

SB0148S02 compared with SB0148

~~{Omitted text}~~ shows text that was in SB0148 but was omitted in SB0148S02

inserted text shows text that was not in SB0148 but was inserted into SB0148S02

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1

General Oversight Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

House Sponsor:Trevor Lee

2

3 LONG TITLE

4 General Description:

5 This bill amends provisions related to legislative general oversight, including administrative
6 rulemaking.

7 Highlighted Provisions:

8 This bill:

- 12 ▶ defines terms;
- 13 ▶ renames the Rules Review and General Oversight Committee to the General Oversight
Committee (committee);
- 15 ▶ amends the membership of the committee;
- 16 ▶ amends provisions related to what actions the committee may take regarding hearings, bill files,
and administrative rules;
- 18 ▶ amends when the committee may close meetings;
- 19 ▶ amends provisions related to the process and procedures for making administrative rules;
- 20 ▶ amends the responsibilities of the Office of Administrative Rules; {and}
- 18 ▶ modifies the rulemaking process to include the governor if certain circumstances are met;

SB0148

SB0148 compared with SB0148S02

19 ▸ repeals the governor's authority to revive rules that the Legislature has voted to not
20 reauthorize; and

21 ▸ makes technical and conforming changes.

22 Money Appropriated in this Bill:

23 None

24 Other Special Clauses:

25 None

26 Utah Code Sections Affected:

27 AMENDS:

28 **19-1-111 (Effective 05/06/26)**, as enacted by Laws of Utah 2025, Chapter 156

29 **19-1-206 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 439

30 **19-1-207 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 178

31 **19-5-104.5 (Effective 05/06/26) (Repealed 07/01/29)**, as last amended by Laws of Utah 2024,
Chapter 178

33 **26B-1-219 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 470

34 **26B-3-129 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 178

35 **36-35-101 (Effective 05/06/26)**, as enacted by Laws of Utah 2024, Chapter 178

36 **36-35-102 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 463

37 **52-4-205 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 391

38 **53E-3-525 (Effective 05/06/26)**, as enacted by Laws of Utah 2025, Chapter 501

39 **53H-1-403 (Effective 05/06/26)**, as enacted by Laws of Utah 2025, First Special Session, Chapter 8

41 **53H-7-303 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2025, First Special
Session, Chapter 8

43 **54-17-701 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 178

44 **63A-5b-607 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 439

45 **63A-13-202 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 178

46 **63A-13-305 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 178

47 **63G-3-102 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 483

48 **63G-3-201 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, First Special Session,
Chapter 9

50

SB0148 compared with SB0148S02

63G-3-202 (Effective 05/06/26), as renumbered and amended by Laws of Utah 2008, Chapter 382

52 **63G-3-301 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapters 463, 483

54 **63G-3-302 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 347

55 **63G-3-303 (Effective 05/06/26)**, as last amended by Laws of Utah 2016, Chapter 193

56 **63G-3-304 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 178

57 **63G-3-304.1 (Effective 05/06/26)**, as enacted by Laws of Utah 2025, Chapter 463

58 **63G-3-305 (Effective 05/06/26)**, as last amended by Laws of Utah 2016, Chapter 193

59 **63G-3-401 (Effective 05/06/26)**, as last amended by Laws of Utah 2021, Chapter 344

60 **63G-3-402 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 178

61 **63G-3-403 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 178

62 **63G-3-502 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 178

63 **63G-3-503 (Effective 05/06/26)**, as last amended by Laws of Utah 2025, Chapter 277

64 **63G-3-601 (Effective 05/06/26)**, as last amended by Laws of Utah 2020, Chapter 408

65 **63O-2-403 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter -1000

66 **72-6-107.5 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 439

67 **79-2-404 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 439

68 ENACTS:

69 **36-35-102.5 (Effective 05/06/26)**, Utah Code Annotated 1953

70 **63G-3-304.2 (Effective 05/06/26), Utah Code Annotated 1953**

71 REPEALS:

72 **63G-3-101 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2008, Chapter 382

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

76 Section 1. Section **19-1-111** is amended to read:

77 **19-1-111. Governance committee with local health departments.**

76 (1) As used in this section:

77 (a) "Exempt application" means an application for federal funding that meets the criteria established
under Subsection (3)(g).

79

SB0148 compared with SB0148S02

(b) "Federal funding" means a grant, contract, or other funding from the federal government that could provide funds for a local health department to fulfill the duties and responsibilities of the local health department.

82 (c) "Governance committee" means the committee created in Subsection (2).

83 (2) The department shall establish a committee that consists of:

84 (a) the executive director or the executive director's designee;

85 (b) two representatives of the department appointed by the executive director; and

86 (c) three representatives of local health departments appointed by a group representing all the local health departments in the state.

88 (3) The governance committee shall:

89 (a) review all state and federal funding to the department to identify funding that the department may use to support:

91 (i) the requirements of Subsection 26A-1-106(3); and

92 (ii) the minimum performance standards created by the department under Subsection 26A-1-106(4);

94 (b) review the allocation of environmental quality resources between the department and the local health departments, including whether funds allocated by contract or cooperative agreement were:

97 (i) allocated in accordance with the formula described in Section 26A-1-116; and

98 (ii) subject to requirements satisfying or exceeding the minimum performance standards created by the department under Section 26A-1-106;

100 (c) evaluate rules and department policies that affect a local health department in accordance with Subsection (4);

102 (d) consider policy changes proposed by the department or by a local health department;

103 (e) coordinate the implementation of environmental quality programs to maximize environmental quality resources;

105 (f) except as provided by Subsection (3)(g), review each department application for any federal funding that affects a local health department before the department submits the application; and

108 (g) establish a process by which the committee may exempt an application for federal funding from the review required under Subsection (3)(f).

110 (4) When evaluating a policy or rule that affects a local health department, the governance committee shall:

112

SB0148 compared with SB0148S02

- (a) compute an estimate of the cost a local health department will bear to comply with the policy or rule;
- 114 (b) specify whether there is any funding provided to a local health department to implement the policy or rule; and
- 116 (c) advise whether the policy or rule is needed.
- 117 (5) The governance committee shall create bylaws to govern the committee's operations.
- 118 (6) Before November 1 of each year, the department shall provide a report to the [~~Rules Review and General Oversight~~] General Oversight Committee regarding the determinations made under Subsection (4).
- 124 Section 2. Section **19-1-206** is amended to read:
- 125 **19-1-206. Contracting powers of department -- Health insurance coverage.**
- 124 (1) As used in this section:
- 125 (a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.
- 127 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.
- 128 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:
- 130 (i) works at least 30 hours per calendar week; and
- 131 (ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.
- 134 (d) "Health benefit plan" means:
- 135 (i) the same as that term is defined in Section 31A-1-301; or
- 136 (ii) an employee welfare benefit plan:
- 137 (A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;
- 139 (B) for an employer with 100 or more employees; and
- 140 (C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.
- 143 (e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.
- 145 (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.
- 146 (g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

SB0148 compared with SB0148S02

- 148 (2) Except as provided in Subsection (3), the requirements of this section apply to:
- 149 (a) a contractor of a design or construction contract entered into by, or delegated to, the department, or a
division or board of the department, on or after July 1, 2009, if the prime contract is in an aggregate
amount equal to or greater than \$2,000,000; and
- 152 (b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to,
the department, or a division or board of the department, on or after July 1, 2009, if the subcontract
is in an aggregate amount equal to or greater than \$1,000,000.
- 156 (3) This section does not apply to contracts entered into by the department or a division or board of the
department if:
- 158 (a) the application of this section jeopardizes the receipt of federal funds;
- 159 (b) the contract or agreement is between:
- 160 (i) the department or a division or board of the department; and
- 161 (ii)
- (A) another agency of the state;
- 162 (B) the federal government;
- 163 (C) another state;
- 164 (D) an interstate agency;
- 165 (E) a political subdivision of this state; or
- 166 (F) a political subdivision of another state;
- 167 (c) the executive director determines that applying the requirements of this section to a particular
contract interferes with the effective response to an immediate health and safety threat from the
environment; or
- 170 (d) the contract is:
- 171 (i) a sole source contract; or
- 172 (ii) an emergency procurement.
- 173 (4) A person that intentionally uses change orders, contract modifications, or multiple contracts to
circumvent the requirements of this section is guilty of an infraction.
- 175 (5)
- (a) A contractor subject to the requirements of this section shall demonstrate to the executive director
that the contractor has and will maintain an offer of qualified health coverage for the contractor's

SB0148 compared with SB0148S02

employees and the employees' dependents during the duration of the contract by submitting to the executive director a written statement that:

- 180 (i) the contractor offers qualified health coverage that complies with Section 26B-3-909;
- 182 (ii) is from:
- 183 (A) an actuary selected by the contractor or the contractor's insurer;
- 184 (B) an underwriter who is responsible for developing the employer group's premium rates; or
- 186 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and
- 188 (iii) was created within one year before the day on which the statement is submitted.
- 189 (b)
- (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.
- 194 (ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:
- 196 (A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and
- 199 (B) the department.
- 200 (c) A contractor that is subject to the requirements of this section shall:
- 201 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and
- 205 (ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:
- 207 (A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;
- 209 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides

SB0148 compared with SB0148S02

a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

214 (C) was created within one year before the day on which the contractor obtains the statement.

216 (d)

(i)

(A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

220 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

223 (ii)

(A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

227 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

229 (6) The department shall adopt administrative rules:

230 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

231 (b) in coordination with:

232 (i) a public transit district in accordance with Section 17B-2a-818.5;

233 (ii) the Department of Natural Resources in accordance with Section 79-2-404;

234 (iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

236 (iv) the State Capitol Preservation Board in accordance with Section 63O-2-403;

237 (v) the Department of Transportation in accordance with Section 72-6-107.5; and

238 (vi) the Legislature's [~~Rules Review and General Oversight~~] General Oversight Committee created in Section 36-35-102; and

240 (c) that establish:

241 (i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

243 (A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

SB0148 compared with SB0148S02

- 245 (B) that a contractor that is subject to the requirements of this section shall obtain a written statement
described in Subsection (5)(a); and
- 247 (C) that a subcontractor that is subject to the requirements of this section shall obtain a written
statement described in Subsection (5)(c)(ii);
- 249 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the
provisions of this section, which may include:
- 251 (A) a three-month suspension of the contractor or subcontractor from entering into future contracts with
the state upon the first violation;
- 253 (B) a six-month suspension of the contractor or subcontractor from entering into future contracts with
the state upon the second violation;
- 255 (C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904
upon the third or subsequent violation; and
- 257 (D) notwithstanding Section 19-1-303, monetary penalties which may not exceed 50% of the amount
necessary to purchase qualified health coverage for an employee and the dependents of an employee
of the contractor or subcontractor who was not offered qualified health coverage during the duration
of the contract; and
- 262 (iii) a website on which the department shall post the commercially equivalent benchmark, for the
qualified health coverage identified in Subsection (1)(e), that is provided by the Department of
Health and Human Services, in accordance with Subsection 26B-3-909(2).
- 266 (7)
- (a)
- (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor
who intentionally violates the provisions of this section is liable to the employee for health care
costs that would have been covered by qualified health coverage.
- 270 (ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:
- 272 (A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii);
or
- 274 (B) the department determines that compliance with this section is not required under the provisions of
Subsection (3).
- 276 (b) An employee has a private right of action only against the employee's employer to enforce the
provisions of this Subsection (7).

SB0148 compared with SB0148S02

- 278 (8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Growth
Reduction and Budget Stabilization Account created in Section 63J-1-315.
- 281 (9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this
section:
- 283 (a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor
under:
- 285 (i) Section 63G-6a-1602; or
- 286 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
- 287 (b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis
for any action or suit that would suspend, disrupt, or terminate the design or construction.
- 290 (10) An administrator, including an administrator's actuary or underwriter, who provides a written
statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or
subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):
- 294 (a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the
administrator commits gross negligence in preparing the written statement;
- 296 (b) is not liable for any error in the written statement if the administrator relied in good faith on
information from the contractor or subcontractor; and
- 298 (c) may require as a condition of providing the written statement that a contractor or subcontractor hold
the administrator harmless for an action arising under this section.
- 303 Section 3. Section **19-1-207** is amended to read:
- 304 **19-1-207. Regulatory certainty to support economic recovery.**
- 303 (1) On or before June 30, 2021, the Air Quality Board or the Water Quality Board may not make,
amend, or repeal a rule related to air or water quality pursuant to this title, if formal rulemaking was
not initiated on or before July 1, 2020, unless the rule constitutes:
- 306 (a) a state rule related to a federally-delegated program;
- 307 (b) a rule mandated by statute to be made, amended, or repealed on or before July 1, 2020; or
- 309 (c) subject to Subsection (2), a rule that is necessary because failure to make, amend, or repeal the rule
will:
- 311 (i) cause an imminent peril to the public health, safety, or welfare;
- 312 (ii) cause an imminent budget reduction because of budget restraints or federal requirements;
- 314 (iii) place the agency in violation of federal or state law; or

SB0148 compared with SB0148S02

- 315 (iv) fail to provide regulatory relief.
- 316 (2) In addition to complying with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
department shall report to the [~~Rules Review and General Oversight~~] General Oversight Committee
as to whether the need to act meets the requirements of Subsection (1)(c).
- 320 (3) On or after August 31, 2020, but on or before June 30, 2021, the Air Quality Board, Division of Air
Quality, Water Quality Board, or Division of Water Quality may not impose a new fee or increase a
fee related to air or water quality pursuant to this title or rules made under this title.
- 324 (4) Only the Legislature may extend the time limitations of this section.
- 325 (5) Notwithstanding the other provisions of this section, this section does not apply to a rule, fee, or fee
increase to the extent that the rule, fee, or fee increase applies to an activity in a county of the first or
second class.
- 328 (6) Notwithstanding the other provisions of this section, the agencies may engage with stakeholders
in the process of discussing, developing, and drafting a rule, fee, or fee increase on or after July 1,
2020, but on or before June 30, 2021.
- 334 Section 4. Section **19-5-104.5** is amended to read:
- 335 **19-5-104.5. Legislative review and approval.**
- 334 (1) Before sending a total maximum daily load and implementation strategy to the EPA for review and
approval, the Water Quality Board shall submit the total maximum daily load:
- 337 (a) for review to the Natural Resources, Agriculture, and Environment Interim Committee if the total
maximum daily load will require a public or private expenditure in excess of \$10,000,000 but less
than \$100,000,000 for compliance; or
- 340 (b) for approval to the Legislature if the total maximum daily load will require a public or private
expenditure of \$100,000,000 or more.
- 342 (2)
- (a) As used in this Subsection (2):
- 343 (i) "Expenditure" means the act of expending funds:
- 344 (A) by an individual public facility with a Utah Pollutant Discharge Elimination System permit, or by a
group of private agricultural facilities; and
- 346 (B) through an initial capital investment, or through operational costs over a three-year period.
- 348 (ii) "Utah Pollutant Discharge Elimination System" means the state permit system created in
accordance with 33 U.S.C. Sec. 1342.

