities subject to the codes adopted pursuant to this chapter.

687 Section 12. Section **58-56-4** is amended to read:

688 **58-56-4. Adoption of state construction code -- Amendments -- Approval of other**
 689 **codes -- Exemptions.**

690 ~~[(1) As used in this section:]~~

691 ~~[(a) "agricultural use" means a use that relates to the tilling of soil and raising of crops,~~
 692 ~~or keeping or raising domestic animals;]~~

693 ~~[(b) "not for human occupancy" means use of a structure for purposes other than~~
 694 ~~protection or comfort of human beings, but allows people to enter the structure for:]~~

695 ~~[(i) maintenance and repair; and]~~

696 ~~[(ii) the care of livestock, crops, or equipment intended for agricultural use which are~~
 697 ~~kept there; and]~~

698 ~~[(c) "residential area" means land that is not used for an agricultural use and is:]~~

699 ~~[(i) (A) within the boundaries of a city or town; and]~~

700 ~~[(B) less than five contiguous acres;]~~

701 ~~[(ii) (A) within a subdivision for which the county has approved a subdivision plat~~
 702 ~~under Title 17, Chapter 27a, Part 6, Subdivisions; and]~~

703 ~~[(B) less than two contiguous acres; or]~~

704 ~~[(iii) not located in whole or in part in an agricultural protection area created under~~
 705 ~~Title 17, Chapter 41, Agriculture and Industrial Protection Areas.]~~

706 (1) (a) A state construction code is a construction code adopted with any modifications
 707 in accordance with this section that the state and each political subdivision of the state shall
 708 follow.

709 ~~[(2)]~~ (b) A person shall ~~[follow an adopted code]~~ comply with the applicable state
 710 construction code when:

711 ~~[(a)]~~ (i) new construction is involved; and

712 ~~[(b)]~~ (ii) the owner of an existing building, or the owner's agent, is voluntarily engaged
 713 in:

714 ~~[(i)]~~ (A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation,
715 conservation, or reconstruction of the building; or

716 ~~[(ii)]~~ (B) changing the character or use of the building in a manner ~~[which]~~ that
717 increases the occupancy loads, other demands, or safety risks of the building.

718 ~~[(3)(a) Beginning May 12, 2009, the board and commission shall, in accordance with~~
719 ~~Sections 53-7-204 and 58-56-5, make recommendations to the Business and Labor Interim~~
720 ~~Committee as to whether or not the Legislature should take legislative action.]~~

721 (c) On and after May 12, 2009, a state construction code is the state construction code
722 in effect on May 11, 2009, until in accordance with this section:

723 (i) a new state construction code is adopted; or

724 (ii) one or more provisions of the state construction code are amended or repealed in
725 accordance with this section.

726 (d) A provision of a state construction code may be applicable to:

727 (i) the entire state; or

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

729 (2) (a) The Legislature shall adopt a state construction code by enacting legislation that
730 adopts a construction code with any modifications.

731 (b) Legislation enacted under this Subsection (2) shall state that it takes effect on the
732 July 1 after the day on which the legislation is enacted, unless otherwise stated in the
733 legislation.

734 (c) Subject to Subsection (5), a state construction code adopted by the Legislature is the
735 state construction code until in accordance with this section the Legislature adopts a new state
736 construction code by:

737 (i) adopting a new state construction code in its entirety; or

738 (ii) amending or repealing one or more provisions of the state construction code.

739 (3) (a) The commission shall by no later than November 30 of each year recommend to
740 the Business and Labor Interim Committee whether the Legislature should:

741 (i) amend or repeal one or more provision of a state construction code; or

742 (ii) in a year of a regularly scheduled update of a nationally recognized code, adopt a
743 construction code with any modifications.

744 (b) The commission may recommend legislative action related to a state construction

745 code:

746 (i) on its own initiative;

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

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

749 recommend legislative action related to the state construction code:

750 (A) a local regulator;

751 (B) a state regulator;

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

753 (D) the Construction Services Commission;

754 (E) the Electrician Licensing Board;

755 (F) the Plumbers Licensing Board; or

756 (G) a recognized construction-related association.

