

Daniel McCay proposes the following substitute bill:

General Oversight Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

House Sponsor:

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- defines terms;
- renames the Rules Review and General Oversight Committee to the General Oversight Committee (committee);
- amends the membership of the committee;
- amends provisions related to what actions the committee may take regarding hearings and administrative rules;
- amends when the committee may close meetings;
- requires the Office of the Legislative Auditor General to conduct an audit if requested by the committee;
- amends provisions related to the process and procedures for making administrative rules;
- amends the responsibilities of the Office of Administrative Rules; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

19-1-207 (Effective 05/06/26), as last amended by Laws of Utah 2024, Chapter 178
19-5-104.5 (Effective 05/06/26) (Repealed 07/01/29), as last amended by Laws of Utah
2024, Chapter 178
26B-1-219 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapter 470
26B-3-129 (Effective 05/06/26), as last amended by Laws of Utah 2024, Chapter 178
36-35-101 (Effective 05/06/26), as enacted by Laws of Utah 2024, Chapter 178
36-35-102 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapter 463
52-4-205 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapter 391
53E-3-525 (Effective 05/06/26), as enacted by Laws of Utah 2025, Chapter 501
53H-1-403 (Effective 05/06/26), as enacted by Laws of Utah 2025, First Special Session,
Chapter 8
53H-7-303 (Effective 05/06/26), as renumbered and amended by Laws of Utah 2025,
First Special Session, Chapter 8
54-17-701 (Effective 05/06/26), as last amended by Laws of Utah 2024, Chapter 178
63A-5b-607 (Effective 05/06/26), as last amended by Laws of Utah 2024, Chapter 439
63A-13-202 (Effective 05/06/26), as last amended by Laws of Utah 2024, Chapter 178
63A-13-305 (Effective 05/06/26), as last amended by Laws of Utah 2024, Chapter 178
63G-3-102 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapter 483
63G-3-201 (Effective 05/06/26), as last amended by Laws of Utah 2025, First Special
Session, Chapter 9
63G-3-301 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapters 463,
483
63G-3-302 (Effective 05/06/26), as last amended by Laws of Utah 2024, Chapter 347
63G-3-303 (Effective 05/06/26), as last amended by Laws of Utah 2016, Chapter 193
63G-3-304 (Effective 05/06/26), as last amended by Laws of Utah 2024, Chapter 178
63G-3-304.1 (Effective 05/06/26), as enacted by Laws of Utah 2025, Chapter 463
63G-3-305 (Effective 05/06/26), as last amended by Laws of Utah 2016, Chapter 193
63G-3-401 (Effective 05/06/26), as last amended by Laws of Utah 2021, Chapter 344
63G-3-402 (Effective 05/06/26), as last amended by Laws of Utah 2024, Chapter 178
63G-3-403 (Effective 05/06/26), as last amended by Laws of Utah 2024, Chapter 178
63G-3-502 (Effective 05/06/26), as last amended by Laws of Utah 2024, Chapter 178
63G-3-503 (Effective 05/06/26), as last amended by Laws of Utah 2025, Chapter 277
63G-3-601 (Effective 05/06/26), as last amended by Laws of Utah 2020, Chapter 408
63O-2-403 (Effective 05/06/26), as last amended by Laws of Utah 2024, Chapter -1000

63 **72-6-107.5 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 439

64 **79-2-404 (Effective 05/06/26)**, as last amended by Laws of Utah 2024, Chapter 439

65 ENACTS:

66 **36-35-102.5 (Effective 05/06/26)**, Utah Code Annotated 1953

67 REPEALS:

68 **63G-3-101 (Effective 05/06/26)**, as renumbered and amended by Laws of Utah 2008,
69 Chapter 382

70

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

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

73 **19-1-111 (Effective 05/06/26). Governance committee with local health**
74 **departments.**

75 (1) As used in this section:

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

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

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

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

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

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

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

87 (3) The governance committee shall:

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

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

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

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

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

- 97 (ii) subject to requirements satisfying or exceeding the minimum performance
98 standards created by the department under Section 26A-1-106;
- 99 (c) evaluate rules and department policies that affect a local health department in
100 accordance with Subsection (4);
- 101 (d) consider policy changes proposed by the department or by a local health department;
- 102 (e) coordinate the implementation of environmental quality programs to maximize
103 environmental quality resources;
- 104 (f) except as provided by Subsection (3)(g), review each department application for any
105 federal funding that affects a local health department before the department submits
106 the application; and
- 107 (g) establish a process by which the committee may exempt an application for federal
108 funding from the review required under Subsection (3)(f).
- 109 (4) When evaluating a policy or rule that affects a local health department, the governance
110 committee shall:
- 111 (a) compute an estimate of the cost a local health department will bear to comply with
112 the policy or rule;
- 113 (b) specify whether there is any funding provided to a local health department to
114 implement the policy or rule; and
- 115 (c) advise whether the policy or rule is needed.
- 116 (5) The governance committee shall create bylaws to govern the committee's operations.
- 117 (6) Before November 1 of each year, the department shall provide a report to the [~~Rules~~
118 ~~Review and General Oversight~~] General Oversight Committee regarding the
119 determinations made under Subsection (4).

120 Section 2. Section **19-1-206** is amended to read:

121 **19-1-206 (Effective 05/06/26). Contracting powers of department -- Health**
122 **insurance coverage.**

- 123 (1) As used in this section:
- 124 (a) "Aggregate" means the sum of all contracts, change orders, and modifications related
125 to a single project.
- 126 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.
- 127 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or
128 "operative" who:
- 129 (i) works at least 30 hours per calendar week; and
- 130 (ii) meets employer eligibility waiting requirements for health care insurance, which

- 131 may not exceed the first day of the calendar month following 60 days after the day
132 on which the individual is hired.
- 133 (d) "Health benefit plan" means:
- 134 (i) the same as that term is defined in Section 31A-1-301; or
- 135 (ii) an employee welfare benefit plan:
- 136 (A) established under the Employee Retirement Income Security Act of 1974, 29
137 U.S.C. Sec. 1001 et seq.;
- 138 (B) for an employer with 100 or more employees; and
- 139 (C) in which the employer establishes a self-funded or partially self-funded group
140 health plan to provide medical care for the employer's employees and
141 dependents of the employees.
- 142 (e) "Qualified health coverage" means the same as that term is defined in Section
143 26B-3-909.
- 144 (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.
- 145 (g) "Third party administrator" or "administrator" means the same as that term is defined
146 in Section 31A-1-301.
- 147 (2) Except as provided in Subsection (3), the requirements of this section apply to:
- 148 (a) a contractor of a design or construction contract entered into by, or delegated to, the
149 department, or a division or board of the department, on or after July 1, 2009, if the
150 prime contract is in an aggregate amount equal to or greater than \$2,000,000; and
- 151 (b) a subcontractor of a contractor of a design or construction contract entered into by, or
152 delegated to, the department, or a division or board of the department, on or after July
153 1, 2009, if the subcontract is in an aggregate amount equal to or greater than
154 \$1,000,000.
- 155 (3) This section does not apply to contracts entered into by the department or a division or
156 board of the department if:
- 157 (a) the application of this section jeopardizes the receipt of federal funds;
- 158 (b) the contract or agreement is between:
- 159 (i) the department or a division or board of the department; and
- 160 (ii)(A) another agency of the state;
- 161 (B) the federal government;
- 162 (C) another state;
- 163 (D) an interstate agency;
- 164 (E) a political subdivision of this state; or

- 165 (F) a political subdivision of another state;
- 166 (c) the executive director determines that applying the requirements of this section to a
- 167 particular contract interferes with the effective response to an immediate health and
- 168 safety threat from the environment; or
- 169 (d) the contract is:
- 170 (i) a sole source contract; or
- 171 (ii) an emergency procurement.
- 172 (4) A person that intentionally uses change orders, contract modifications, or multiple
- 173 contracts to circumvent the requirements of this section is guilty of an infraction.
- 174 (5)(a) A contractor subject to the requirements of this section shall demonstrate to the
- 175 executive director that the contractor has and will maintain an offer of qualified
- 176 health coverage for the contractor's employees and the employees' dependents during
- 177 the duration of the contract by submitting to the executive director a written
- 178 statement that:
- 179 (i) the contractor offers qualified health coverage that complies with Section
- 180 26B-3-909;
- 181 (ii) is from:
- 182 (A) an actuary selected by the contractor or the contractor's insurer;
- 183 (B) an underwriter who is responsible for developing the employer group's
- 184 premium rates; or
- 185 (C) if the contractor provides a health benefit plan described in Subsection
- 186 (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and
- 187 (iii) was created within one year before the day on which the statement is submitted.
- 188 (b)(i) A contractor that provides a health benefit plan described in Subsection
- 189 (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as
- 190 described in Subsection (5)(a)(ii)(C), sufficient information to determine whether
- 191 the contractor's contribution to the health benefit plan and the actuarial value of
- 192 the health benefit plan meet the requirements of qualified health coverage.
- 193 (ii) A contractor may not make a change to the contractor's contribution to the health
- 194 benefit plan, unless the contractor provides notice to:
- 195 (A) the actuary or underwriter selected by an administrator, as described in
- 196 Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written
- 197 statement described in Subsection (5)(a) in compliance with this section; and
- 198 (B) the department.