SB0148 compared with SB0148S02

- 350 (b) Before the board adopts a nitrogen or phosphorus rule or standard, the board shall submit the rule or
standard as directed in Subsections (2)(c) and (d).
- 352 (c)
- (i) If compliance with the rule or standard requires an expenditure in excess of \$250,000, but less
than \$10,000,000, the board shall submit the rule or standard for review to the Natural Resources,
Agriculture, and Environment Interim Committee.
- 356 (ii)
- (A) Except as provided in Subsection (2)(c)(ii)(B), the Natural Resources, Agriculture, and
Environment Interim Committee shall review a rule or standard the board submits under Subsection
(2)(c)(i) during the Natural Resources, Agriculture, and Environment Interim Committee's
committee meeting immediately following the day on which the board submits the rule or standard.
- 362 (B) If the committee meeting described in Subsection (2)(c)(ii)(A) is within five days after the day on
which the board submits the rule or standard for review, the Natural Resources, Agriculture, and
Environment Interim Committee shall review the rule or standard during the committee meeting
described in Subsection (2)(c)(ii)(A) or during the committee meeting immediately following the
committee meeting described in Subsection (2)(c)(ii)(A).
- 368 (d) If compliance with the rule or standard requires an expenditure of \$10,000,000 or more, the board
shall submit the rule or standard for approval to the Legislature.
- 370 (e)
- (i) A facility shall estimate the cost of compliance with a board-proposed rule or standard described in
Subsection (2)(b) using:
- 372 (A) an independent, licensed engineer; and
- 373 (B) industry-accepted project cost estimate methods.
- 374 (ii) The board may evaluate and report on a compliance estimate described in Subsection (2)(e)(i).
- 376 (f) If there is a discrepancy in the estimated cost to comply with a rule or standard, the Office of the
Legislative Fiscal Analyst shall determine the estimated cost to comply with the rule or standard.
- 379 (3) In reviewing a rule or standard, the Natural Resources, Agriculture, and Environment Interim
Committee may:
- 381 (a) consider the impact of the rule or standard on:
- 382 (i) economic costs and benefit;
- 383 (ii) public health; and

SB0148 compared with SB0148S02

- 384 (iii) the environment;
- 385 (b) suggest additional areas of consideration; or
- 386 (c) recommend the rule or standard to the board for:
- 387 (i) adoption; or
- 388 (ii) re-evaluation followed by further review by the Natural Resources, Agriculture, and Environment
Interim Committee.
- 390 (4) When the Natural Resources, Agriculture, and Environment Interim Committee sets the review of a
rule or standard submitted under Subsection (2)(c)(i) as an agenda item, the committee shall:
- 393 (a) before the review, directly inform the chairs of the [~~Rules Review and General Oversight~~] General
Oversight Committee of the coming review, including the date, time, and place of the review; and
- 396 (b) after the review, directly inform the chairs of the [~~Rules Review and General Oversight~~] General
Oversight Committee of the outcome of the review, including any recommendation.
- 402 Section 5. Section **26B-1-219** is amended to read:
- 403 **26B-1-219. Requirements for issuing, recommending, or facilitating rationing criteria.**
- 402 (1) As used in this section:
- 403 (a) "Health care resource" means:
- 404 (i) health care as defined in Section 78B-3-403;
- 405 (ii) a prescription drug as defined in Section 58-17b-102;
- 406 (iii) a prescription device as defined in Section 58-17b-102;
- 407 (iv) a nonprescription drug as defined in Section 58-17b-102; or
- 408 (v) any supply or treatment that is intended for use in the course of providing health care as defined in
Section 78B-3-403.
- 410 (b)
- 412 (i) "Rationing criteria" means any requirement, guideline, process, or recommendation regarding:
- 413 (A) the distribution of a scarce health care resource; or
- 414 (B) qualifications or criteria for a person to receive a scarce health care resource.
- 414 (ii) "Rationing criteria" includes crisis standards of care with respect to any health care resource.
- 416 (c) "Scarce health care resource" means a health care resource:
- 417 (i) for which the need for the health care resource in the state or region significantly exceeds the
available supply of that health care resource in that state or region;

419

SB0148 compared with SB0148S02

- (ii) that, based on the circumstances described in Subsection (1)(c)(i), is distributed or provided using written requirements, guidelines, processes, or recommendations as a factor in the decision to distribute or provide the health care resource; and
- 423 (iii) that the federal government has allocated to the state to distribute.
- 424 (2)
- (a) On or before July 1, 2022, the department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure that the department will follow to adopt, modify, require, facilitate, or recommend rationing criteria.
- 428 (b) Beginning July 1, 2022, the department may not adopt, modify, require, facilitate, or recommend rationing criteria unless the department follows the procedure established by the department under Subsection (2)(a).
- 431 (3) The procedures developed by the department under Subsection (2) shall include, at a minimum:
- 433 (a) a requirement that the department notify the following individuals in writing before rationing criteria are issued, are recommended, or take effect:
- 435 (i) the ~~[Rules Review and General Oversight]~~ General Oversight Committee created in Section 36-35-102;
- 437 (ii) the governor or the governor's designee;
- 438 (iii) the president of the Senate or the president's designee;
- 439 (iv) the speaker of the House of Representatives or the speaker's designee;
- 440 (v) the executive director or the executive director's designee; and
- 441 (vi) if rationing criteria affect hospitals in the state, a representative of an association representing hospitals throughout the state, as designated by the executive director; and
- 444 (b) procedures for an emergency circumstance which shall include, at a minimum:
- 445 (i) a description of the circumstances under which emergency procedures described in this Subsection (3)(b) may be used; and
- 447 (ii) a requirement that the department notify the individuals described in Subsections (3)(a)(i) through (vi) as soon as practicable, but no later than 48 hours after the rationing criteria take effect.
- 450 (4) The requirements described in this section and rules made under this section shall apply regardless of whether rationing criteria:
- 452 (a) have the force and effect of law, or is solely advisory, informative, or descriptive;
- 453

SB0148 compared with SB0148S02

(b) are carried out or implemented directly or indirectly by the department or by other individuals or entities; or

455 (c) are developed solely by the department or in collaboration with other individuals or entities.

457 (5) This section:

458 (a) may not be suspended under Section 53-2a-209 or any other provision of state law relating to a state of emergency;

460 (b) does not limit a private entity from developing or implementing rationing criteria; and

461 (c) does not require the department to adopt, modify, require, facilitate, or recommend rationing criteria that the department does not determine to be necessary or appropriate.

464 (6) Subsection (2) does not apply to rationing criteria that are adopted, modified, required, facilitated, or recommended by the department:

466 (a) through the regular, non-emergency rulemaking procedure described in Section 63G-3-301;

468 (b) if the modification is solely to correct a technical error in rationing criteria such as correcting obvious errors and inconsistencies including those involving punctuation, capitalization, cross references, numbering, and wording;

471 (c) to the extent that compliance with this section would result in a direct violation of federal law;

473 (d) that are necessary for administration of the Medicaid program;

474 (e) if state law explicitly authorizes the department to engage in rulemaking to establish rationing criteria; or

476 (f) if rationing criteria are authorized directly through a general appropriation bill that is validly enacted.

481 Section 6. Section **26B-3-129** is amended to read:

482 **26B-3-129. Review of claims -- Audit and investigation procedures.**

481 (1)

(a) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with providers and health care professionals subject to audit and investigation under the state Medicaid program, to establish procedures for audits and investigations that are fair and consistent with the duties of the department as the single state agency responsible for the administration of the Medicaid program under Section 26B-3-108 and Title XIX of the Social Security Act.

488

SB0148 compared with SB0148S02

- (b) If the providers and health care professionals do not agree with the rules proposed or adopted by the department under Subsection (1)(a), the providers or health care professionals may:
- 491 (i) request a hearing for the proposed administrative rule or seek any other remedies under the
provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
- 494 (ii) request a review of the rule by the Legislature's [~~Rules Review and General Oversight~~] General
Oversight Committee created in Section 36-35-102.
- 496 (2) The department shall:
- 497 (a) notify and educate providers and health care professionals subject to audit and investigation under
the Medicaid program of the providers' and health care professionals' responsibilities and rights
under the administrative rules adopted by the department under the provisions of this section;
- 501 (b) ensure that the department, or any entity that contracts with the department to conduct audits:
- 503 (i) has on staff or contracts with a medical or dental professional who is experienced in the treatment,
billing, and coding procedures used by the type of provider being audited; and
- 506 (ii) uses the services of the appropriate professional described in Subsection [~~(3)(b)(i)~~] (2)(b)(i) if the
provider who is the subject of the audit disputes the findings of the audit;
- 509 (c) ensure that a finding of overpayment or underpayment to a provider is not based on extrapolation, as
defined in Section 63A-13-102, unless:
- 511 (i) there is a determination that the level of payment error involving the provider exceeds a 10% error
rate:
- 513 (A) for a sample of claims for a particular service code; and
- 514 (B) over a three year period of time;
- 515 (ii) documented education intervention has failed to correct the level of payment error; and
- 517 (iii) the value of the claims for the provider, in aggregate, exceeds \$200,000 in reimbursement for a
particular service code on an annual basis; and
- 519 (d) require that any entity with which the office contracts, for the purpose of conducting an audit
of a service provider, shall be paid on a flat fee basis for identifying both overpayments and
underpayments.
- 522 (3)
- 523 (a) If the department, or a contractor on behalf of the department:

SB0148 compared with SB0148S02

(i) intends to implement the use of extrapolation as a method of auditing claims, the department shall, prior to adopting the extrapolation method of auditing, report [its] the department's intent to use extrapolation to the Social Services Appropriations Subcommittee; and

527 (ii) determines Subsections (2)(c)(i) through (iii) are applicable to a provider, the department or the contractor may use extrapolation only for the service code associated with the findings under Subsections (2)(c)(i) through (iii).

530 (b)

(i) If extrapolation is used under this section, a provider may, at the provider's option, appeal the results of the audit based on:

532 (A) each individual claim; or

533 (B) the extrapolation sample.

534 (ii) Nothing in this section limits a provider's right to appeal the audit under [~~Title 63G, General Government, { }~~] Title 63G, Chapter 4, Administrative Procedures Act, the Medicaid program and its manual or rules, or other laws or rules that may provide remedies to providers.

541 Section 7. Section **36-35-101** is amended to read:

542 **36-35-101. Definitions.**

As used in this chapter:

541 (1) "Abuse of authority" means an arbitrary or capricious exercise of power that:

542 (a) adversely affects the employment rights of another; or

543 (b) results in personal gain to the person exercising the authority or to another person.

544 (2) "Agency" means the same as that term is defined in Section 63G-3-102.

545 (3) "Agency rule" means the same as the term "rule" is defined in Section 63G-3-101.

546 [~~(2)~~] (4) "Committee" means the [~~Rules Review and General Oversight~~] General Oversight Committee.

548 [~~(3)~~] (5) "Court Rule" means any of the following, whether existing, new, or proposed:

549 (a) rules of procedure, evidence, or practice for use of the courts of this state;

550 (b) rules governing and managing the appellate process adopted by the Supreme Court; or

552 (c) rules adopted by the Judicial Council for the administration of the courts of the state.

553 (6) "Gross mismanagement" means action or failure to act by a person, with respect to a person's responsibility, that causes significant harm or risk of harm to the mission of the public entity or public body that employs, or is managed or controlled by, the person.

556

SB0148 compared with SB0148S02

[~~(4)~~] (7) "Judicial advisory committee" means the committee that proposes to the Supreme Court rules or changes in court rules related to:

- 558 (a) civil procedure;
- 559 (b) criminal procedure;
- 560 (c) juvenile procedure;
- 561 (d) appellate procedure;
- 562 (e) evidence;
- 563 (f) professional conduct; and
- 564 (g) the subject matter focus of any other committee that the Supreme Court establishes to propose rules or changes in court rules to the Supreme Court.

566 [~~(5)~~] (8) "Judicial council" means the administrative body of the courts, established in Utah Constitution, Article VIII, Section 12, and Section 78A-2-104.

568 (9) "Legislative issue" means any issue that could impact or inform legislation or potential legislation.

570 (10) "Matter subject to litigation" means any issue that is directly or indirectly:

- 571 (a) being litigated in a court; or
- 572 (b) likely to be litigated in a court.

573 (11) "Office" means the same as that term is defined in Section 63G-3-102.

574 [~~(6)~~] (12) "Proposal for court rule" means the proposed language in a court rule that is submitted to:

- 576 (a) the Judicial Council;
- 577 (b) the advisory committee; or
- 578 (c) the Supreme Court.

579 [~~(7)~~] (13) "Rule" means an agency rule or a court rule.

580 (14) "Unethical conduct" means conduct that violates a provision of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

582 (15) "Whistleblower compliant" means a complaint by a current or former agency employee that alleges the employee's employer or former employer is:

- 584 (a) wasting or misusing public funds, property, or manpower;
- 585 (b) violating or may be violating a law, rule, or regulation adopted under the law of this state, a political subdivision of this state, or any recognized entity of the United States; or
- 588 (c) engaging in:
 - 589 (i) gross mismanagement;

SB0148 compared with SB0148S02

590 (ii) abuse of authority; or

591 (iii) unethical conduct.

595 Section 8. Section **36-35-102** is amended to read:

596 **36-35-102. General Oversight Committee.**

594 (1)

(a) There is created [~~a Rules Review and General Oversight~~] the General Oversight Committee consisting of the following [~~10~~] 13 permanent members:

596 (i) [~~five~~] six members of the Senate appointed by the president of the Senate, no more than [~~three~~] four of whom may be from the same political party; and

598 (ii) [~~five~~] seven members of the House of Representatives appointed by the speaker of the House of Representatives, no more than [~~three~~] five of whom may be from the same political party.

601 (b) Each permanent member shall serve[~~;~~] at the pleasure of the appointing officer.

602 [(i) ~~for a two-year term; or~~]

603 [(ii) ~~until the permanent member's successor is appointed.~~]

604 (c)

(i) A vacancy exists when a permanent member ceases to be a member of the Legislature, when removed by the appointing officer, or when a permanent member resigns from the committee.

607 (ii) When a vacancy exists:

608 (A) if the departing member is a member of the Senate, the president of the Senate shall appoint a member of the Senate to fill the vacancy; or

610 (B) if the departing member is a member of the House of Representatives, the speaker of the House of Representatives shall appoint a member of the House of Representatives to fill the vacancy.

613 [(iii) ~~The newly appointed member shall serve the remainder of the departing member's unexpired term.~~]

615 (d)

(i) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a)(i) as a cochair of the committee.

617 (ii) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(a)(ii) as a cochair of the committee.

620 (e) [~~Three~~] Four representatives and three senators from the permanent members are a quorum for the transaction of business at any meeting.

SB0148 compared with SB0148S02

- 622 (f)
- [~~(i) Subject to Subsection (1)(f)(ii), the~~] The committee shall meet [~~at least once each month to review new agency rules and court rules, amendments to existing agency rules and court rules, and repeals of existing agency rules and court rules.~~] at the discretion of the committee chairs.
- 626 [~~(ii) The committee chairs may suspend the meeting requirement described in Subsection (1)(f)(i) at the committee chairs' discretion.~~]
- 628 (2) The office shall submit a copy of each issue of the bulletin to the committee.
- 629 (3)
- (a) The committee shall:
- 630 (i) exercise continuous oversight of the administrative rulemaking process [~~under~~] described in
Title 63G, Chapter 3, Utah Administrative Rulemaking Act[~~;~~] ; and[~~shall,~~]
- 633 (ii) for each general session of the Legislature, request legislation that considers legislative reauthorization of agency rules as [~~provided under~~] described in Section 63G-3-502.
- 636 (b) The committee shall examine each agency rule, including any agency rule made according to the emergency rulemaking procedure described in Section 63G-3-304, submitted by an agency to determine:
- 639 (i) whether the agency rule is authorized by statute;
- 640 (ii) whether the agency rule complies with legislative intent;
- 641 (iii) the agency rule's impact on the economy and the government operations of the state and local political subdivisions;
- 643 (iv) the agency rule's impact on affected persons;
- 644 (v) the agency rule's total cost to entities regulated by the state;
- 645 (vi) the agency rule's benefit to the citizens of the state; and
- 646 (vii) whether adoption of the agency rule requires legislative review or approval.
- 647 (c) The committee may examine and review:
- 648 (i) any executive order, including an order issued [~~pursuant to~~] under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act;
- 650 (ii) any public health order issued during a public health emergency declared in accordance with Title 26A, Local Health Authorities, or Title 26B, Utah Health and Human Services Code;
- 653 (iii) any agency action or policy that:
- 654 (A) affects a class of persons other than the agency; or

SB0148 compared with SB0148S02

- 655 (B) is contrary to legislative intent;
- 656 (iv) in accordance with [~~Subsection (10);~~] Section 36-35-102.5;
- 657 (A) an individual child welfare case; or
- 658 [~~(v)~~] (B) [~~in accordance with Subsection (11);~~] information from an agency that is subject to a
confidentiality agreement[-] ; or
- 660 (v) any legislative issue.
- 661 (d) If the committee chooses to examine or review an order or policy described in Subsection (3)(c),
the agency that issued the order or policy shall, upon request by the committee, provide to the
committee:
- 664 (i) a copy of the order or policy; and
- 665 (ii) information related to the order or policy.
- 666 (e) The committee shall review court rules as provided in Section 36-35-103 and Section 36-35-104.
- 668 (f) The committee may close a meeting in accordance with Section 36-35-102.5.
- 669 (4)
- (a) To carry out the requirements of Subsection (3), the committee may examine any other issues that
the committee considers necessary.
- 671 (b) Notwithstanding anything to the contrary in this section, the committee may not examine the
internal policies, procedures, or practices of an agency or judicial branch entity.
- 674 (c) In reviewing a rule, the committee shall follow generally accepted principles of statutory
construction.
- 676 (5) When the committee reviews an existing rule, the committee chairs:
- 677 (a) shall invite the Senate and House chairs of the standing committee and of the appropriation
subcommittee that have jurisdiction over the agency or judicial branch entity whose existing rule
is being reviewed to participate as nonvoting, ex officio members with the committee during the
review of the rule; and
- 681 (b) may notify and refer the rule to the chairs of the interim committee that has jurisdiction over a
particular agency or judicial branch entity when the committee determines that an issue involved in
the rule may be more appropriately addressed by that committee.
- 685 (6) The committee may request that the Office of the Legislative Fiscal Analyst prepare a fiscal note on
any rule or proposal for court rule.