757 ~~[(b)-(i)]~~ (4) If the Business and Labor Interim Committee decides to recommend

758 legislative action to the Legislature, the Business and Labor Interim Committee shall prepare

759 legislation for consideration by the Legislature in the next general session[;] that if passed by

760 the Legislature would:

761 (a) adopt a new state construction code in its entirety; or

762 (b) amend or repeal one or more provisions of a state construction code.

763 ~~[(ii) The legislation described in Subsection (3)(b)(i) shall direct:]~~

764 ~~[(A) the division to administer an adopted code, excluding the fire code, in accordance~~

765 ~~with legislative action approved by the Legislature; and]~~

766 ~~[(B) the board to administer an adopted fire code in accordance with legislative action~~

767 ~~approved by the Legislature.]~~

768 ~~[(4)]~~ (5) (a) Notwithstanding Subsection (3), the commission may, in accordance with

769 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, ~~[adopt an adopted code, except the~~

770 ~~fire code,]~~ amend a state construction code if the commission determines that waiting for

771 legislative action in the next general legislative session ~~[under Subsection (3)]~~ would:

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

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

774 (b) If the commission ~~[adopts an adopted]~~ amends a state construction code ~~[under~~

775 ~~Subsection (4)(a)]~~ in accordance with this Subsection (5), the commission shall file with the

776 division:

777 (i) the text of the ~~[adopted]~~ amendment to the state construction code; and

778 (ii) an analysis that includes the specific reasons and justifications for ~~[its]~~ the
779 commission's findings.

780 (c) ~~[The]~~ If a state construction code is amended under this Subsection (5), the division
781 shall~~[, in accordance with Subsection (4)(b)]~~:

782 (i) publish the ~~[adopted]~~ amendment to the state construction code in accordance with
783 Section 58-56-6; and

784 (ii) notify the Business and Labor Interim Committee of the ~~[adoption]~~ amendment to
785 the state construction code, including a copy of the commission's analysis described in
786 Subsection (5)(b).

787 (d) If not formally adopted by the Legislature at its next annual general session, an
788 ~~[adopted]~~ amendment to a state construction code ~~[adopted]~~ under this Subsection ~~[(4)]~~ (5) is
789 repealed ~~[effective at midnight on the last day that the Legislature adjourns sine die at its]~~ on
790 the July 1, immediately following the next annual general session that follows the adoption of
791 the amendment.

792 ~~[(5)(a) Notwithstanding Subsection (3), the board may, in accordance with Title 63G,~~
793 ~~Chapter 3, Utah Administrative Rulemaking Act, adopt a fire code, if the board determines that~~
794 ~~waiting for legislative action in the next general legislative session under Subsection (3)~~
795 ~~would:]~~

796 ~~[(i) cause an imminent peril to the public health, safety, or welfare; or]~~

797 ~~[(ii) place a person in violation of federal or other state law.]~~

798 ~~[(b) The board shall:]~~

799 ~~[(i) publish the adopted fire code; and]~~

800 ~~[(ii) notify the Business and Labor Interim Committee of the adoption, including a~~
801 ~~copy of an analysis by the board identifying specific reasons and justifications for its findings.]~~

802 ~~[(c) If not formally adopted by the Legislature at its next annual general session, a fire~~
803 ~~code adopted under this Subsection (5) is repealed effective at midnight on the last day that the~~
804 ~~Legislature adjourns sine die at its next annual general session.]~~

805 (6) (a) The division, in consultation with the commission, ~~[has discretion to]~~ may
806 approve, without adopting, [certain] one or more approved codes, including a specific

807 ~~[editions]~~ edition of ~~[the approved codes]~~ a state construction code, for use by a compliance
808 agency.

809 (b) ~~[Under]~~ If the code adopted by a compliance agency is an approved code described
810 in Subsection (6)(a), [a] the compliance agency [has the discretion to] may:

811 (i) adopt an ordinance requiring removal, demolition, or repair of a building[;
812 ~~according to an adopted code];~~

813 (ii) adopt, by ordinance or rule, a dangerous building code; or

814 (iii) adopt, by ordinance or rule, a building rehabilitation code.

815 (7) (a) Except ~~[in a residential area]~~ as provided in Subsection (7)(b), a structure used
816 solely in conjunction with agriculture use, and not for human occupancy, is ~~[exempted]~~ exempt
817 from the permit requirements of ~~[an adopted]~~ a state construction code.

818 (b) (i) ~~[Notwithstanding]~~ Unless exempted by a provision other than Subsection (7)(a),
819 ~~[unless otherwise exempted,]~~ a plumbing, electrical, and mechanical ~~[permits]~~ permit may be
820 required when that work is included in ~~[the]~~ a structure described in Subsection (7)(a).

821 (ii) Unless located in whole or in part in an agricultural protection area created under
822 Title 17, Chapter 41, Agriculture and Industrial Protection Area, a structure described in
823 Subsection (7)(a) is not exempt from a permit requirement if the structure is located on land
824 that is:

825 (A) (I) within the boundaries of a city or town; and

826 (II) less than five contiguous acres; or

827 (B) (I) within a subdivision for which the county has approved a subdivision plat under
828 Title 17, Chapter 27a, Part 6, Subdivisions; and

829 (II) less than two contiguous acres.

830 Section 13. Section **58-56-5** is amended to read:

831 **58-56-5. Uniform Building Code Commission -- Composition of commission --**
832 **Commission duties and responsibilities.**

833 (1) There is established a Uniform Building Code Commission to advise the division
834 with respect to the division's responsibilities in administering the codes under this chapter.

835 (2) The commission shall be appointed by the executive director who shall submit
836 those nominations to the governor for confirmation or rejection. If a nominee is rejected,
837 alternative names shall be submitted until confirmation is received. Following confirmation by

838 the governor, the appointment is effective.

839 (3) The commission shall consist of eleven members who shall be appointed in
840 accordance with the following:

841 (a) one member shall be from among candidates nominated by the Utah League of
842 Cities and Towns and the Utah Association of Counties;

843 (b) one member shall be a licensed building inspector employed by a political
844 subdivision of the state;

845 (c) one member shall be a licensed professional engineer;

846 (d) one member shall be a licensed architect;

847 (e) one member shall be a fire official;

848 (f) three members shall be contractors licensed by the state, of which one shall be a
849 general contractor, one an electrical contractor, and one a plumbing contractor;

850 (g) two members shall be from the general public and have no affiliation with the
851 construction industry or real estate development industry; and

852 (h) one member shall be from the Division of Facilities Construction Management,
853 Department of Administrative Services.

854 (4) (a) Except as required by Subsection (4)(b), as terms of current commission
855 members expire, the executive director shall appoint each new member or reappointed member
856 to a four-year term.

857 (b) Notwithstanding the requirements of Subsection (4)(a), the executive director shall,
858 at the time of appointment or reappointment, adjust the length of terms to ensure that the terms
859 of commission members are staggered so that approximately half of the commission is
860 appointed every two years.

861 (5) When a vacancy occurs in the membership for any reason, the executive director
862 shall appoint a replacement for the unexpired term.

863 (6) ~~[No]~~ (a) A commission member may not serve more than two full terms~~[, and no]~~.

864 (b) A commission member who ceases to serve may not again serve on the commission
865 until after the expiration of two years from the date of cessation of service.

866 (7) A majority of the commission members ~~[shall]~~ constitute a quorum and may act on
867 behalf of the commission.

868 (8) (a) (i) ~~[Members]~~ A member who ~~[are]~~ is not a government ~~[employees shall]~~

869 ~~receive no~~ employee may not receive compensation or benefits for ~~[their]~~ the member's
 870 services, but may receive per diem and expenses incurred in the performance of the member's
 871 official duties at the rates established by the Division of Finance under Sections 63A-3-106 and
 872 63A-3-107.

873 (ii) ~~[Members]~~ A member who is not a government employee may decline to receive
 874 per diem and expenses for ~~[their]~~ the member's service.