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SB0148 compared with SB0148S02

(7) In order to accomplish the committee's functions described in this chapter, the committee has all the powers granted to legislative interim committees under Section 36-12-11.

690

(8)

(a) The committee may prepare written findings of the committee's review of a rule, proposal for court rule, policy, practice, ~~[or]~~ procedure, or legislative issue and may include any recommendation, including:

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(i) legislative action;

694

(ii) action by a standing committee or interim committee;

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(iii) agency rulemaking action;

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(iv) Supreme Court rulemaking action; or

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(v) Judicial Council rulemaking action.

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(b) When the committee reviews a rule, the committee shall provide to the agency or judicial branch entity that enacted the rule:

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(i) the committee's findings, if any; and

701

(ii) a request that the agency or judicial branch entity notify the committee of any changes the agency or judicial branch entity makes to the rule.

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(c) The committee shall provide a copy of the committee's findings described in Subsection (8)(a), if any, to:

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(i) any member of the Legislature, upon request;

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(ii) any person affected by the rule, upon request;

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(iii) the president of the Senate;

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(iv) the speaker of the House of Representatives;

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(v) the Senate and House chairs of the standing committee that has jurisdiction over the agency or judicial branch entity whose rule, policy, practice, or procedure is the subject of the finding;

712

(vi) the Senate and House chairs of the appropriation subcommittee that has jurisdiction over the agency or judicial branch entity that made the rule;

714

(vii) the governor; and

715

(viii) if the findings involve a court rule or judicial branch entity:

716

(A) the Judiciary Interim Committee;

717

(B) the Supreme Court; and

718

(C) the Judicial Council.

SB0148 compared with SB0148S02

- 719 (9)
720 (a)
721 (i) The committee may submit a report on the committee's review under this section to each
722 member of the Legislature at each regular session.
723 (ii) The report shall include:
724 (A) any finding or recommendation the committee made under Subsection (8);
725 (B) any action an agency, the Supreme Court, or the Judicial Council took in response to a committee
726 recommendation; and
727 (C) any recommendation by the committee for legislation.
728 (b) If the committee receives a recommendation not to reauthorize an agency rule, as described in
729 Subsection 63G-3-301(13)(b), and the committee recommends to the Legislature reauthorization of
730 the agency rule, the committee shall submit a report to each member of the Legislature detailing the
731 committee's decision.
732 (c) The committee may open a committee bill file to draft legislation by:
733 (i) committee vote; or
734 (ii) the House and Senate chairs agreeing to open a committee bill file if:
735 (A) the committee has voted to grant the chairs the ability to open committee bill files in the first
736 meeting of the committee after the Legislature has adjourned sine die from the annual general
737 session; and
738 (B) the chairs open a committee bill during the calendar year in which the vote described in Subsection
739 (9)(c)(ii)(A) has occurred.
740 (d) Notwithstanding any provision of legislative rules, the committee may open any number of
741 committee bill files.
742 (10) Upon a majority vote of the committee, the committee may recommend that the Audit
743 Subcommittee prioritize an audit of an issue heard by the committee.
744 [~~(10) Notwithstanding any other provision of this section, when reviewing and discussing an individual~~
745 ~~child welfare case under Subsection (3)(c)(iv):]~~
746 [~~(a) the committee;~~]
747 [~~(i) shall close the committee's meeting in accordance with Title 52, Chapter 4, Open and Public~~
748 ~~Meetings Act;]~~
749 [~~(ii) shall make reasonable efforts to identify and consider the concerns of all parties to the case; and]~~

SB0148 compared with SB0148S02

- 745 [~~(iii) may not make recommendations to the court, the division, or any other public or private entity
regarding the disposition of an individual child welfare case;~~]
- 747 [~~(b) a record of the committee regarding an individual child welfare case:~~]
- 748 [~~(i) is classified as private under Section 63G-2-302; and]~~
- 749 [~~(ii) may be disclosed only in accordance with federal law and Title 63G, Chapter 2, Government
Records Access and Management Act; and]~~
- 751 [~~(e) any documents received by the committee from the Division of Child and Family Services shall
maintain the same classification under Title 63G, Chapter 2, Government Records Access and
Management Act, that was designated by the Division of Child and Family Services.]~~
- 755 [~~(11) Notwithstanding any other provision of this section, when reviewing information described in
Subsection (3)(e)(v):]~~
- 757 [~~(a) the committee shall close the committee's meeting in accordance with Title 52, Chapter 4, Open
and Public Meetings Act;]~~
- 759 [~~(b) a record of the committee regarding the information:]~~
- 760 [~~(i) is classified as private under Section 63G-2-302; and]~~
- 761 [~~(ii) may be disclosed only in accordance with federal law and Title 63G, Chapter 2, Government
Records Access and Management Act; and]~~
- 763 [~~(e) any documents received by the committee when reviewing the information shall maintain the same
classification under Title 63G, Chapter 2, Government Records Access and Management Act, that
was designated by the government entity.]~~
- 773 Section 9. Section 9 is enacted to read:
- 774 **36-35-102.5. Closed meeting authorized.**
- 768 (1) When reviewing and discussing an individual child welfare case:
- 769 (a) the committee:
- 770 (i) shall close the committee's meeting in accordance with Title 52, Chapter 4, Open and Public
Meetings Act;
- 772 (ii) shall make reasonable efforts to identify and consider the concerns of all parties to the case; and
- 774 (iii) may not make recommendations to the court, the division, or any other public or private entity
regarding the disposition of an individual child welfare case;
- 776 (b) a record of the committee regarding an individual child welfare case:
- 777 (i) is classified as private under Section 63G-2-302; and

SB0148 compared with SB0148S02

- 778 (ii) may be disclosed only in accordance with federal law and Title 63G, Chapter 2, Government
780 Records Access and Management Act; and
- 784 (c) any documents received by the committee from the Division of Child and Family Services shall
788 maintain the same classification under Title 63G, Chapter 2, Government Records Access and
789 Management Act, that was designated by the Division of Child and Family Services.
- 791 (2) When reviewing information subject to a confidentiality agreement:
- 795 (a) the committee shall close the committee's meeting in accordance with Title 52, Chapter 4, Open and
798 Public Meetings Act;
- 801 (b) a record of the committee regarding the information:
- 802 (i) is classified as private under Section 63G-2-302; and
- 804 (ii) may be disclosed only in accordance with federal law and Title 63G, Chapter 2, Government
806 Records Access and Management Act; and
- 807 (c) any documents received by the committee when reviewing the information shall maintain the same
817 classification under Title 63G, Chapter 2, Government Records Access and Management Act, that
818 was designated by the government entity providing the documents.
- 819 (3)
- 820 (a) The committee may close a committee meeting in accordance with Title 52, Chapter 4, Open and
821 Public Meetings Act, if the committee is reviewing a matter subject to litigation or a whistleblower
822 complaint.
- 823 (b) If the meeting is closed under Subsection (3)(a):
- 824 (i) the record of the committee related to the matter subject to litigation or whistleblower complaint:
- 825 (A) is classified as private under Section 63G-2-302; and
- 826 (B) may be disclosed only in accordance with federal law and Title 63G, Chapter 2, Government
827 Records Access and Management Act; and
- 828 (ii) any documents or materials received by the committee when reviewing the matter subject to
829 litigation or whistleblower shall:
- 830 (A) except as provided in Subsection (3)(b)(ii)(B), be classified as private; or
- 831 (B) maintain the same classification under Title 63G, Chapter 2, Government Records Access and
832 Management Act, that was designated by a government entity providing the documents or materials.
- 833 Section 10. Section **52-4-205** is amended to read:
- 834 **52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.**

SB0148 compared with SB0148S02

- 813 (1) A closed meeting described under Section 52-4-204 may only be held for:
- 814 (a) except as provided in Subsection (3), discussion of the character, professional competence, or
physical or mental health of an individual;
- 816 (b) strategy sessions to discuss collective bargaining;
- 817 (c) strategy sessions to discuss pending or reasonably imminent litigation;
- 818 (d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of
a water right or water shares, or to discuss a proposed development agreement, project proposal, or
financing proposal related to the development of land owned by the state or a political subdivision,
if public discussion would:
- 823 (i) disclose the appraisal or estimated value of the property under consideration; or
- 824 (ii) prevent the public body from completing the transaction on the best possible terms;
- 826 (e) strategy sessions to discuss the sale of real property, including any form of a water right or water
shares, if:
- 828 (i) public discussion of the transaction would:
- 829 (A) disclose the appraisal or estimated value of the property under consideration; or
- 831 (B) prevent the public body from completing the transaction on the best possible terms;
- 833 (ii) the public body previously gave public notice that the property would be offered for sale; and
- 835 (iii) the terms of the sale are publicly disclosed before the public body approves the sale;
- 837 (f) discussion regarding deployment of security personnel, devices, or systems;
- 838 (g) investigative proceedings regarding allegations of criminal misconduct;
- 839 (h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the
receipt or review of ethics complaints;
- 841 (i) as relates to an ethics committee of the Legislature, a purpose permitted under Section 52-4-204;
- 843 (j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202,
conducting business relating to an ethics complaint;
- 845 (k) as relates to a county legislative body, discussing commercial information as defined in Section
59-1-404;
- 847 (l) as relates to the Utah Higher Education Savings Board of Trustees and its appointed board of
directors, discussing fiduciary or commercial information;
- 849 (m) deliberations, not including any information gathering activities, of a public body acting in the
capacity of:

SB0148 compared with SB0148S02

- 851 (i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of
evaluating responses to a solicitation, as defined in Section 63G-6a-103;
- 854 (ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a
protest under Title 63G, Chapter 6a, Part 16, Protests; or
- 856 (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the
process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;
- 859 (n) the purpose of considering information that is designated as a trade secret, as defined in Section
13-24-2, if the public body's consideration of the information is necessary to properly conduct a
procurement under Title 63G, Chapter 6a, Utah Procurement Code;
- 863 (o) the purpose of discussing information provided to the public body during the procurement process
under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:
- 866 (i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a
member of the public or to a participant in the procurement process; and
- 869 (ii) the public body needs to review or discuss the information to properly fulfill its role and
responsibilities in the procurement process;
- 871 (p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined
in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as
that term is defined in Section 13-24-2, if:
- 874 (i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of
the trade secret; and
- 876 (ii) discussion of the information is necessary for the governing board to properly discharge the board's
duties and conduct the board's business;
- 878 (q) as it relates to the Cannabis Production Establishment Licensing Advisory Board, to review
confidential information regarding violations and security requirements in relation to the operation
of cannabis production establishments;
- 881 (r) considering a loan application, if public discussion of the loan application would disclose:
- 883 (i) nonpublic personal financial information; or
- 884 (ii) a nonpublic trade secret, as defined in Section 13-24-2, or nonpublic business financial information
the disclosure of which would reasonably be expected to result in unfair competitive injury to the
person submitting the information;

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SB0148 compared with SB0148S02

- (s) a discussion of the board of the Point of the Mountain State Land Authority, created in Section 11-59-201, regarding a potential tenant of point of the mountain state land, as defined in Section 11-59-102; [~~or~~]
- 890 (t) as relates to the General Oversight Committee, discussing matters subject to ligation and
892 { ~~whistleblower~~ } whistleblower complaints as described in Subsection 36-35-102.5(3); or
893 [(t)] (u) a purpose for which a meeting is required to be closed under Subsection (2).
- 894 (2) The following meetings shall be closed:
- 895 (a) a meeting of the Health and Human Services Interim Committee to review a report described in
897 Subsection 26B-1-506(1)(a), and a response to the report described in Subsection 26B-1-506(2);
- 898 (b) a meeting of the Child Welfare Legislative Oversight Panel to:
- 899 (i) review a report described in Subsection 26B-1-506(1)(a), and a response to the report described in
900 Subsection 26B-1-506(2); or
- 901 (ii) review and discuss an individual case, as described in Section 36-33-103;
- 902 (c) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the
903 Natural Resource Conservation Service of the United States Department of Agriculture on a farm
904 improvement project if the discussed information is protected information under federal law;
- 905 (d) a meeting of the Compassionate Use Board established in Section 26B-1-421 for the purpose of
906 reviewing petitions for a medical cannabis card in accordance with Section 26B-1-421;
- 907 (e) a meeting of the Colorado River Authority of Utah if:
- 908 (i) the purpose of the meeting is to discuss an interstate claim to the use of the water in the Colorado
909 River system; and
- 910 (ii) failing to close the meeting would:
- 911 (A) reveal the contents of a record classified as protected under Subsection 63G-2-305(81);
- 912 (B) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River
913 system;
- 914 (C) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best
915 terms and conditions regarding the use of water in the Colorado River system; or
- 916 (D) give an advantage to another state or to the federal government in negotiations regarding the use of
917 water in the Colorado River system;
- 918 (f) a meeting of the General Regulatory Sandbox Program Advisory Committee if:
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- 920
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SB0148 compared with SB0148S02

- (i) the purpose of the meeting is to discuss an application for participation in the regulatory sandbox as defined in Section 63N-16-102; and
- 924 (ii) failing to close the meeting would reveal the contents of a record classified as protected under Subsection 63G-2-305(82);
- 926 (g) a meeting of a project entity if:
- 927 (i) the purpose of the meeting is to conduct a strategy session to discuss market conditions relevant to a business decision regarding the value of a project entity asset if the terms of the business decision are publicly disclosed before the decision is finalized and a public discussion would:
- 931 (A) disclose the appraisal or estimated value of the project entity asset under consideration; or
- 933 (B) prevent the project entity from completing on the best possible terms a contemplated transaction concerning the project entity asset;
- 935 (ii) the purpose of the meeting is to discuss a record, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity;
- 938 (iii) the purpose of the meeting is to discuss a business decision, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity; or
- 941 (iv) failing to close the meeting would prevent the project entity from getting the best price on the market; and
- 943 (h) a meeting of the [~~Rules Review and General Oversight~~] General Oversight Committee to review and discuss:
- 945 (i) an individual child welfare case as described in Subsection 36-35-102(3)(c); or
- 946 (ii) information that is subject to a confidentiality agreement as described in Subsection 36-35-102(3)(c).
- 948 (3) In a closed meeting, a public body may not:
- 949 (a) interview a person applying to fill an elected position;
- 950 (b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or
- 953 (c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by

SB0148 compared with SB0148S02

Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

964 Section 11. Section **53E-3-525** is amended to read:

965 **53E-3-525. State board transparency.**

959 (1) Beginning January 1, 2027, the state board shall:

960 (a) publish on the state board's website a record of each vote by the state board, including:

962 (i) the date, time, and place of the meeting;

963 (ii) the subject of the vote;

964 (iii) the names of state board members present and absent;

965 (iv) the result of the vote, including each board member's individual vote; and

966 (v) the audio or video associated with the vote;

967 (b) distribute a contract the state board intends to consider at a meeting to each state board member at least five days before the date on which the meeting is scheduled to occur;

970 (c) ensure the information described in Subsection (1)(a) is accessible through a single click from the state board's home webpage; and

972 (d) post the information required by Subsection (1)(a) within seven business days after a vote.

974 (2) In accordance with Title 36, Chapter 35, [~~Rules Review and General Oversight~~] General Oversight Committee, the [~~Rules Review and General Oversight~~] General Oversight Committee may request a report from the state board detailing the:

977 (a) implementation of the requirements of this section; and

978 (b) the state board's compliance with the requirements of this section.

986 Section 12. Section **53H-1-403** is amended to read:

987 **53H-1-403. Other required reports to the Legislature or state level entities.**

982 (1) The following entities shall submit reports to the Education Interim Committee as described in each referenced section:

984 (a) the board shall submit:

985 (i) an annual report regarding the board's activities and performance against the board's goals and metrics as described in Section 53H-1-203;

987 (ii) an annual report detailing the board's progress and recommendations on workforce related issues as described in Section 53H-1-203;

989

SB0148 compared with SB0148S02

- (iii) a report regarding an institution compensating a student athlete for the use of the student athlete's name, image, or likeness as described in Section 53H-6-202;
- 991 (iv) an annual report regarding the talent advisory councils as described in Section 53H-13-309;
- 993 (b) the Office of Legislative Research and General Counsel shall provide a summary regarding the data collected from campus expression climate surveys as described in Section 53H-1-504;
- 996 (c) the Utah Education and Telehealth Network shall provide an annual report as described in Section 53H-4-213.7;
- 998 (d) an institution with and without housing facilities shall provide an annual report regarding crime statistics as described in Section 53H-7-603;
- 1000 (e) the Center for Civic Excellence at Utah State University shall provide a report before July 1, 2029, regarding implementation as described in Section 53H-4-307.6;
- 1002 (f) the Rocky Mountain Center for Occupational and Environmental Health Advisory Board shall provide by July 1 each year a report as described in Section 53H-5-205;
- 1004 (g) the Utah Data Research Center shall provide an annual report as described in Section 53H-15-303;
- 1006 (h) the Higher Education and Corrections Council shall provide an annual report as described in Section 53H-1-604; and
- 1008 (i) the commissioner shall provide, in collaboration with the entities described in Subsection 53H-13-405(1), an annual report regarding the cooperative education program as described in Section 53H-13-407.
- 1011 (2) The following entities shall submit reports to the Executive Appropriations Committee as described in each referenced section:
- 1013 (a) the board shall submit:
- 1014 (i) in the September 2025 meeting, a report regarding institutions' strategic reinvestment plans as described in Section 53H-8-210; and
- 1016 (ii) in the September 2026 and 2027 meetings, a report regarding the progress of institutions in executing the institutions' strategic reinvestment plan as described in Section 53H-8-210; and
- 1019 (b) the Nucleus Institute shall provide an annual report as described in Section 53H-16-406.
- 1021 (3) The following entities shall submit reports to the Natural Resources, Agriculture, and Environment Interim Committee as described in each referenced section:
- 1023 (a) the Utah State University Bingham Entrepreneurship and Energy Research Center shall annually report as described in Section 53H-4-316; and

SB0148 compared with SB0148S02

- 1025 (b) the Utah State University Food Security Council shall prepare and submit an annual written report as described in Section 53H-4-313.
- 1027 (4) The following entities shall submit reports to the Economic Development and Workforce Services Interim Committee as described in each referenced section:
- 1029 (a) the commissioner shall provide, in collaboration with the entities described in Subsection 53H-13-405(1), an annual report regarding the cooperative education program as described in Section 53H-13-407;
- 1032 (b) Utah State University shall provide a report every three years regarding the remote online opportunities program as described in Section 53H-4-312;
- 1034 (c) the Utah State University Food Security Council shall prepare and submit an annual written report as described in Section 53H-4-313; and
- 1036 (d) the Nucleus Institute shall provide an annual report as described in Section 53H-16-406.
- 1038 (5) The ASPIRE Engineering Research Center at Utah State University shall provide an annual report to the Transportation and Infrastructure Appropriations Subcommittee as described in Section 53H-4-306.6.
- 1041 (6) The Utah Data Research Center shall provide an annual report to the Business and Labor Interim Committee as described in Section 53H-15-305.
- 1043 (7) The board shall provide the following reports to state agencies and departments as described in each referenced section:
- 1045 (a) to the Division of Facilities Construction and Management and others upon request, an annual technical college lease report as described in Section 53H-9-602;
- 1047 (b) to the Department of Veterans and Military Affairs, an annual report regarding number of credits awarded as described in Section 53H-3-703; and
- 1049 (c) to the ~~[Rules Review and General Oversight]~~ General Oversight Committee, an annual report regarding civil liberties complaints as described in Section 53H-7-303.
- 1051 (8) The board shall provide to the general session of the Legislature for budget recommendation purposes an annual report regarding:
- 1053 (a) waivers of tuition as described in Section 53H-11-307; and
- 1054 (b) nonresident tuition scholarships as described in Section 53H-11-405.
- 1055 (9) An institution shall provide the following reports as described in each referenced section:
- 1057

SB0148 compared with SB0148S02

- (a) to the institution's governing board and published on the governing board's website, the institution's required prohibited submissions described in Section 53H-1-502;
- 1059 (b) to the board, disclosures of foreign gifts received as described in Section 53H-8-503;
- 1060 (c) for a qualifying institution, to the board annually regarding the faculty incentive component of the Engineering and Computer Science Initiative as described in Section 53H-1-603;
- 1063 (d) for a degree-granting institution:
- 1064 (i) to the board annually regarding post-tenured data as described in Section 53H-3-406;
- 1066 (ii) to the board annually regarding technical education as described in Section 53H-3-609;
- 1068 (e) for a technical college:
- 1069 (i) to the board annually regarding secondary student needs and access to programs as described in Section 53H-3-1203;
- 1071 (ii) to the board annually regarding annual leases as described in Section 53H-9-602;
- 1072 (f) on a date the board determines for 2026 and 2027, regarding the institution's progress in executing the institution's strategic reinvestment plan as described in Section 53H-8-210;
- 1075 (g) in accordance with rules the board establishes, to the board annually regarding the Opportunity scholarships awarded as described in Section 53H-11-402;
- 1077 (h) in accordance with rules the board establishes, reports related to the promise grants as described in Section 53H-11-414;
- 1079 (i) to the board annually regarding credit for prior learning as described in Section 53H-3-702; and
- 1081 (j) for an institution with or without housing facilities, an annual report regarding crime statistics to the Law Enforcement and Criminal Justice Interim Committee as described in Section 53H-7-603.
- 1084 (10) An institution's board of trustees shall provide to the board annually a report regarding any approved contracts or grants as described in Section 53H-8-208.
- 1086 (11) The commissioner shall provide the following reports as described in each referenced section:
- 1088 (a) an annual summary report regarding institutional matches for the faculty incentive component of the Engineering and Computer Science Initiative as described in Section 53H-1-603; and
- 1091 (b) in collaboration with the entities described in Subsection 53H-13-405(1), an annual report regarding the cooperative education program as described in Section 53H-13-407 to the Talent, Education, and Industry Alignment Board and the board.
- 1094 (12) The Talent Ready Utah Program shall provide an annual report to the board as described in Section 53H-13-304.

SB0148 compared with SB0148S02

- 1096 (13) The Utah Works Program shall provide an annual report to the board as described in Section
53H-13-307.
- 1098 (14) The University of Utah shall provide an annual report to the governor regarding the engineering
experiment station as described in Section 53H-4-208.
- 1100 (15) The Center for Civic Excellence at Utah State University vice provost shall annually report to the
provost, the president of the institution, and the commissioner as described in Section 53H-4-307.6.
- 1110 Section 13. Section **53H-7-303** is amended to read:
- 1111 **53H-7-303. Complaint process -- Reporting.**
- 1105 (1) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative
Rulemaking Act, establishing a procedure whereby a student enrolled in an institution may submit
a complaint to the board alleging a policy of the institution directly affects one or more of the
student's civil liberties.
- 1109 (2)
- (a) When a student submits a complaint in accordance with the rules adopted under Subsection (1), the
board shall:
- 1111 (i) examine the complaint and, within 30 days after the day on which the board receives the
complaint, determine whether the complaint is made in good faith; and
- 1113 (ii)
- (A) if the board determines that the complaint is made in good faith, direct the institution against which
the complaint is made to initiate rulemaking proceedings for the challenged policy; or
- 1116 (B) if the board determines that the complaint is made in bad faith, dismiss the complaint.
- 1118 (b) Before November 30 of each year, the board shall submit a report to the [~~Rules Review and General
Oversight~~] General Oversight Committee detailing:
- 1120 (i) the number of complaints the board received during the preceding year;
- 1121 (ii) the number of complaints the board found to be made in good faith during the preceding year; and
- 1123 (iii) each policy that is the subject of a good-faith complaint that the board received during the
preceding year.
- 1125 (3) If the board directs an institution to initiate rulemaking proceedings for a challenged policy in
accordance with this section, the institution shall initiate rulemaking proceedings for the policy
within 60 days after the day on which the board directs the institution.
- 1136 Section 14. Section **54-17-701** is amended to read:

SB0148 compared with SB0148S02

- 1137 **54-17-701. Rules for carbon capture and geological storage.**
- 1131 (1) By January 1, 2011, the Division of Water Quality and the Division of Air Quality, on behalf of the Board of Water Quality and the Board of Air Quality, respectively, in collaboration with the commission and the Division of Oil, Gas, and Mining and the Utah Geological Survey, shall present recommended rules to the Legislature's [~~Rules Review and General Oversight~~] General Oversight Committee for the following in connection with carbon capture and accompanying geological sequestration of captured carbon:
- 1138 (a) site characterization approval;
- 1139 (b) geomechanical, geochemical, and hydrogeological simulation;
- 1140 (c) risk assessment;
- 1141 (d) mitigation and remediation protocols;
- 1142 (e) issuance of permits for test, injection, and monitoring wells;
- 1143 (f) specifications for the drilling, construction, and maintenance of wells;
- 1144 (g) issues concerning ownership of subsurface rights and pore space;
- 1145 (h) allowed composition of injected matter;
- 1146 (i) testing, monitoring, measurement, and verification for the entirety of the carbon capture and geologic sequestration chain of operations, from the point of capture of the carbon dioxide to the sequestration site;
- 1149 (j) closure and decommissioning procedure;
- 1150 (k) short- and long-term liability and indemnification for sequestration sites;
- 1151 (l) conversion of enhanced oil recovery operations to carbon dioxide geological sequestration sites; and
- 1153 (m) other issues as identified.
- 1154 (2) The entities listed in Subsection (1) shall report to the Legislature's [~~Rules Review and General Oversight~~] General Oversight Committee any proposals for additional statutory changes needed to implement rules contemplated under Subsection (1).
- 1157 (3) On or before July 1, 2009, the entities listed in Subsection (1) shall submit to the Legislature's Public Utilities, Energy, and Technology and Natural Resources, Agriculture, and Environment Interim Committees a progress report on the development of the recommended rules required by this part.
- 1161 (4) The recommended rules developed under this section apply to the injection of carbon dioxide and other associated injectants in allowable types of geological formations for the purpose of reducing

SB0148 compared with SB0148S02

emissions to the atmosphere through long-term geological sequestration as required by law or undertaken voluntarily or for subsequent beneficial reuse.

- 1166 (5) The recommended rules developed under this section do not apply to the injection of fluids through
the use of Class II injection wells as defined in 40 C.F.R. 144.6(b) for the purpose of enhanced
hydrocarbon recovery.
- 1169 (6) Rules recommended under this section shall:
- 1170 (a) ensure that adequate health and safety standards are met;
- 1171 (b) minimize the risk of unacceptable leakage from the injection well and injection zone for carbon
capture and geologic sequestration; and
- 1173 (c) provide adequate regulatory oversight and public information concerning carbon capture and
geologic sequestration.
- 1182 Section 15. Section **63A-5b-607** is amended to read:
- 1183 **63A-5b-607. Health insurance requirements -- Penalties.**
- 1177 (1) As used in this section:
- 1178 (a) "Aggregate amount" means the dollar sum of all contracts, change orders, and modifications for a
single project.
- 1180 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.
- 1181 (c) "Eligible employee" means an employee, as defined in Section 34A-2-104, who:
- 1182 (i) works at least 30 hours per calendar week; and
- 1183 (ii) meets the employer eligibility waiting period for qualified health insurance coverage provided by
the employer.
- 1185 (d) "Health benefit plan" means:
- 1186 (i) the same as that term is defined in Section 31A-1-301; or
- 1187 (ii) an employee welfare benefit plan:
- 1188 (A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et
seq.;
- 1190 (B) for an employer with 100 or more employees; and
- 1191 (C) in which the employer establishes a self-funded or partially self-funded group health plan to provide
medical care for the employer's employees and dependents of the employees.
- 1194 (e) "Qualified health insurance coverage" means the same as that term is defined in Section 26B-3-909.
- 1196 (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

SB0148 compared with SB0148S02

- 1197 (g) "Third party administrator" or "administrator" means the same as that term is defined in Section
31A-1-301.
- 1199 (2) Except as provided in Subsection (3), the requirements of this section apply to:
- 1200 (a) a contractor of a design or construction contract with the division if the prime contract is in an
aggregate amount of \$2,000,000 or more; and
- 1202 (b) a subcontractor of a contractor of a design or construction contract with the division if the
subcontract is in an aggregate amount of \$1,000,000 or more.
- 1204 (3) The requirements of this section do not apply to a contractor or subcontractor if:
- 1205 (a) the application of this section jeopardizes the division's receipt of federal funds;
- 1206 (b) the contract is a sole source contract, as defined in Section 63G-6a-103; or
- 1207 (c) the contract is the result of an emergency procurement.
- 1208 (4) A person who intentionally uses a change order, contract modification, or multiple contracts to
circumvent the requirements of this section is guilty of an infraction.
- 1210 (5)
- (a) A contractor that is subject to the requirements of this section shall:
- 1211 (i) make and maintain an offer of qualified health coverage for the contractor's eligible employees
and the eligible employees' dependents; and
- 1213 (ii) submit to the director a written statement demonstrating that the contractor is in compliance
with Subsection (5)(a)(i).
- 1215 (b) A statement under Subsection (5)(a)(ii):
- 1216 (i) shall be from:
- 1217 (A) an actuary selected by the contractor or the contractor's insurer;
- 1218 (B) an underwriter who is responsible for developing the employer group's premium rates; or
- 1220 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or
underwriter selected by a third party administrator; and
- 1222 (ii) may not be created more than one year before the day on which the contractor submits the statement
to the director.
- 1224 (c)
- (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide
the actuary or underwriter selected by an administrator, as described in Subsection (5)(b)(i)(C),

SB0148 compared with SB0148S02

sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

- 1229 (ii) A contractor may not make a change to the contractor's contribution to the health benefit plan,
unless the contractor provides notice to:
- 1231 (A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(b)(i)(C),
for the actuary or underwriter to update the written statement described in Subsection (5)(a) in
compliance with this section; and
- 1234 (B) the division.
- 1235 (6)
- (a) A contractor that is subject to the requirements of this section shall:
- 1236 (i) ensure that each contract the contractor enters with a subcontractor that is subject to the
requirements of this section requires the subcontractor to obtain and maintain an offer of
qualified health coverage for the subcontractor's eligible employees and the eligible employees'
dependents during the duration of the subcontract; and
- 1241 (ii) obtain from a subcontractor referred to in Subsection (6)(a)(i) a written statement demonstrating
that the subcontractor offers qualified health coverage to eligible employees and eligible
employees' dependents.
- 1244 (b) A statement under Subsection (6)(a)(ii):
- 1245 (i) shall be from:
- 1246 (A) an actuary selected by the subcontractor or the subcontractor's insurer;
- 1247 (B) an underwriter who is responsible for developing the employer group's premium rates; or
- 1249 (C) if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or
underwriter selected by an administrator; and
- 1251 (ii) may not be created more than one year before the day on which the contractor obtains the statement
from the subcontractor.
- 1253 (7)
- (a)
- (i) A contractor that fails to maintain an offer of qualified health coverage during the duration of
the contract as required in this section is subject to penalties in accordance with administrative
rules made by the division under this section, in accordance with Title 63G, Chapter 3, Utah
Administrative Rulemaking Act.