875 (b) (i) ~~[State]~~ A state government officer ~~[and]~~ or employee ~~[members]~~ member who
 876 ~~[do]~~ does not receive salary, per diem, or expenses from ~~[their]~~ the member's agency for ~~[their]~~
 877 the member's service may receive per diem and expenses incurred in the performance of ~~[their]~~
 878 the member's official duties from the commission at the rates established by the Division of
 879 Finance under Sections 63A-3-106 and 63A-3-107.

880 (ii) ~~[State]~~ A state government officer ~~[and]~~ or employee ~~[members]~~ member may
 881 decline to receive per diem and expenses for ~~[their]~~ the member's service.

882 (c) (i) ~~[Local]~~ A local government ~~[members]~~ member who ~~[do]~~ does not receive
 883 salary, per diem, or expenses from the entity that ~~[they represent for their]~~ the member
 884 represents for the member's service may receive per diem and expenses incurred in the
 885 performance of ~~[their]~~ the member's official duties at the rates established by the Division of
 886 Finance under Sections 63A-3-106 and 63A-3-107.

887 (ii) ~~[Local]~~ A local government ~~[members]~~ member may decline to receive per diem
 888 and expenses for ~~[their]~~ the member's service.

889 (9) (a) The commission shall annually designate one of its members to serve as chair of
 890 the commission.

891 (b) The division shall provide a secretary to facilitate the function of the commission
 892 and to record ~~[its]~~ the commission's actions and recommendations.

893 (10) The commission shall:

894 (a) in accordance with Section 58-56-4, ~~[make a]~~ report to the Business and Labor
 895 Interim Committee ~~[by no later than November 30 of each year];~~

896 ~~[(b) ensure that the report includes recommendations as to whether or not the~~
 897 ~~Legislature should take legislative action, excluding any recommendations on the fire code;]~~

898 ~~[(c)]~~ (b) offer an opinion regarding the interpretation of or the application of ~~[an~~
 899 ~~adopted code, excluding the fire code, or an approved]~~ a code under this chapter if a ~~[party]~~

900 person submits a request for an opinion;
 901 ~~[(d)]~~ (c) act as an appeals board as provided in Section 58-56-8;
 902 ~~[(e)]~~ (d) establish advisory peer committees on either a standing or ad hoc basis to
 903 advise the commission with respect to matters related to ~~[an adopted]~~ a state construction code,
 904 ~~[excluding the fire code,]~~ or approved code, including a committee to advise the commission
 905 regarding health matters related to ~~[the]~~ a plumbing code; and
 906 ~~[(f)]~~ (e) assist the division in overseeing code-related training in accordance with
 907 Section 58-56-9.

908 (11) A ~~[party]~~ person requesting an opinion under Subsection (10)(c) shall submit a
 909 formal request clearly stating:

- 910 (a) the facts in question;
- 911 (b) the specific ~~[code]~~ citation at issue in a code under this chapter; and
- 912 (c) the position taken by ~~[all parties]~~ the persons involved in the facts in question.

913 Section 14. Section **58-56-6** is amended to read:

914 **58-56-6. Codes -- Division duties and responsibilities.**

915 (1) (a) The division shall administer the codes adopted or approved under Section
 916 58-56-4 pursuant to this chapter~~[-but]~~.

917 (b) Notwithstanding Subsection (1)(a), the division has no responsibility ~~[or duty]~~ to:

- 918 (i) conduct inspections to determine compliance with the codes~~[-]~~;
- 919 (ii) issue permits~~[-]~~; or
- 920 (iii) assess building permit fees.

921 (2) ~~[Administration]~~ As part of the administration of the codes adopted or approved
 922 under Section 58-56-4 ~~[by]~~ the division shall ~~[include]~~:

923 (a) comply with Section 58-56-7;

924 ~~[(a)]~~ (b) ~~[scheduling]~~ schedule appropriate hearings;

925 ~~[(b)]~~ (c) ~~[maintaining, publishing for reference, and keeping the]~~ maintain and publish
 926 for reference:

927 (i) a current ~~[adopted code, excluding the fire code, and]~~ state construction code; and

928 (ii) any approved code; and

929 ~~[(c)]~~ ~~[publishing]~~ (d) publish the opinions of the commission with respect to

930 interpretation and application of the codes.