SB0148 compared with SB0148S02

- 1257 (ii) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage as required in this section.
- 1259 (b)
- (i) A subcontractor that fails to obtain and maintain an offer of qualified health coverage during the duration of the subcontract as required in this section is subject to penalties in accordance with administrative rules made by the division under this section, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1264 (ii) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage as required in this section.
- 1266 (8) The division shall make rules:
- 1267 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 1268 (b) in coordination with:
- 1269 (i) the Department of Environmental Quality in accordance with Section 19-1-206;
- 1270 (ii) the Department of Natural Resources in accordance with Section 79-2-404;
- 1271 (iii) a public transit district in accordance with Section 17B-2a-818.5;
- 1272 (iv) the State Capitol Preservation Board in accordance with Section 63O-2-403;
- 1273 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
- 1274 (vi) the Legislature's [~~Rules Review and General Oversight~~] General Oversight Committee created under Section 36-35-102; and
- 1276 (c) that establish:
- 1277 (i) the requirements and procedures for a contractor and a subcontractor to demonstrate compliance with this section, including:
- 1279 (A) a provision that a contractor or subcontractor's compliance with this section is subject to an audit by the division or the Office of the Legislative Auditor General;
- 1282 (B) a provision that a contractor that is subject to the requirements of this section obtain a written statement as provided in Subsection (5); and
- 1284 (C) a provision that a subcontractor that is subject to the requirements of this section obtain a written statement as provided in Subsection (6);
- 1286 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:
- 1288

SB0148 compared with SB0148S02

- (A) a three-month suspension of the contractor or subcontractor from entering into a future contract with the state upon the first violation;
- 1290 (B) a six-month suspension of the contractor or subcontractor from entering into a future contract with the state upon the second violation;
- 1292 (C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and
- 1294 (D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for eligible employees and dependents of eligible employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and
- 1298 (iii) a website for the department to post the commercially equivalent benchmark for the qualified health coverage that is provided by the Department of Health and Human Services in accordance with Subsection 26B-3-909(2).
- 1301 (9) During the duration of a contract, the division may perform an audit to verify a contractor or subcontractor's compliance with this section.
- 1303 (10)
- (a) Upon the division's request, a contractor or subcontractor shall provide the division:
- 1305 (i) a signed actuarial certification that the coverage the contractor or subcontractor offers is qualified health coverage; or
- 1307 (ii) all relevant documents and information necessary for the division to determine compliance with this section.
- 1309 (b) If a contractor or subcontractor provides the documents and information described in Subsection (10)(a)(i), the Insurance Department shall assist the division in determining if the coverage the contractor or subcontractor offers is qualified health coverage.
- 1313 (11)
- (a)
- (i) In addition to the penalties imposed under Subsection (7), a contractor or subcontractor that intentionally violates the provisions of this section is liable to an eligible employee for health care costs that would have been covered by qualified health coverage.
- 1317 (ii) An employer has an affirmative defense to a cause of action under Subsection (11)(a)(i) if:
- 1319 (A) the employer relied in good faith on a written statement described in Subsection (5) or (6); or

SB0148 compared with SB0148S02

- 1321 (B) the department determines that compliance with this section is not required under the provisions of
Subsection (3).
- 1323 (b) An eligible employee has a private right of action against the employee's employer only as provided
in this Subsection (11).
- 1325 (12) The director shall cause money collected from the imposition and collection of a penalty under
this section to be deposited into the Medicaid Growth Reduction and Budget Stabilization Account
created by Section 63J-1-315.
- 1328 (13) The failure of a contractor or subcontractor to provide qualified health coverage as required by this
section:
- 1330 (a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor
under:
- 1332 (i) Section 63G-6a-1602; or
- 1333 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
- 1334 (b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis
for any action or suit that would suspend, disrupt, or terminate the design or construction.
- 1337 (14) An employer's waiting period for an employee to become eligible for qualified health coverage
may not extend beyond the first day of the calendar month following 60 days after the day on which
the employee is hired.
- 1340 (15) An administrator, including an administrator's actuary or underwriter, who provides a written
statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or
subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):
- 1344 (a) subject to Subsection [~~(11)(b)~~] (11)(a), is not liable for an error in the written statement, unless the
administrator commits gross negligence in preparing the written statement;
- 1347 (b) is not liable for any error in the written statement if the administrator relied in good faith on
information from the contractor or subcontractor; and
- 1349 (c) may require as a condition of providing the written statement that a contractor or subcontractor hold
the administrator harmless for an action arising under this section.
- 1358 Section 16. Section **63A-13-202** is amended to read:
- 1359 **63A-13-202. Duties and powers of inspector general and office.**
- 1354 (1) The inspector general of Medicaid services shall:
- 1355 (a) administer, direct, and manage the office;

SB0148 compared with SB0148S02

- 1356 (b) inspect and monitor the following in relation to the state Medicaid program:
- 1357 (i) the use and expenditure of federal and state funds;
- 1358 (ii) the provision of health benefits and other services;
- 1359 (iii) implementation of, and compliance with, state and federal requirements; and
- 1360 (iv) records and recordkeeping procedures;
- 1361 (c) receive reports of potential fraud, waste, or abuse in the state Medicaid program;
- 1362 (d) investigate and identify potential or actual fraud, waste, or abuse in the state Medicaid program;
- 1364 (e) consult with the Centers for Medicaid and Medicare Services and other states to determine and implement best practices for:
- 1366 (i) educating and communicating with health care professionals and providers about program and audit policies and procedures;
- 1368 (ii) discovering and eliminating fraud, waste, and abuse of Medicaid funds; and
- 1369 (iii) differentiating between honest mistakes and intentional errors, or fraud, waste, and abuse, if the office enters into settlement negotiations with the provider or health care professional;
- 1372 (f) obtain, develop, and utilize computer algorithms to identify fraud, waste, or abuse in the state Medicaid program;
- 1374 (g) work closely with the fraud unit to identify and recover improperly or fraudulently expended Medicaid funds;
- 1376 (h) audit, inspect, and evaluate the functioning of the division for the purpose of making recommendations to the Legislature and the department to ensure that the state Medicaid program is managed:
- 1379 (i) in the most efficient and cost-effective manner possible; and
- 1380 (ii) in a manner that promotes adequate provider and health care professional participation and the provision of appropriate health benefits and services;
- 1382 (i) regularly advise the department and the division of an action that could be taken to ensure that the state Medicaid program is managed in the most efficient and cost-effective manner possible;
- 1385 (j) refer potential criminal conduct, relating to Medicaid funds or the state Medicaid program, to the fraud unit;
- 1387 (k) refer potential criminal conduct, including relevant data from the controlled substance database, relating to Medicaid fraud, to law enforcement in accordance with Title 58, Chapter 37f, Controlled Substance Database Act;

SB0148 compared with SB0148S02

- 1390 (l) determine ways to:
- 1391 (i) identify, prevent, and reduce fraud, waste, and abuse in the state Medicaid program; and
- 1393 (ii) balance efforts to reduce costs and avoid or minimize increased costs of the state Medicaid program with the need to encourage robust health care professional and provider participation in the state Medicaid program;
- 1396 (m) recover improperly paid Medicaid funds;
- 1397 (n) track recovery of Medicaid funds by the state;
- 1398 (o) in accordance with Section 63A-13-502:
- 1399 (i) report on the actions and findings of the inspector general; and
- 1400 (ii) make recommendations to the Legislature and the governor;
- 1401 (p) provide training to:
- 1402 (i) agencies and employees on identifying potential fraud, waste, or abuse of Medicaid funds; and
- 1404 (ii) health care professionals and providers on program and audit policies and compliance; and
- 1406 (q) develop and implement principles and standards for the fulfillment of the duties of the inspector general, based on principles and standards used by:
- 1408 (i) the Federal Offices of Inspector General;
- 1409 (ii) the Association of Inspectors General; and
- 1410 (iii) the United States Government Accountability Office.
- 1411 (2)
- (a) The office may, in fulfilling the duties under Subsection (1), conduct a performance or financial audit of:
- 1413 (i) a state executive branch entity or a local government entity, including an entity described in Section 63A-13-301, that:
- 1415 (A) manages or oversees a state Medicaid program; or
- 1416 (B) manages or oversees the use or expenditure of state or federal Medicaid funds; or
- 1418 (ii) Medicaid funds received by a person by a grant from, or under contract with, a state executive branch entity or a local government entity.
- 1420 (b)
- (i) The office may not, in fulfilling the duties under Subsection (1), amend the state Medicaid program or change the policies and procedures of the state Medicaid program.
- 1423

SB0148 compared with SB0148S02

(ii) The office shall identify conflicts between the state Medicaid plan, department administrative rules, Medicaid provider manuals, and Medicaid information bulletins and recommend that the department reconcile inconsistencies. If the department does not reconcile the inconsistencies, the office shall report the inconsistencies to the Legislature's [~~Rules Review and General Oversight~~] General Oversight Committee created in Section 36-35-102.

1429 (iii) Beginning July 1, 2013, the office shall review a Medicaid provider manual and a Medicaid information bulletin in accordance with Subsection (2)(b)(ii), prior to the department making the provider manual or Medicaid information bulletin available to the public.

1433 (c) Beginning July 1, 2013, the Department of Health and Human Services shall submit a Medicaid provider manual and a Medicaid information bulletin to the office for the review required by Subsection (2)(b)(ii) prior to releasing the document to the public. The department and the Office of Inspector General of Medicaid Services shall enter into a memorandum of understanding regarding the timing of the review process under Subsection (2)(b)(iii).

1439 (3)

(a) The office shall, in fulfilling the duties under this section to investigate, discover, and recover fraud, waste, and abuse in the Medicaid program, apply the state Medicaid plan, department administrative rules, Medicaid provider manuals, and Medicaid information bulletins in effect at the time the medical services were provided.

1444 (b) A health care provider may rely on the policy interpretation included in a current Medicaid provider manual or a current Medicaid information bulletin that is available to the public.

1447 (4) The inspector general of Medicaid services, or a designee of the inspector general of Medicaid services within the office, may take a sworn statement or administer an oath.

1456 Section 17. Section **63A-13-305** is amended to read:

1457 **63A-13-305. Audit and investigation procedures.**

1451 (1)

(a) The office shall, in accordance with Section 63A-13-602, adopt administrative rules in consultation with providers and health care professionals subject to audit and investigation under this chapter to establish procedures for audits and investigations that are fair and consistent with the duties of the office under this chapter.

1455

SB0148 compared with SB0148S02

(b) If the providers and health care professionals do not agree with the rules proposed or adopted by the office under Subsection (1)(a) or Section 63A-13-602, the providers or health care professionals may:

- 1458 (i) request a hearing for the proposed administrative rule or seek any other remedies under the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
- 1461 (ii) request a review of the rule by the Legislature's [~~Rules Review and General Oversight~~] General Oversight Committee created in Section 36-35-102.
- 1463 (2) The office shall notify and educate providers and health care professionals subject to audit and investigation under this chapter of the providers' and health care professionals' responsibilities and rights under the administrative rules adopted by the office under the provisions of this section and Section 63A-13-602.

1474 Section 18. Section **63G-3-102** is amended to read:

1475 **63G-3-102. Definitions.**

As used in this chapter:

1470 (1) "Administrative record" means information an agency relies upon when making a rule under this chapter including:

- 1472 (a) the proposed rule, change in the proposed rule, and the rule analysis form;
- 1473 (b) the public comment received and recorded by the agency during the public comment period;
- 1475 (c) the agency's response to the public comment;
- 1476 (d) the agency's analysis of the public comment; and
- 1477 (e) the agency's report of the agency's decision-making process.

1478 (2)

(a) "Agency" [~~includes~~] means:

- 1479 (i) [~~each~~] any state board, authority, commission, institution, department, division, or officer; or
- 1481 (ii) any [~~other state government~~]entity that is authorized or required by law to make rules, adjudicate, grant or withhold licenses, grant or withhold relief from legal obligations, or perform other similar actions or duties delegated by law.

1484 (b) "Agency" does not include:

- 1485 (i) the Legislature;
- 1486 (ii) the Legislature's committees;
- 1487 (iii) the political subdivisions of the state; or

SB0148 compared with SB0148S02

- 1488 (iv) the courts.
- 1489 (3) "Bulletin" means the Utah State Bulletin.
- 1490 (4) "Catchline" means a short summary of each section, ~~[part,]~~ rule, or title of the code that follows the section, ~~[part,]~~ rule, or title reference placed before the text of the rule and serves the same function as boldface in legislation as described in Section 68-3-13.
- 1493 (5) "Code" means the body of all effective rules as compiled and organized by the office and entitled "Utah Administrative Code."
- 1495 (6) "Department" means the Department of Government Operations created in Section 63A-1-104.
- 1497 (7) "Director" means the director of the office.
- 1498 (8) "Effective" means operative and enforceable.
- 1499 (9) "Executive director" means the executive director of the department.
- 1500 (10) "File" means to submit a document to the office as prescribed by the office.
- 1501 (11) "Filing date" means the day and time the document is recorded as received by the office.
- 1503 (12) "Initiate rulemaking proceedings" means the agency's filing of a proposed rule for the purposes of publication in accordance with Subsection 63G-3-301(4).
- 1505 ~~[(12)]~~ (13) "Interested person" means any person affected by or interested in a proposed rule, amendment to an existing rule, or a nonsubstantive change made under Section 63G-3-402.
- 1508 ~~[(13)]~~ (14) "Office" means the Office of Administrative Rules created in Section 63G-3-401.
- 1509 ~~[(14)]~~ (15) "Order" means an agency action that determines the legal rights, duties, privileges, immunities, or other interests of one or more specific persons, but not a class of persons.
- 1512 ~~[(15)]~~ (16) "Person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency.
- 1515 ~~[(16)]~~ (17) "Publication" or "publish" means making a rule available to the public by including the rule or a summary of the rule in the bulletin.
- 1517 ~~[(17)]~~ (18) "Publication date" means the inscribed date of the bulletin.
- 1518 ~~[(18) "Register" may include an electronic database.]~~
- 1519 (19)
- (a) "Rule" means an agency's written statement that:
- 1520 (i) is explicitly or implicitly required by state or federal statute or other applicable law;
- 1522 (ii) implements or interprets a state or federal legal mandate; and
- 1523 (iii) applies to a class of persons or another agency.

SB0148 compared with SB0148S02

- 1524 (b) "Rule" includes the amendment or repeal of an existing rule.
- 1525 (c) "Rule" does not mean:
- 1526 (i) orders;
- 1527 (ii) an agency's written statement that applies only to internal management and that does not restrict the
legal rights of a public class of persons or another agency;
- 1529 (iii) the governor's executive orders or proclamations;
- 1530 (iv) opinions issued by the attorney general's office;
- 1531 (v) declaratory rulings issued by the agency according to Section 63G-4-503 except as required by
Section 63G-3-201;
- 1533 (vi) rulings by an agency in adjudicative proceedings, except as required by Subsection 63G-3-201(6);
or
- 1535 (vii) an agency written statement that is in violation of any state or federal law.
- 1536 (20) "Rule analysis" means the format prescribed by the office to summarize and analyze rules.
- 1538 (21) "Small business" means a business employing fewer than 50 persons.
- 1539 (22) "Substantial fiscal impact" means ~~an~~ the anticipated ~~[fiscal impact]~~ cost of a proposed rule of at
least \$2,000,000 over a five-year period as calculated under Subsection 63G-3-301(8)(d).
- 1542 (23) "Substantive change" means a change in a rule that affects the application or results of agency
actions.
- 1551 Section 19. Section **63G-3-201** is amended to read:
- 1552 **63G-3-201. When rulemaking is required.**
- 1546 (1) Each agency shall:
- 1547 (a) maintain a current version of ~~[its]~~ the agency's rules; and
- 1548 (b) make ~~[it]~~ the rules available to the public for inspection during ~~[its]~~ the agency's regular business
hours.
- 1550 (2)
- (a) An agency may take action if authorized implicitly or explicitly by statute.
- 1558 (b) In addition to other rulemaking required by law, each agency shall make rules when agency action:
- 1552 ~~[(a)]~~ (i) authorizes, requires, or prohibits an action;
- 1553 ~~[(b)]~~ (ii) provides or prohibits a material benefit;
- 1554 ~~{(e)}~~ and
- 1562 ~~[(e)]~~ (iii) applies to a class of persons or another agency~~;~~ ~~{f}~~ and ~~{or}~~ .

SB0148 compared with SB0148S02

- 1555 ~~[(d) is explicitly or implicitly authorized by statute.]~~
- 1556 (3) Rulemaking is also required when an agency issues a written interpretation of a state or federal legal mandate.
- 1558 (4) Rulemaking is not required when:
- 1559 (a) agency action applies only to internal agency management, inmates or residents of a state correctional, diagnostic, or detention facility, persons under state legal custody, patients admitted to a state hospital, members of the state retirement system, or, except as provided in Title 53H, Chapter 7, Part 3, Student Civil Liberties Protection, students enrolled in a state education institution;
- 1564 (b) a standardized agency manual applies only to internal fiscal or administrative details of governmental entities supervised under statute;
- 1566 (c) an agency issues policy or other statements that are advisory, informative, or descriptive, and do not conform to the requirements of Subsections (2) and (3); or
- 1568 (d) an agency makes nonsubstantive changes in a rule, except that the agency shall file all nonsubstantive changes in a rule with the office.
- 1570 (5)
- (a) A rule shall enumerate any penalty authorized by statute that may result from its violation, subject to Subsections (5)(b) and (c).
- 1572 (b) A violation of a rule may not be subject to the criminal penalty of a class C misdemeanor or greater offense, except as provided under Subsection (5)(c).
- 1574 (c) A violation of a rule may be subject to a class C misdemeanor or greater criminal penalty under Subsection (5)(a) when:
- 1576 (i) authorized by a specific state statute;
- 1577 (ii) a state law and programs under that law are established in order for the state to obtain or maintain primacy over a federal program; or
- 1579 (iii) state civil or criminal penalties established by state statute regarding the program are equivalent to or less than corresponding federal civil or criminal penalties.
- 1581 (6) Each agency shall enact rules incorporating the principles of law not already in [its] the agency's rules that are established by final adjudicative decisions within 120 days after the decision is announced in [its] the agency's cases.
- 1584 (7)
- (a) Each agency may enact a rule that incorporates by reference:

SB0148 compared with SB0148S02

- 1585 (i) all or any part of another code, rule, or regulation that has been adopted by a federal agency,
an agency or political subdivision of this state, an agency of another state, or by a nationally
1588 recognized organization or association;
- 1590 (ii) state agency implementation plans mandated by the federal government for participation in the
federal program;
- 1592 (iii) lists, tables, illustrations, or similar materials that are subject to frequent change, fully
described in the rule, and are available for public inspection; or
- (iv) lists, tables, illustrations, or similar materials that the director determines are too expensive to
reproduce in the administrative code.
- 1594 (b) Rules incorporating materials by reference shall:
- 1595 (i) be enacted according to the procedures outlined in this chapter;
- 1596 (ii) state that the referenced material is incorporated by reference;
- 1597 (iii) state the date, issue, or version of the material being incorporated; and
- 1598 (iv) define specifically what material is incorporated by reference and identify any agency deviations
from it.
- 1600 (c) The agency shall identify any substantive changes in the material incorporated by reference by
following the rulemaking procedures of this chapter.
- 1602 (d) The agency shall maintain a complete and current copy of the referenced material available for
public review at the agency and at the office.
- 1604 (8)
- (a) This chapter is not intended to inhibit the exercise of agency discretion within the limits prescribed
by statute or agency rule.
- 1606 (b) An agency may enact a rule creating a justified exception to a rule.
- 1607 (9) An agency may obtain assistance from the attorney general to ensure that its rules meet legal and
constitutional requirements.