931 Section 15. Section ~~58-56-7~~ is amended to read:

932 **58-56-7. Code amendment process.**

933 (1) (a) ~~[Subject to Subsection (1)(b), the]~~ The division, in consultation with the
 934 commission, shall establish by rule the procedure ~~[and manner]~~ under which ~~[requests for]~~ a
 935 request that the commission recommend legislative action ~~[to an adopted code shall]~~ is to be:

936 (i) filed with the division;

937 (ii) reviewed by the commission; and

938 (iii) ~~[recommended]~~ addressed by the commission in the commission's report to the
 939 Business and Labor Interim Committee ~~[for legislative action in accordance with]~~ required by
 940 Section ~~[58-56-5]~~ 58-56-4.

941 ~~[(b) Notwithstanding Subsection (1)(a), the board shall recommend legislative action to~~
 942 ~~the fire code in accordance with Section 53-7-204.]~~

943 (2) The division shall accept a request that the commission recommend legislative
 944 action in accordance with Section 58-56-4, from ~~[any]~~:

945 (a) a local ~~[regulators,]~~ regulator;

946 (b) a state ~~[regulators,]~~ regulator;

947 (c) a state ~~[agencies]~~ agency involved with the construction and design of ~~[buildings,~~
 948 ~~the contractors, plumbers, or electricians licensing boards, or from]~~ a building;

949 (d) the Construction Services Commission;

950 (e) the Electrician Licensing Board;

951 (f) the Plumbers Licensing Board; or

952 (g) a recognized construction-related ~~[associations a request for amendment to the~~
 953 ~~codes under Section 58-56-4]~~ association.

954 ~~[(3)(a) Except in the case of the fire code, the division may make recommendations to~~
 955 ~~the commission for legislative action.]~~

956 ~~[(b) Except in the case of the fire code, the commission may also consider legislative~~
 957 ~~action on its own initiative.]~~

958 ~~[(4)]~~ (3) (a) ~~[On May 15 and October 15 of each calendar year, or the first government~~
 959 ~~working day after those dates if either date falls on a weekend or government holiday, the~~
 960 ~~division shall convene]~~ The division shall hold a public hearing[;] before the commission at
 961 least twice each calendar year concerning requests ~~[for]~~ that the commission recommend

962 legislative action [~~to an adopted code~~] in accordance with Section 58-56-4.

963 (b) The commission shall conduct a hearing [~~shall be conducted~~] under this Subsection
964 (3) in accordance with the rules of the commission.

965 [~~(5)~~] (c) [~~The commission shall, after the~~] After a public hearing described in this
966 Subsection [~~(4), make~~] (3) the commission shall prepare a written report of [~~recommended~~
967 ~~amendments to be included~~] its recommendations made on the basis of the public hearing. The
968 commission shall include the information in the written report prepared under this Subsection
969 (3)(c) in the commission's report to the Business and Labor Interim Committee under Section
970 [~~58-56-5~~] 58-56-4.

971 [~~(6)~~] (4) In making rules required by this chapter, the division shall comply with Title
972 63G, Chapter 3, Utah Administrative Rulemaking Act.

973 Section 16. Section **58-56-9.3** is amended to read:

974 **58-56-9.3. Unprofessional conduct.**

975 Unprofessional conduct is as defined in Subsection 58-1-501(2) and includes:

976 (1) knowingly failing to inspect or issue correction notices for code violations which
977 when left uncorrected would constitute a hazard to the public health and safety and knowingly
978 failing to require that correction notices are complied with as a building inspector;

979 (2) the use of alcohol or the illegal use of drugs while performing duties as a building
980 inspector or at any time to the extent that the inspector is physically or mentally impaired and
981 unable to effectively perform the duties of an inspector;

982 (3) gross negligence in the performance of official duties as a building inspector;

983 (4) the personal use of information or knowingly revealing information to unauthorized
984 persons when that information has been obtained by a building inspector as a result of the
985 inspector's employment, work, or position as an inspector;

986 (5) unlawful acts or practices which are clearly unethical under generally recognized
987 standards of conduct of a building inspector;

988 (6) engaging in fraud or knowingly misrepresenting a fact relating to the performance
989 of duties and responsibilities as a building inspector;

990 (7) a building inspector knowingly failing to require that all plans, specifications,
991 drawings, documents, and reports be stamped by architects, professional engineers, or both as
992 established by law;

993 (8) a building inspector knowingly failing to report to the division an act or omission of
994 a licensee under Title 58, Chapter 55, Utah Construction Trades Licensing Act, which when
995 left uncorrected constitutes a hazard to public health and safety;

996 (9) a building inspector knowingly failing to report to the division unlicensed practice
997 persons who are required to be licensed under Title 58, Chapter 55, Utah Construction Trades
998 Licensing Act;

999 (10) a building inspector's approval of work which materially varies from approved
1000 documents that have been stamped by an architect, professional engineer, or both unless
1001 authorized by the licensed architect, professional engineer, or both;

1002 (11) a building inspector failing to produce verification of current licensure and current
1003 certifications for the codes [~~adopted under rules of the division~~] upon request of the division, a
1004 compliance agency, or a contractor or property owner whose work is being inspected;

1005 (12) nondelivery of goods or services by a registered dealer which constitutes a breach
1006 of contract by the dealer;

1007 (13) the failure of a registered dealer to pay a subcontractor or supplier any amounts to
1008 which that subcontractor or supplier is legally entitled; and

1009 (14) any other activity which is defined as unprofessional conduct by division rule in
1010 accordance with the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1011 Section 17. Section ~~58-56-12~~ is amended to read:

1012 **58-56-12. Factory built housing units.**

1013 (1) (a) Manufactured homes constructed, sold, or set-up in the state shall be
1014 constructed in accordance with the HUD code.

1015 (b) Manufactured homes set-up in the state shall be installed in accordance with the
1016 state construction code applicable to manufactured housing installation [~~standard code referred~~
1017 ~~to in Section 58-56-4~~].

1018 (c) The authority and responsibility for the issuance of building permits for the
1019 modification or set-up of manufactured homes within a political subdivision of the state shall
1020 be with the local regulator within that political subdivision.

1021 (d) The inspection of modifications to or the set-up of manufactured homes shall be
1022 conducted and approvals given by the local regulator within the political subdivision in which
1023 the set-up takes place.

1024 (2) (a) Mobile homes sold or set-up in the state shall be constructed in accordance with
1025 the [~~mobile home~~] state construction code [~~in existence in the state~~] applicable to a mobile
1026 home in which the mobile home was constructed at the time the mobile home was constructed.

1027 (b) Mobile homes set-up in the state shall be installed in accordance with the state
1028 construction code applicable to manufactured housing installation [~~standard code referred to in~~
1029 ~~Section 58-56-4~~].

1030 (c) The authority and responsibility for the issuance of building permits for the
1031 modification of or set-up of mobile homes within a political subdivision of the state shall be
1032 with the local regulator within that political subdivision.

1033 (d) The inspection of modification to or the set-up of mobile homes shall be conducted
1034 and approvals given by the local regulator within the political subdivision in which the set-up
1035 takes place.

1036 Section 18. Section **58-56-13** is amended to read:

1037 **58-56-13. Modular units.**

1038 Modular unit construction, set-up, issuance of permits for construction or set-up, and
1039 set-up shall be in accordance with the following:

1040 (1) construction and set-up shall be in accordance with the [~~building standards adopted~~
1041 ~~pursuant to Section 58-56-4, or equivalent standards adopted by rule~~] state construction codes;

1042 (2) the responsibility and authority for plan review and issuance of permits for
1043 construction, modification, or set-up shall be that of the local regulator of the political
1044 subdivision in which the modular unit is to be set-up;

1045 (3) the inspection of the construction, modification of, or set-up of a modular unit to
1046 determine conformance with the provisions of this chapter and the issuance of approvals shall
1047 be the responsibility of the local regulator in the political subdivision in which the modular unit
1048 is to be set-up or is set-up; and

1049 (4) nothing in this section shall preclude a local regulator from contracting with a
1050 qualified third party for the inspection or plan review provided in this section, or the state from
1051 entering into an interstate compact for third party inspection of the construction of modular
1052 units.