1617 Section 20. Section 63G-3-202 is amended to read:

1618 **63G-3-202. Rules having the effect of law.**

A rule made in accordance with this chapter has the effect of law.

- 1620 [~~(1) An agency's written statement is a rule if it conforms to the definition of a rule under Section
63G-3-102, but the written statement is not enforceable unless it is made as a rule in accordance
with the requirements of this chapter.~~]

SB0148 compared with SB0148S02

- 1623 ~~[(2) An agency's written statement that is made as a rule in accordance with the requirements of this~~
1624 ~~chapter is enforceable and has the effect of law.]~~
- 1625 Section 21. Section **63G-3-301** is amended to read:
- 1626 **63G-3-301. Rulemaking procedure.**
- 1611 (1) An agency authorized to make rules is also authorized to amend or repeal those rules.
- 1612 (2) Except as provided in Sections 63G-3-303 and 63G-3-304, when making, amending, or repealing a
1613 rule, agencies shall comply with:
- 1614 (a) the requirements of this section;
- 1615 (b) consistent procedures required by other statutes;
- 1616 (c) applicable federal mandates; and
- 1617 (d) rules made by the office to implement this chapter.
- 1618 (3) Subject to the requirements of this chapter, each agency shall develop and use flexible approaches
1619 in drafting rules that meet the needs of the agency and that involve persons affected by the agency's
1620 rules.
- 1621 (4)
- 1622 (a) Each agency shall file the agency's proposed rule and rule analysis with the office.
- 1623 (b) Rule amendments shall be marked with new language underlined and deleted language struck out.
- 1624 (c)
- 1625 (i) The office shall publish the information required under Subsection (8) on the rule analysis and the
1626 text of the proposed rule in the next issue of the bulletin.
- 1627 (ii) For rule amendments, only the section or subsection of the rule being amended need be printed.
- 1628 ~~[(iii) If the director determines that the rule is too long to publish, the office shall publish the rule~~
1629 ~~analysis and shall publish the rule by reference to a copy on file with the office.]~~
- 1630 (5) Before filing a proposed rule with the office, the agency shall conduct a thorough analysis,
1631 consistent with the criteria established by the Governor's Office of Planning and Budget, of the
1632 fiscal impact a rule may have on businesses, which criteria may include:
- 1633 (a) the type of industries that will be impacted by the proposed rule, and for each identified industry,
1634 an estimate of the total number of businesses within the industry, and an estimate of the number of
1635 those businesses that are small businesses;
- 1636 (b) the individual fiscal impact that would incur to a single business for a one-year period;
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SB0148 compared with SB0148S02

- (c) the aggregated total fiscal impact that would incur to all businesses within the state for a one-year period;
- 1641 (d) the total cost that would incur to all impacted entities over a five-year period; and
- 1642 (e) the department head's comments on the analysis.
- 1643 (6) If the agency reasonably expects that a proposed rule will have a measurable negative fiscal impact on small businesses, the agency shall consider, as allowed by federal law, each of the following methods of reducing the impact of the proposed rule on small businesses:
- 1646 (a) establishing less stringent compliance or reporting requirements for small businesses;
- 1647 (b) establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- 1649 (c) consolidating or simplifying compliance or reporting requirements for small businesses;
- 1651 (d) establishing performance standards for small businesses to replace design or operational standards required in the proposed rule; and
- 1653 (e) exempting small businesses from all or any part of the requirements contained in the proposed rule.
- 1655 (7) If during the public comment period an agency receives comment that the proposed rule will cost small business more than one day's annual average gross receipts, and the agency had not previously performed the analysis in Subsection (6), the agency shall perform the analysis described in Subsection (6).
- 1659 (8) The rule analysis shall contain:
- 1660 (a) a summary of the ~~[rule or change]~~ proposed rule;
- 1661 (b) the purpose of the proposed rule or reason for the change;
- 1662 (c) the statutory authority or federal requirement for the proposed rule;
- 1663 (d) the anticipated cost or savings to:
- 1664 (i) the state budget;
- 1665 (ii) local governments;
- 1666 (iii) small businesses; and
- 1667 (iv) persons other than small businesses, businesses, or local governmental entities;
- 1668 (e) the compliance cost for affected persons;
- 1669 (f) how interested persons may review the full text of the proposed rule;
- 1670 (g) how interested persons may present their views on the proposed rule;
- 1671 (h) the time and place of any scheduled public hearing;

SB0148 compared with SB0148S02

- 1672 (i) the name, email, and telephone number of an agency employee who may be contacted about the
proposed rule;
- 1674 (j) the name of the agency head or designee who authorized the proposed rule;
- 1675 (k) the date on which the proposed rule may become effective following the public comment period;
- 1677 (l) the agency's analysis on the fiscal impact of the proposed rule as required under Subsection (5);
- 1678 (m) any additional comments the department head may choose to submit regarding the fiscal impact the
proposed rule may have on businesses; and
- 1680 (n) if applicable, a summary of the agency's efforts to comply with the requirements of Subsection (6).
- 1682 (9)
- (a) For a rule being repealed and ~~[reenacted]~~ readopted, the rule analysis shall contain a summary that generally includes the following:
- 1684 (i) a summary of substantive provisions in the repealed rule which are eliminated from the
~~[enacted]~~ adopted rule; and
- 1686 (ii) a summary of new substantive provisions appearing only in the ~~[enacted]~~ adopted rule.
- 1687 (b) The summary required under this Subsection (9) is to aid in review and may not be used to contest any rule on the ground of noncompliance with the procedural requirements of this chapter.
- 1690 (10) An agency shall ~~[mail]~~ provide a copy of the rule analysis to a person that makes a timely request of the agency for advance notice of the agency's rulemaking proceedings and to any other person that, by statutory or federal mandate or in the judgment of the agency, should also receive notice.
- 1694 (11)
- (a) Following the publication date, the agency shall allow at least 30 days for public comment on the proposed rule.
- 1696 (b) The agency shall review and evaluate all public comments submitted in writing within the time period under Subsection (11)(a) or presented at public hearings conducted by the agency within the time period under Subsection (11)(a).
- 1699 (12)
- (a) Except as provided in ~~[Sections]~~ Section 63G-3-303, Section 63G-3-304, and Section 63G-3-304.1, a proposed rule becomes effective on any date specified by the agency that is:
- 1702 (i) no fewer than seven calendar days after the day on which the public comment period closes under Subsection (11); ~~[and]~~
- 1704 (ii) no more than 120 days after the day on which the rule is published~~[=]~~ ; and

SB0148 compared with SB0148S02

- 1725 (iii) subject to Section 63G-3-304.2, after the day the governor:
- 1726 (A) approves the proposed rule by signing the proposed rule; and
- 1727 (B) holds a public hearing in accordance with Subsection 63G-3-302(5).
- 1705 (b) The agency shall provide notice of the rule's effective date to the office in the form required by the office.
- 1707 (c) The notice of effective date may not provide for an effective date{:} before the day on which the office receives the notice.
- 1709 (d) The office shall publish notice of the effective date of the rule in the next issue of the bulletin.
- 1711 (e) A proposed rule lapses if a notice of effective date or a change to a proposed rule is not filed with the office within 120 days after the day on which the rule is published.
- 1713 (13)
- (a)
- (i) Before an agency [enacts] makes a proposed rule effective, the agency shall submit to the appropriations subcommittee and interim committee with jurisdiction over the agency the agency's proposed rule for review, if the proposed rule, over a five-year period, has [a fiscal impact] an anticipated cost, as calculated in Subsection (8)(d), of more than \$1,000,000 statewide.
- 1718 (ii) A proposed rule that is subject to Subsection (13)(e) is exempt from Subsection (13)(a)(i).
- 1720 (b) An appropriations subcommittee or interim committee that reviews a rule an agency submits under Subsection (13)(a) shall:
- 1722 (i) before the review, directly inform the chairs of the [~~Rules Review and General Oversight~~] General Oversight Committee of the coming review, including the date, time, and place of the review; and
- 1725 (ii) after the review, directly inform the chairs of the [~~Rules Review and General Oversight~~] General Oversight Committee of the outcome of the review, including any recommendation.
- 1728 (c) An appropriations subcommittee or interim committee that reviews a rule an agency submits under Subsection (13)(a) may recommend to the [~~Rules Review and General Oversight~~] General Oversight Committee that the [~~Rules Review and General Oversight~~] General Oversight Committee not recommend reauthorization of the rule in the legislation described in Section 63G-3-502.
- 1733 [~~(d) The agency shall calculate the substantial fiscal impact in accordance with Subsection (5).]~~
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SB0148 compared with SB0148S02

~~[(e)]~~ (d) Unless an agency cannot implement a statute or execute a federally delegated authority without making a rule that is estimated to have substantial fiscal impact, the agency may not ~~[make]~~ file the rule.

1738 ~~[(f)]~~ (e) The requirements described in Subsections (13)(a) and (13)(b) do not apply to:

1739 (i) the State Tax Commission; or

1740 (ii) the State Board of Education.

1741 ~~[(14)]~~

~~{[(a)]}~~ As used in this Subsection (14), "initiate rulemaking proceedings" means the filing, for the purposes of publication in accordance with Subsection (4), of an agency's proposed rule that is required by state statute.]

1744 ~~[(b)]~~ (a) ~~{(14)}~~

(a) [A state] An agency shall initiate rulemaking proceedings no later than 180 days after the day on which the statutory provision that specifically requires the rulemaking takes effect, except under Subsection ~~[(14)(e)]~~ (14)(b).

1747 ~~[(e)]~~ (b) When a statute is enacted that requires agency rulemaking and the affected agency already has rules in place that meet the statutory requirement, the agency shall submit the rules to the ~~[Rules Review and General Oversight]~~ General Oversight Committee for review within 60 days after the day on which the statute requiring the rulemaking takes effect.

1752 ~~[(d)]~~ (c) If ~~[a state]~~ an agency does not initiate rulemaking proceedings in accordance with the time requirements in Subsection ~~[(14)(b)]~~ (14)(a), the ~~[state]~~ agency shall appear before the legislative ~~[Rules Review and General Oversight]~~ General Oversight Committee and provide the reasons for the delay.

1779 Section 22. Section **63G-3-302** is amended to read:

1780 **63G-3-302. Public hearings.**

1758 (1) ~~[An]~~ Subject to Subsection (2), an agency may hold a public hearing on a proposed rule~~;~~ amendment to a rule, or repeal of a rule during the public comment period.

1760 (2) Except as provided in Subsection (4), an agency shall hold a public hearing on a proposed rule~~;~~ amendment to a rule, or repeal of a rule if:

1762 (a) a public hearing is required by state or federal mandate; or

1763 (b)

SB0148 compared with SB0148S02

- (i) another state agency, 10 interested persons, or an interested association having not fewer than 10 members request a public hearing; and
- 1765 (ii) the agency receives the request in writing not more than 15 days after the publication date of the proposed rule.
- 1767 (3) The agency shall hold the hearing:
- 1768 (a) except for a rule made in accordance with Section 63G-3-304, before the proposed rule becomes effective; and
- 1770 (b) no less than seven days nor more than 30 days after receipt of the request for hearing.
- 1771 (4) The Wildlife Board is not required to hold a public hearing on a proposed rule ~~[, amendment to a rule, or repeal of a rule]~~ unless required to hold a public hearing under Title 23A, Chapter 2, Part 3, Wildlife Board and Regional Councils.
- 1797 (5) Subject to Section 63G-3-304.2, the governor:
- 1798 (a) shall hold a public hearing for each proposed rule before the proposed rule becomes effective;
- 1800 (b) shall be available at the public hearing to hear public comment; and
- 1801 (c) may not delegate the requirements of this Subsection (5) to another person.
- 1802 Section 23. Section **63G-3-303** is amended to read:
- 1803 **63G-3-303. Changes in rules.**
- 1776 (1)
- (a) To change a proposed rule already published in the bulletin, an agency shall file with the office:
- 1778 (i) the text of the changed proposed rule; and
- 1779 (ii) a rule analysis containing a description of the change and the information required by Section 63G-3-301.
- 1781 (b) A change to a proposed rule may not be filed more than 120 days after publication of the rule being changed.
- 1783 (c) The office shall publish the rule analysis for the changed rule in the bulletin.
- 1784 (d) The changed proposed rule and its associated proposed rule will become effective on a date specified by the agency, not less than 30 days or more than 120 days after publication of the last change in proposed rule.
- 1787 (e) A changed proposed rule and its associated proposed rule lapse if a notice of effective date or another change to a proposed rule is not filed with the office within 120 days of publication of the last change in proposed rule.

SB0148 compared with SB0148S02

- 1790 (f) The agency making the change to the proposed rule shall receive public comment on the change in accordance with Subsection 63G-3-301(11) after the change to the proposed rule is published under Subsection (1)(c).
- 1793 (2) If the rule change is nonsubstantive:
- 1794 (a) the agency need not comply with the requirements of Subsection (1); and
- 1795 (b) the agency shall notify the office of the change in writing.
- 1796 (3) If the rule is effective, the agency shall amend the rule according to the procedures specified in Section 63G-3-301.
- 1826 Section 24. Section **63G-3-304** is amended to read:
- 1827 **63G-3-304. Emergency rulemaking procedure.**
- 1800 (1) All agencies shall comply with the rulemaking procedures of Section 63G-3-301 unless an agency finds that these procedures would:
- 1802 (a) cause an imminent peril to the public health, safety, or welfare;
- 1803 (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- 1805 (c) place the agency in violation of federal or state law.
- 1806 (2)
- (a) When finding that [its] the agency's rule is excepted from regular rulemaking procedures by this section, the agency shall file with the office~~[-and the members of the Rules Review and General Oversight Committee]:~~
- 1809 (i) the text of the rule; and
- 1810 (ii) a rule analysis that includes the specific reasons and justifications for [its] the agency's findings.
- 1812 (b) An agency that files an emergency rule with the office under Subsection (2)(a) shall provide the information described in Subsection (2)(a) to the members of the General Oversight Committee when the agency files the rule with the office.
- 1815 [~~(b)~~] (c) The office shall publish the rule in the bulletin as provided in Subsection 63G-3-301(4).
- 1817 [~~(e)~~] (d) The agency shall notify interested persons as provided in Subsection 63G-3-301(10).
- 1819 [~~(d)~~] (e) Subject to Subsection 63G-3-502(4), the rule becomes effective for a period not exceeding 120 days on the date of filing or any later date designated in the rule analysis.
- 1822 (3) If the agency intends the rule to be effective beyond 120 days, the agency shall also comply with the procedures of Section 63G-3-301.
- 1852 Section 24. Section **63G-3-304.1** is amended to read:

SB0148 compared with SB0148S02

- 1853 **63G-3-304.1. Delaying the effective date of a proposed rule.**
- 1826 (1) Upon a majority vote of the members of the committee, the [~~Rules Review and General Oversight~~
] General Oversight Committee may delay the effective date of a proposed rule [~~promulgated by the~~
~~State Board of Education to a date determined by the committee~~] for up to 60 days.
- 1830 (2) The [~~Rules Review and General Oversight~~] General Oversight Committee:
- 1831 (a) may choose to delay the effective date of an entire proposed rule, a [~~single~~] section, subsection, or
any complete paragraph of a proposed rule; and
- 1833 (b) [~~may not delay the effective day beyond May 15 of the calendar year after the day the vote is~~
~~taken.~~] upon a majority vote of the members of the committee, may remove the delay of effective
date described in Subsection (1).
- 1836 [~~(3)~~
- (a) ~~Upon a majority vote of the members of the committee, the Rules Review and General Oversight~~
~~Committee may remove the delay of effective date described in Subsection (1).]~~
- 1839 [~~(b) A rule or section or paragraph of a rule that has had the delay of effective date removed under~~
~~Subsection (3)(a) goes into effect on a day designated by the State Board of Education.]~~
- 1842 [~~(4)~~] (3) The [~~Rules Review and General Oversight~~] General Oversight Committee shall notify the
[~~State Board of Education~~] affected agency and the office of:
- 1844 (a) [~~the delay of the effective date.~~] the decision to delay the effective date under Subsection (1); and
- 1846 (b) the decision to remove the delay of effective date as described in Subsection (2)(b).
- 1847 (4) When an agency receives notice described in Subsection (3)(a), the agency shall select an effective
date that complies with the delay of effective date.
- 1849 (5) [~~A {f} State Board of Education {f} proposed rule's effective date may not be delayed if~~] This
section does not apply to the following:
- 1850 (a) [~~the rule~~] a proposed rule that is explicitly mandated by a federal law or regulation;
- 1851 (b) a proposed rule where a provision of Utah's constitution vests the [~~State Board of Education~~] agency
with specific constitutional authority to promulgate the rule; or
- 1853 (c) [~~the rule is~~] an emergency rule filed under Section 63G-3-304.
- 1854 (6) The office shall make rules in accordance with this chapter to determine how to bifurcate a rule that
has had a section, subsection, or paragraph's effective date delayed under this section.
- 1857

SB0148 compared with SB0148S02

(7) Notwithstanding any other provision of this chapter, the 120-day timeframe for when a proposed rule lapses is paused for any provision subject to a delay of effective date under this section until the delay of the effective date expires or is removed.