1053 Section 19. Section **58-56-14** is amended to read:

1054 **58-56-14. Modification of factory built housing units and modular units.**

1055 (1) ~~[Any]~~ A modification to factory built housing units shall be made in accordance
 1056 with the following:

1057 (a) Prior to set-up, modification to a manufactured home or mobile home prior to
 1058 installation or set-up of the unit for habitation shall be made in accordance with the HUD code.

1059 (b) After set-up:

1060 (i) modification to a manufactured home or mobile home after installation or set-up of
 1061 the unit for habitation, which modification does not include the addition of any space to the
 1062 existing unit or the attachment of any structure to the existing unit shall be made in accordance
 1063 with the HUD code; and

1064 (ii) modification to a manufactured home or mobile home after installation or set-up of
 1065 the unit for habitation, which modification includes the addition of any space to the existing
 1066 unit or the attachment of any structure to the unit shall be made as follows:

1067 (A) modifications to the existing unit shall be in accordance with the HUD code; and

1068 (B) additional structure outside of the existing unit shall be in accordance with the

1069 ~~[Utah Uniform Building Standards Act]~~ this chapter.

1070 (2) ~~[Any]~~ A modification to modular housing ~~[units]~~ unit shall be made in accordance
 1071 with the ~~[Utah Uniform Building Standards Act]~~ this chapter.

1072 Section 20. Section ~~58-56-15~~ is amended to read:

1073 **58-56-15. Factory built housing and modular units -- Division responsibility --**
 1074 **Unlawful conduct.**

1075 (1) The division:

1076 (a) shall maintain current information on the HUD code and the state construction code
 1077 relevant to manufactured housing installation ~~[standard code referred to in Section 58-56-4]~~
 1078 and will provide at reasonable cost the information to compliance agencies, local regulators, or
 1079 state regulators requesting such information;

1080 (b) shall provide qualified personnel to advise compliance agencies, local regulators,
 1081 and state regulators regarding the standards for construction and set-up, construction and set-up
 1082 inspection, and additions or modifications to factory built housing;

1083 (c) is designated as the state administrative agency for purposes under the provisions of
 1084 the HUD code;

1085 (d) may inspect the work of modular unit manufacturers in the state during the

1086 construction process to determine compliance of the manufacturer with [~~the Utah Uniform~~
1087 ~~Building Standard Act~~] this chapter for those units to be installed within the state and upon a
1088 finding of substantive deficiency, issue a corrective order to the manufacturer with a copy to
1089 the local regulator in the state's political subdivision in which the unit is to be installed;

1090 (e) shall have rights of entry and inspection as specified under the HUD Code; and

1091 (f) shall implement by rule as required by the HUD Code:

1092 (i) a dispute resolution program; and

1093 (ii) a continuing education requirement for manufactured housing installation

1094 contractors.

1095 (2) The division may assess civil penalties payable to the state for violation of the
1096 HUD Code in an amount identical to those set forth in Section 611 of the National
1097 Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. Sec. 5410.

1098 (3) The state may impose criminal sanctions for violations of the HUD Code identical
1099 to those set forth in Section 611 of the National Manufactured Housing Construction and
1100 Safety Standards Act of 1974, 42 U.S.C. Sec. 5410, provided that if the criminal sanction is a
1101 fine, the fine shall be payable to the state.

1102 Section 21. Section ~~58-56-17.5~~ is amended to read:

1103 **58-56-17.5. Factory Built Housing Fees Restricted Account.**

1104 (1) There is created within the General Fund a restricted account known as "Factory
1105 Built Housing Fees Account."

1106 (2) (a) The restricted account shall be funded from the fees the dealer collects and
1107 remits to the division for each factory built home the dealer sells as provided in Subsection
1108 58-56-17(1).

1109 (b) The division shall deposit all monies collected under Subsection 58-56-17(1) in the
1110 restricted account.