1889 Section 26. Section **26** is enacted to read:

1890 **63G-3-304.2. Trigger provisions.**

1891 (1) Except as provided in Subsection (2), provisions that are subject to this section are not effective.

1893 (2) If a court finds any provision of Section 63G-3-304.1 as unconstitutional, the provisions that are subject to this section are effective.

1895 Section 27. Section **63G-3-305** is amended to read:

1896 **63G-3-305. Agency review of rules -- Schedule of filings -- Limited exemption for certain rules.**

1863 (1) Each agency shall review each of [its] the agency's rules within five years after the rule's original effective date or within five years after the filing of the last five-year review, whichever is later.

1866 (2) An agency may consider any substantial review of a rule to be a five-year review if the agency also meets the requirements described in Subsection (3).

1868 (3) At the conclusion of its review, and no later than the deadline described in Subsection (1), the agency shall decide whether to continue, repeal, or amend and continue the rule and comply with Subsections (3)(a) through (c), as applicable.

1871 (a) If the agency continues the rule, the agency shall file with the office a five-year notice of review and statement of continuation that includes:

1873 (i) a concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require the rule;

1875 (ii) a summary of written comments received during and since the last five-year review of the rule from interested persons supporting or opposing the rule; and

1877 (iii) a reasoned justification for continuation of the rule, including reasons why the agency disagrees with comments in opposition to the rule, if any.

1879 (b) If the agency repeals the rule, the agency shall:

1880 (i) comply with Section 63G-3-301; and

1881 (ii) in the rule analysis described in Section 63G-3-301, state that the repeal is the result of the agency's five-year review under this section.

1883

SB0148 compared with SB0148S02

- (c) If the agency amends and continues the rule, the agency shall comply with the requirements described in Section 63G-3-301 and file with the office the five-year notice of review and statement of continuation required in Subsection (3)(a).
- 1886 (4) The office shall publish a five-year notice of review and statement of continuation in the bulletin ~~no later than one year after the deadline described in Subsection (1)~~.
- 1888 (5)
- (a) The office shall make a reasonable effort to notify an agency that a rule is due for review at least 180 days before the deadline described in Subsection (1).
- 1890 (b) The office's failure to comply with the requirement described in Subsection (5)(a) does not exempt an agency from complying with any provision of this section.
- 1892 (6) If an agency ~~finds~~ determines that it will not meet the deadline established in Subsection (1):
- 1893 (a) before the deadline described in Subsection (1), the agency may file one extension with the office indicating the reason for the extension; and
- 1895 (b) the office shall publish notice of the extension in the bulletin in accordance with the office's publication schedule established by rule under Section 63G-3-402.
- 1897 (7) An extension permits the agency to comply with the requirements described in Subsections (1) and (3) up to 120 days after the deadline described in Subsection (1).
- 1899 (8)
- (a) If an agency does not comply with the requirements described in Subsection (3), and does not file an extension under Subsection (6), the rule expires automatically on the day immediately after the date ~~of the missed deadline~~ the review was due under Subsection (1).
- 1902 (b) If an agency files an extension under Subsection (6) and does not comply with the requirements described in Subsection (3) within 120 days after the day on which the ~~deadline described in~~ the review was due under Subsection (1) ~~expires~~, the rule expires automatically on the day immediately after the ~~date of the missed deadline~~ 120 day extension period.
- 1906 (9) After a rule expires under Subsection (8), the office shall:
- 1907 (a) publish a notice in the next issue of the bulletin that the rule has expired and is no longer enforceable;
- 1909 (b) remove the rule from the code; and
- 1910 (c) notify the agency that the rule has expired.
- 1911

SB0148 compared with SB0148S02

(10) After a rule expires, an agency must comply with the requirements of Section 63G-3-301 to ~~reenact~~ readopt the rule.

1951 Section 28. Section **63G-3-401** is amended to read:

1952 **63G-3-401. Office of Administrative Rules created -- Director.**

1916 (1) There is created within the [~~Department of Government Operations~~] department the Office of Administrative Rules, to be administered by a director.

1918 (2)

(a) The executive director shall appoint the director.

1919 (b) The director shall hire, train, and supervise staff necessary for the office to carry out the provisions of this chapter.

1959 Section 29. Section **63G-3-402** is amended to read:

1960 **63G-3-402. Office of Administrative Rules -- Duties generally.**

1924 (1) The office shall:

1925 (a) record in [~~a~~] an electronic register the receipt of all agency rules, rule analysis forms, and notices of effective dates;

1927 (b) make the register, copies of all proposed rules, and rulemaking documents available for public inspection;

1929 (c) publish all proposed rules, rule analyses, notices of effective dates, and review notices in the bulletin at least monthly[, ~~except that the office may publish the complete text of any proposed rule that the director determines is too long to print or too expensive to publish by reference to the text maintained by the office~~];

1933 (d) compile, format, number, and index all effective rules in an administrative code, and periodically publish that code and supplements or revisions to it;

1935 (e) publish a digest of all proposed rules and notices contained in the most recent bulletin;

1936 (f) publish at least annually an index of all changes to the administrative code and the effective date of each change;

1938 (g) [~~print, or contract to print,~~] publish all rulemaking publications the director determines necessary to implement this chapter;

1940 (h) distribute without charge the bulletin and administrative code to state-designated repositories, the [~~Rules Review and General Oversight~~] General Oversight Committee, the Office of Legislative Research and General Counsel, and the two [~~houses~~] chambers of the Legislature;

SB0148 compared with SB0148S02

- 1944 (i) distribute without charge the digest and index to state legislators, agencies, political subdivisions on request, and the Office of Legislative Research and General Counsel;
- 1946 [~~(j)~~] ~~distribute, at prices covering publication costs, all paper rulemaking publications to all other requesting persons and agencies;~~
- 1948 [~~(k)~~] (j) provide agencies assistance in rulemaking;
- 1949 [~~(h)~~] (k) if the department operates the office as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:
- 1952 (i) the proposed rate and fee schedule as required by Section 63A-1-114; and
- 1953 (ii) other information or analysis requested by the Rate Committee;
- 1954 [~~(m)~~] (l) administer this chapter and require state agencies to comply with filing, publication, and hearing procedures; and
- 1956 [~~(n)~~] (m) make technological improvements to the rulemaking process, including improvements to automation and digital accessibility.
- 1958 (2) The office shall establish by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, all filing, publication, and hearing procedures necessary to make rules under this chapter.
- 1961 (3) The office may after notifying the agency make nonsubstantive changes to rules filed with the office or published in the bulletin or code by:
- 1963 (a) implementing a uniform system of formatting, punctuation, capitalization, organization, numbering, and wording;
- 1965 (b) correcting obvious errors and inconsistencies in punctuation, capitalization, numbering, referencing, and wording;
- 1967 (c) changing a catchline to more accurately reflect the substance of each section, part, rule, or title;
- 1969 (d) updating or correcting annotations associated with a section, part, rule, or title; and
- 1970 (e) merging or determining priority of any amendment, enactment, or repeal to the same rule or section made effective by an agency.
- 1972 (4) In addition, the office may make the following nonsubstantive changes with the concurrence of the agency:
- 1974 (a) eliminate duplication within rules;
- 1975 (b) eliminate obsolete and redundant words; and
- 1976

SB0148 compared with SB0148S02

- (c) correct defective or inconsistent section and paragraph structure in arrangement of the subject matter of rules.
- 1978 (5)
- (a) For nonsubstantive changes made in accordance with Subsection (3) or (4) after publication of the rule in the bulletin, the office shall publish a list of nonsubstantive changes in the bulletin.
- 1981 (b) For each nonsubstantive change, the list shall include:
- 1982 [(a)] (i) the affected code citation;
- 1983 [(b)] (ii) a brief description of the change; and
- 1984 [(c)] (iii) the date the change was made.
- 1985 (6) All funds appropriated or collected for publishing the office's publications shall be nonlapsing.
- 2026 Section 30. Section **63G-3-403** is amended to read:
- 2027 **63G-3-403. Repeal and reenactment of Utah Administrative Code.**
- 1990 (1) When the director determines that the Utah Administrative Code requires extensive revision and reorganization, the office may repeal the code and reenact a new code according to the requirements of this section.
- 1993 (2) The office may:
- 1994 (a) reorganize, reformat, and renumber the code;
- 1995 (b) require each agency to review its rules and make any organizational or substantive changes according to the requirements of Section 63G-3-303; and
- 1997 (c) require each agency to prepare a brief summary of all substantive changes made by the agency.
- 1999 (3) The office may make nonsubstantive changes in the code by:
- 2000 (a) adopting a uniform system of punctuation, capitalization, numbering, and wording;
- 2001 (b) eliminating duplication;
- 2002 (c) correcting defective or inconsistent section and paragraph structure in arrangement of the subject matter of rules;
- 2004 (d) eliminating all obsolete or redundant words;
- 2005 (e) correcting obvious errors and inconsistencies in punctuation, capitalization, numbering, referencing, and wording;
- 2007 (f) changing a catchline to more accurately reflect the substance of each section, part, rule, or title;
- 2009 (g) updating or correcting annotations associated with a section, part, rule, or title; and
- 2010

SB0148 compared with SB0148S02

- (h) merging or determining priority of any amendment, enactment, or repeal to the same rule or section made effective by an agency.
- 2012 (4)
- (a) To inform the public about the proposed code reenactment, the office shall publish in the bulletin:
- 2014 (i) notice of the code reenactment;
- 2015 (ii) the date, time, and place of a public hearing where members of the public may comment on the proposed reenactment of the code;
- 2017 (iii) locations where the proposed reenactment of the code may be reviewed; and
- 2018 (iv) agency summaries of substantive changes in the reenacted code.
- 2019 (b) To inform the public about substantive changes in agency rules contained in the proposed reenactment, each agency shall:
- 2021 (i) make the text of their reenacted rules available:
- 2022 (A) for public review during regular business hours; and
- 2023 (B) in an electronic version; and
- 2024 (ii) comply with the requirements of Subsection 63G-3-301(10).
- 2025 (5) The office shall hold a public hearing on the proposed code reenactment no fewer than 30 days nor more than 45 days after the publication required by Subsection (4)(a).
- 2027 (6) The office shall distribute complete text of the proposed code reenactment without charge to:
- 2029 (a) state-designated repositories in Utah;
- 2030 (b) the [~~Rules Review and General Oversight~~] General Oversight Committee; and
- 2031 (c) the Office of Legislative Research and General Counsel.
- 2032 (7) The former code is repealed and the reenacted code is effective at noon on a date designated by the office that is not fewer than 45 days nor more than 90 days after the publication date required by this section.
- 2035 (8) Repeal and reenactment of the code meets the requirements of Section 63G-3-305 for a review of all agency rules.
- 2076 Section 31. Section **63G-3-502** is amended to read:
- 2077 **63G-3-502. Legislative reauthorization of agency rules -- Extension of rules by governor.**
- 2040 (1) All grants of rulemaking power from the Legislature to [~~a state~~] an agency in any statute are made subject to the provisions of this section.
- 2042 (2)

SB0148 compared with SB0148S02

- (a) Except as provided in Subsection (2)(b), every agency rule that is in effect on February 28 of any calendar year expires on May 1 of that year unless it has been reauthorized by the Legislature.
- 2045 (b) Notwithstanding the provisions of Subsection (2)(a), an agency's rules do not expire if:
- 2047 (i) the rule is explicitly mandated by a federal law or regulation; or
- 2048 (ii) a provision of Utah's constitution vests the agency with specific constitutional authority to regulate.
- 2050 (3)
- (a) The ~~[Rules Review and General Oversight]~~ General Oversight Committee shall have legislation prepared for the Legislature to consider the reauthorization of rules during its annual general session.
- 2053 (b) The legislation shall be substantially in the following form: "All rules of Utah state agencies are reauthorized except for the following:".
- 2055 (c) Before sending the legislation to the governor for the governor's action, the ~~[Rules Review and General Oversight]~~ General Oversight Committee may send a letter to the governor and to the agency explaining specifically why the committee believes a rule should not be reauthorized.
- 2059 (d) For the purpose of this section, the entire rule, a [single] section, a subsection, or any complete paragraph of a rule may be excepted for reauthorization in the legislation considered by the Legislature.
- 2062 (4) The ~~[Rules Review and General Oversight]~~ General Oversight Committee may have legislation prepared for consideration by the Legislature in the annual general session or a special session regarding any rule made according to emergency rulemaking procedures described in Section 63G-3-304.
- 2066 (5) The Legislature's reauthorization of a rule by legislation:
- 2067 (a) does not constitute legislative approval of the rule~~[-nor is it admissible in any proceeding as-]~~ ; and
- 2069 (b) is not evidence of legislative intent.
- 2070 [(6)
- (a) If an agency believes that a rule that has not been reauthorized by the Legislature or that will be allowed to expire should continue in full force and effect and is a rule within their authorized rulemaking power, the agency may seek the governor's declaration extending the rule beyond the expiration date.]
- 2074 [(b) In seeking the extension, the agency shall submit a petition to the governor that affirmatively states:]

SB0148 compared with SB0148S02

- 2076 ~~[(i) that the rule is necessary; and]~~
- 2077 ~~[(ii) a citation to the source of its authority to make the rule.]~~
- 2078 ~~[(e)~~
- (i) ~~If the governor finds that the necessity does exist, and that the agency has the authority to make the rule, the governor may declare the rule to be extended by publishing that declaration in the Administrative Rules Bulletin on or before April 15 of that year.]~~
- 2082 ~~[(ii) The declaration shall set forth the rule to be extended, the reasons the extension is necessary, and a citation to the source of the agency's authority to make the rule.]~~
- 2084 ~~[(d)]~~ (6) If the legislation required by Subsection (3) fails to pass both houses of the Legislature or is found to have a technical legal defect preventing reauthorization of administrative rules intended to be reauthorized by the Legislature, the governor may declare all rules to be extended by publishing a single declaration in the Administrative Rules Bulletin on or before June 15 without meeting requirements of Subsections (6)(b) and (c).
- 2129 Section 32. Section **63G-3-503** is amended to read:
- 2130 **63G-3-503. Agency rules oversight.**
- Oversight of the rulemaking process is conducted by the ~~[Rules Review and General Oversight]~~ General Oversight Committee created in Section 36-35-102.
- 2133 Section 33. Section **63G-3-601** is amended to read:
- 2134 **63G-3-601. Interested parties -- Petition for agency action.**
- 2096 ~~[(1) As used in this section, "initiate rulemaking proceedings" means the filing, for the purposes of publication in accordance with Subsection 63G-3-301(4), of an agency's proposed rule to implement a petition for the making, amendment, or repeal of a rule as provided in this section.]~~
- 2100 ~~[(2)]~~ (1) An interested person may petition an agency to request the making, amendment, or repeal of a rule.
- 2102 ~~[(3)]~~ (2) The office shall prescribe by rule the form for petitions and the procedure for their submission, consideration, and disposition.
- 2104 ~~[(4)]~~ (3) A statement shall accompany the proposed rule ~~[, or proposed amendment or repeal of a rule,]~~ demonstrating that the proposed action is within the jurisdiction of the agency and appropriate to the powers of the agency.
- 2107 ~~[(5)]~~ (4) Within 60 days after submission of a petition, the agency shall ~~[either]~~ :
- 2108 (a) deny the petition in writing, stating ~~[its]~~ reasons for the denial ~~[,]~~ ; or

SB0148 compared with SB0148S02

- 2109 (b) initiate rulemaking proceedings to implement the petition.
- 2110 [~~(6)~~] (5)
- (a) If the petition is submitted to a board or commission that has been granted rulemaking authority by the Legislature, the board shall, within 45 days of the submission of the petition, place the petition on its agenda for review.
- 2113 (b) Within 80 days of the submission of the petition, the board or commission shall either:
- 2114 (i) deny the petition in writing stating its reasons for denial; or
- 2115 (ii) initiate rulemaking proceedings to implement the petition.
- 2116 [~~(7)~~] (6) If the agency [~~or~~], board, or commission has not provided the petitioner written notice that the agency has denied the petition or initiated rulemaking proceedings to implement the petition within the time limitations specified in Subsection [~~(5)~~] (4) or [~~(6)~~] (5) respectively, the petitioner may seek a writ of mandamus in state district court.
- 2160 Section 34. Section **63O-2-403** is amended to read:
- 2161 **63O-2-403. Contracting power of executive director -- Health insurance coverage.**
- 2123 (1) As used in this section:
- 2124 (a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.
- 2126 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.
- 2127 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:
- 2129 (i) works at least 30 hours per calendar week; and
- 2130 (ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first of the calendar month following 60 days after the day on which the individual is hired.
- 2133 (d) "Health benefit plan" means:
- 2134 (i) the same as that term is defined in Section 31A-1-301; or
- 2135 (ii) an employee welfare benefit plan:
- 2136 (A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;
- 2138 (B) for an employer with 100 or more employees; and
- 2139 (C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.
- 2142 (e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.

SB0148 compared with SB0148S02

- 2144 (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.
- 2145 (g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.
- 2147 (2) Except as provided in Subsection (3), the requirements of this section apply to:
- 2148 (a) a contractor of a design or construction contract entered into by the board, or on behalf of the board, on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and
- 2151 (b) a subcontractor of a contractor of a design or construction contract entered into by the board, or on behalf of the board, on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.
- 2154 (3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:
- 2156 (a) the application of this section jeopardizes the receipt of federal funds;
- 2157 (b) the contract is a sole source contract; or
- 2158 (c) the contract is an emergency procurement.
- 2159 (4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.
- 2161 (5)
- (a) A contractor subject to the requirements of this section shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the executive director a written statement that:
- 2166 (i) the contractor offers qualified health coverage that complies with Section 26B-3-909;
- 2168 (ii) is from:
- 2169 (A) an actuary selected by the contractor or the contractor's insurer;
- 2170 (B) an underwriter who is responsible for developing the employer group's premium rates; or
- 2172 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and
- 2174 (iii) was created within one year before the day on which the statement is submitted.
- 2175 (b)

SB0148 compared with SB0148S02

- (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by the administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the health benefit plan's actuarial value meets the requirements of qualified health coverage.
- 2180 (ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:
- 2182 (A) the actuary or underwriter selected by the administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and
- 2185 (B) the executive director.
- 2186 (c) A contractor that is subject to the requirements of this section shall:
- 2187 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and
- 2191 (ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:
- 2193 (A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;
- 2195 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and
- 2200 (C) was created within one year before the day on which the contractor obtains the statement.
- 2202 (d)
- (i)
- (A) A contractor that fails to maintain an offer of qualified health coverage as described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (6).
- 2206 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).
- 2209 (ii)

SB0148 compared with SB0148S02

- (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).
- 2213 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).
- 2215 (6) The department shall make rules:
- 2216 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 2217 (b) in coordination with:
- 2218 (i) the Department of Environmental Quality in accordance with Section 19-1-206;
- 2219 (ii) the Department of Natural Resources in accordance with Section 79-2-404;
- 2220 (iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;
- 2222 (iv) a public transit district in accordance with Section 17B-2a-818.5;
- 2223 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
- 2224 (vi) the Legislature's [~~Rules Review and General Oversight~~] General Oversight Committee created in Section 36-35-102; and
- 2226 (c) that establish:
- 2227 (i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:
- 2229 (A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;
- 2231 (B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and
- 2233 (C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);
- 2235 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:
- 2237 (A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;
- 2239 (B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;
- 2241

SB0148 compared with SB0148S02

- (C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and
- 2243 (D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and
- 2247 (iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).
- 2251 (7)
- (a)
- (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.
- 2255 (ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:
- 2257 (A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii);
- or
- 2259 (B) the department determines that compliance with this section is not required under the provisions of Subsection (3).
- 2261 (b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).
- 2263 (8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Growth Reduction and Budget Stabilization Account created in Section 63J-1-315.
- 2266 (9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:
- 2268 (a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:
- 2270 (i) Section 63G-6a-1602; or
- 2271 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
- 2272 (b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.
- 2275

SB0148 compared with SB0148S02

(10) An administrator, including the administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

- 2279 (a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the
administrator commits gross negligence in preparing the written statement;
- 2281 (b) is not liable for any error in the written statement if the administrator relied in good faith on
information from the contractor or subcontractor; and
- 2283 (c) may require as a condition of providing the written statement that a contractor or subcontractor hold
the administrator harmless for an action arising under this section.

2325 Section 35. Section **72-6-107.5** is amended to read:

2326 **72-6-107.5. Construction of improvements of highway -- Contracts -- Health insurance
coverage.**

2288 (1) As used in this section:

2289 (a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single
project.

2291 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.

2292 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

2294 (i) works at least 30 hours per calendar week; and

2295 (ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the
first day of the calendar month following 60 days after the day on which the individual is hired.

2298 (d) "Health benefit plan" means:

2299 (i) the same as that term is defined in Section 31A-1-301; or

2300 (ii) an employee welfare benefit plan:

2301 (A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et
seq.;

2303 (B) for an employer with 100 or more employees; and

2304 (C) in which the employer establishes a self-funded or partially self-funded group health plan to provide
medical care for the employer's employees and dependents of the employees.

2307 (e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.

2309 (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

2310

SB0148 compared with SB0148S02

- (g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.
- 2312 (2) Except as provided in Subsection (3), the requirements of this section apply to:
- 2313 (a) a contractor of a design or construction contract entered into by the department on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and
- 2316 (b) a subcontractor of a contractor of a design or construction contract entered into by the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.
- 2319 (3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:
- 2321 (a) the application of this section jeopardizes the receipt of federal funds;
- 2322 (b) the contract is a sole source contract; or
- 2323 (c) the contract is an emergency procurement.
- 2324 (4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.
- 2326 (5)
- (a) A contractor subject to the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the department a written statement that:
- 2330 (i) the contractor offers qualified health coverage that complies with Section 26B-3-909;
- 2332 (ii) is from:
- 2333 (A) an actuary selected by the contractor or the contractor's insurer;
- 2334 (B) an underwriter who is responsible for developing the employer group's premium rates; or
- 2336 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and
- 2338 (iii) was created within one year before the day on which the statement is submitted.
- 2339 (b)
- (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C),

SB0148 compared with SB0148S02

sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

- 2344 (ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:
- 2346 (A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and
- 2349 (B) the department.
- 2350 (c) A contractor that is subject to the requirements of this section shall:
- 2351 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and
- 2355 (ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:
- 2357 (A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;
- 2359 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and
- 2364 (C) was created within one year before the day on which the contractor obtains the statement.
- 2366 (d)
- (i)
- (A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).
- 2370 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).
- 2373 (ii)

SB0148 compared with SB0148S02

- (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).
- 2377 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of
qualified health coverage described in Subsection (5)(a).
- 2379 (6) The department shall adopt administrative rules:
- 2380 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 2381 (b) in coordination with:
- 2382 (i) the Department of Environmental Quality in accordance with Section 19-1-206;
- 2383 (ii) the Department of Natural Resources in accordance with Section 79-2-404;
- 2384 (iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;
- 2386 (iv) the State Capitol Preservation Board in accordance with Section 63O-2-403;
- 2387 (v) a public transit district in accordance with Section 17B-2a-818.5; and
- 2388 (vi) the Legislature's [~~Rules Review and General Oversight~~] General Oversight Committee created in
Section 36-35-102; and
- 2390 (c) that establish:
- 2391 (i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate
compliance with this section, including:
- 2393 (A) that a contractor or subcontractor's compliance with this section is subject to an audit by the
department or the Office of the Legislative Auditor General;
- 2395 (B) that a contractor that is subject to the requirements of this section shall obtain a written statement
described in Subsection (5)(a); and
- 2397 (C) that a subcontractor that is subject to the requirements of this section shall obtain a written
statement described in Subsection (5)(c)(ii);
- 2399 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the
provisions of this section, which may include:
- 2401 (A) a three-month suspension of the contractor or subcontractor from entering into future contracts with
the state upon the first violation;
- 2403 (B) a six-month suspension of the contractor or subcontractor from entering into future contracts with
the state upon the second violation;
- 2405

SB0148 compared with SB0148S02

- (C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and
- 2407 (D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and a dependent of the employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and
- 2411 (iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).
- 2415 (7)
- (a)
- (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.
- 2419 (ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:
- 2421 (A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii);
- or
- 2423 (B) the department determines that compliance with this section is not required under the provisions of Subsection (3).
- 2425 (b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).
- 2427 (8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Growth Reduction and Budget Stabilization Account created in Section 63J-1-315.
- 2430 (9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:
- 2432 (a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:
- 2434 (i) Section 63G-6a-1602; or
- 2435 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
- 2436 (b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.
- 2439

SB0148 compared with SB0148S02

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

- 2443 (a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the
administrator commits gross negligence in preparing the written statement;
- 2445 (b) is not liable for any error in the written statement if the administrator relied in good faith on
information from the contractor or subcontractor; and
- 2447 (c) may require as a condition of providing the written statement that a contractor or subcontractor hold
the administrator harmless for an action arising under this section.

2489 Section 36. Section **79-2-404** is amended to read:

2490 **79-2-404. Contracting powers of department -- Health insurance coverage.**

2452 (1) As used in this section:

- 2453 (a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single
project.
- 2455 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.
- 2456 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:
- 2458 (i) works at least 30 hours per calendar week; and
- 2459 (ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the
first day of the calendar month following 60 days after the day on which the individual is hired.
- 2462 (d) "Health benefit plan" means:
- 2463 (i) the same as that term is defined in Section 31A-1-301; or
- 2464 (ii) an employee welfare benefit plan:
- 2465 (A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et
seq.;
- 2467 (B) for an employer with 100 or more employees; and
- 2468 (C) in which the employer establishes a self-funded or partially self-funded group health plan to provide
medical care for the employer's employees and dependents of the employees.
- 2471 (e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.
- 2473 (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.
- 2474 (g) "Third party administrator" or "administrator" means the same as that term is defined in Section
31A-1-301.

SB0148 compared with SB0148S02

- 2476 (2) Except as provided in Subsection (3), the requirements of this section apply to:
- 2477 (a) a contractor of a design or construction contract entered into by, or delegated to, the department or
a division, board, or council of the department on or after July 1, 2009, if the prime contract is in an
aggregate amount equal to or greater than \$2,000,000; and
- 2481 (b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated
to, the department or a division, board, or council of the department on or after July 1, 2009, if the
subcontract is in an aggregate amount equal to or greater than \$1,000,000.
- 2485 (3) This section does not apply to contracts entered into by the department or a division, board, or
council of the department if:
- 2487 (a) the application of this section jeopardizes the receipt of federal funds;
- 2488 (b) the contract or agreement is between:
- 2489 (i) the department or a division, board, or council of the department; and
- 2490 (ii)
- (A) another agency of the state;
- 2491 (B) the federal government;
- 2492 (C) another state;
- 2493 (D) an interstate agency;
- 2494 (E) a political subdivision of this state; or
- 2495 (F) a political subdivision of another state; or
- 2496 (c) the contract or agreement is:
- 2497 (i) for the purpose of disbursing grants or loans authorized by statute;
- 2498 (ii) a sole source contract; or
- 2499 (iii) an emergency procurement.
- 2500 (4) A person that intentionally uses change orders, contract modifications, or multiple contracts to
circumvent the requirements of this section is guilty of an infraction.
- 2502 (5)
- (a) A contractor subject to the requirements of this section shall demonstrate to the department that the
contractor has and will maintain an offer of qualified health coverage for the contractor's employees
and the employees' dependents during the duration of the contract by submitting to the department a
written statement that:
- 2506 (i) the contractor offers qualified health coverage that complies with Section 26B-3-909;

SB0148 compared with SB0148S02

- 2508 (ii) is from:
- 2509 (A) an actuary selected by the contractor or the contractor's insurer;
- 2510 (B) an underwriter who is responsible for developing the employer group's premium rates; or
- 2512 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or
underwriter selected by a third party administrator; and
- 2514 (iii) was created within one year before the day on which the statement is submitted.
- 2515 (b)
- (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide
the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C),
sufficient information to determine whether the contractor's contribution to the health benefit plan
and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.
- 2520 (ii) A contractor may not make a change to the contractor's contribution to the health benefit plan,
unless the contractor provides notice to:
- 2522 (A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C),
for the actuary or underwriter to update the written statement described in Subsection (5)(a) in
compliance with this section; and
- 2525 (B) the department.
- 2526 (c) A contractor that is subject to the requirements of this section shall:
- 2527 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the
requirements of this section shall obtain and maintain an offer of qualified health coverage for the
subcontractor's employees and the employees' dependents during the duration of the subcontract;
and
- 2531 (ii) obtain from a subcontractor that is subject to the requirements of this section a written statement
that:
- 2533 (A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;
- 2535 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who
is responsible for developing the employer group's premium rates, or if the subcontractor provides
a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an
administrator; and
- 2540 (C) was created within one year before the day on which the contractor obtains the statement.
- 2542 (d)

SB0148 compared with SB0148S02

- (i)
- (A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).
- 2546 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).
- 2549 (ii)
- (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).
- 2553 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).
- 2555 (6) The department shall adopt administrative rules:
- 2556 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 2557 (b) in coordination with:
- 2558 (i) the Department of Environmental Quality in accordance with Section 19-1-206;
- 2559 (ii) a public transit district in accordance with Section 17B-2a-818.5;
- 2560 (iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;
- 2562 (iv) the State Capitol Preservation Board in accordance with Section 63O-2-403;
- 2563 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
- 2564 (vi) the Legislature's [~~Rules Review and General Oversight~~] General Oversight Committee created in Section 36-35-102; and
- 2566 (c) that establish:
- 2567 (i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:
- 2569 (A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;
- 2571 (B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and
- 2573 (C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

SB0148 compared with SB0148S02

- 2575 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the
provisions of this section, which may include:
- 2577 (A) a three-month suspension of the contractor or subcontractor from entering into future contracts with
the state upon the first violation;
- 2579 (B) a six-month suspension of the contractor or subcontractor from entering into future contracts with
the state upon the second violation;
- 2581 (C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904
upon the third or subsequent violation; and
- 2583 (D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified
health coverage for an employee and a dependent of an employee of the contractor or subcontractor
who was not offered qualified health coverage during the duration of the contract; and
- 2587 (iii) a website on which the department shall post the commercially equivalent benchmark, for the
qualified health coverage identified in Subsection (1)(e), provided by the Department of Health and
Human Services, in accordance with Subsection 26B-3-909(2).
- 2591 (7)
- (a)
- (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor
who intentionally violates the provisions of this section is liable to the employee for health care
costs that would have been covered by qualified health coverage.
- 2595 (ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:
- 2597 (A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii);
or
- 2599 (B) the department determines that compliance with this section is not required under the provisions of
Subsection (3).
- 2601 (b) An employee has a private right of action only against the employee's employer to enforce the
provisions of this Subsection (7).
- 2603 (8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Growth
Reduction and Budget Stabilization Account created in Section 63J-1-315.
- 2606 (9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this
section:
- 2608

SB0148 compared with SB0148S02

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

2610 (i) Section 63G-6a-1602; or

2611 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

2612 (b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

2615 (10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

2619 (a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

2621 (b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

2623 (c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

2665 Section 37. **Repealer.**

This Bill Repeals:

2666 This bill repeals:

2667 Section **63G-3-101, Title.**

2668 Section 38. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

2-23-26 2:06 PM