1111 (c) The restricted account shall be used to pay for education and enforcement of [~~the~~
1112 ~~Uniform Building Standards Act~~] this chapter, including investigations and administrative
1113 actions and the funding of additional employees to the amount of the legislative appropriation.

1114 (d) The restricted account may accrue interest which shall be deposited into the
1115 restricted account.

1116 Section 22. Section ~~58-56-20~~ is amended to read:

1117 **58-56-20. Standardized building permit content.**

1118 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1119 division shall adopt a standardized building permit form by rule.

1120 (2) (a) The standardized building permit form created under Subsection (1) shall
1121 include fields for indicating the following information:

1122 (i) the name and address of the owner of or contractor for the project;

1123 (ii) (A) the address of the project; or

1124 (B) a general description of the project; and

1125 (iii) whether the permit applicant is an original contractor or owner-builder.

1126 (b) The standardized building permit form created under Subsection (1) may include
1127 any other information the division considers useful.

1128 (3) (a) A compliance agency shall issue a permit for construction only on a
1129 standardized building permit form approved by the division.

1130 (b) A permit for construction issued by a compliance agency under Subsection (3)(a)
1131 shall print the standardized building permit number assigned under Section 58-56-19 in the
1132 upper right-hand corner of the building permit form in at least 12-point type.

1133 (c) (i) Except as provided in Subsection (3)(c)(ii), a compliance agency may not issue a
1134 permit for construction if the information required by Subsection (2)(a) is not completed on the
1135 building permit form.

1136 (ii) If a compliance agency does not issue a separate permit for different aspects of the
1137 same project, the compliance agency may issue a permit for construction without the
1138 information required by Subsection (2)(a)(iii).

1139 (d) A compliance agency may require additional information for the issuance of a
1140 permit for construction.

1141 (4) A local regulator issuing a single-family residential building permit application
1142 shall include in the application or attach to the building permit the following notice
1143 prominently placed in at least 14-point font: "Decisions relative to this application are subject
1144 to review by the chief executive officer of the municipal or county entity issuing the
1145 single-family residential building permit and appeal under the International Residential Code as
1146 adopted by the Legislature."

1147 Section 23. Section **58-56-21** is amended to read:

1148 **58-56-21. Review of building inspection.**

1149 (1) As used in this section, "International Residential Code" [~~or "IRC"~~] means the
1150 International Residential Code [~~as~~] adopted [~~in this chapter and by rule~~] as a state construction
1151 code under Section 58-56-4.

1152 (2) Subject to Subsection (3), a city or county shall, by ordinance, provide for review of
1153 an inspection conducted by the city's or county's building inspector for a single-family
1154 residential building permit.

1155 (3) Upon request by a person seeking a single-family residential building permit, a
1156 chief executive officer of the municipal or county issuing the single-family residential building
1157 permit, or the chief executive officer's designee, shall, with reasonable diligence, review an
1158 inspection described in Subsection (2) to determine whether the inspection constitutes a fair
1159 administration of the building code.

1160 (4) A review described in this section:

1161 (a) is separate and unrelated to an appeal under the [~~IRC~~] International Residential
1162 Code;

1163 (b) may not be used to review a matter that may be brought by appeal under the [~~IRC~~]
1164 International Residential Code;

1165 (c) may not result in the waiver or modification of an [~~IRC~~] International Residential
1166 Code requirement or standard;

1167 (d) may not conflict with an appeal, or the result of an appeal, under the [~~IRC~~]
1168 International Residential Code; and

1169 (e) does not prohibit a person from bringing an appeal under the [~~IRC~~] International
1170 Residential Code.

1171 (5) A person who seeks a review described in this section may not be prohibited by
1172 preclusion, estoppel, or otherwise from raising an issue or bringing a claim in an appeal under
1173 the [~~IRC~~] International Residential Code on the grounds that the person raised the issue or
1174 brought the claim in the review described in this section.

1175 **Section 24. Repealer.**

1176 This bill repeals:

1177 Section **53-7-205, State fire code amendments -- Board duties and responsibilities.**