- 199 (c) A contractor that is subject to the requirements of this section shall:
- 200 (i) place a requirement in each of the contractor's subcontracts that a subcontractor
- 201 that is subject to the requirements of this section shall obtain and maintain an offer
- 202 of qualified health coverage for the subcontractor's employees and the employees'
- 203 dependents during the duration of the subcontract; and
- 204 (ii) obtain from a subcontractor that is subject to the requirements of this section a
- 205 written statement that:
- 206 (A) the subcontractor offers qualified health coverage that complies with Section
- 207 26B-3-909;
- 208 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer,
- 209 an underwriter who is responsible for developing the employer group's
- 210 premium rates, or if the subcontractor provides a health benefit plan described
- 211 in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator;
- 212 and
- 213 (C) was created within one year before the day on which the contractor obtains the
- 214 statement.
- 215 (d)(i)(A) A contractor that fails to maintain an offer of qualified health coverage
- 216 described in Subsection (5)(a) during the duration of the contract is subject to
- 217 penalties in accordance with administrative rules adopted by the department
- 218 under Subsection (6).
- 219 (B) A contractor is not subject to penalties for the failure of a subcontractor to
- 220 obtain and maintain an offer of qualified health coverage described in
- 221 Subsection (5)(c)(i).
- 222 (ii)(A) A subcontractor that fails to obtain and maintain an offer of qualified
- 223 health coverage described in Subsection (5)(c) during the duration of the
- 224 subcontract is subject to penalties in accordance with administrative rules
- 225 adopted by the department under Subsection (6).
- 226 (B) A subcontractor is not subject to penalties for the failure of a contractor to
- 227 maintain an offer of qualified health coverage described in Subsection (5)(a).
- 228 (6) The department shall adopt administrative rules:
- 229 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 230 (b) in coordination with:
- 231 (i) a public transit district in accordance with Section 17B-2a-818.5;
- 232 (ii) the Department of Natural Resources in accordance with Section 79-2-404;

- 233 (iii) the Division of Facilities Construction and Management in accordance with
234 Section 63A-5b-607;
- 235 (iv) the State Capitol Preservation Board in accordance with Section 63O-2-403;
- 236 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
- 237 (vi) the Legislature's [~~Rules Review and General Oversight~~] General Oversight
238 Committee created in Section 36-35-102; and
- 239 (c) that establish:
- 240 (i) the requirements and procedures a contractor and a subcontractor shall follow to
241 demonstrate compliance with this section, including:
- 242 (A) that a contractor or subcontractor's compliance with this section is subject to
243 an audit by the department or the Office of the Legislative Auditor General;
- 244 (B) that a contractor that is subject to the requirements of this section shall obtain
245 a written statement described in Subsection (5)(a); and
- 246 (C) that a subcontractor that is subject to the requirements of this section shall
247 obtain a written statement described in Subsection (5)(c)(ii);
- 248 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
249 violates the provisions of this section, which may include:
- 250 (A) a three-month suspension of the contractor or subcontractor from entering into
251 future contracts with the state upon the first violation;
- 252 (B) a six-month suspension of the contractor or subcontractor from entering into
253 future contracts with the state upon the second violation;
- 254 (C) an action for debarment of the contractor or subcontractor in accordance with
255 Section 63G-6a-904 upon the third or subsequent violation; and
- 256 (D) notwithstanding Section 19-1-303, monetary penalties which may not exceed
257 50% of the amount necessary to purchase qualified health coverage for an
258 employee and the dependents of an employee of the contractor or subcontractor
259 who was not offered qualified health coverage during the duration of the
260 contract; and
- 261 (iii) a website on which the department shall post the commercially equivalent
262 benchmark, for the qualified health coverage identified in Subsection (1)(e), that
263 is provided by the Department of Health and Human Services, in accordance with
264 Subsection 26B-3-909(2).
- 265 (7)(a)(i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor
266 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.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(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.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

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

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

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

(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.

(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):

(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;

(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

(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.

Section 3. Section **19-1-207** is amended to read:

19-1-207 (Effective 05/06/26). Regulatory certainty to support economic

recovery.

- (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:
- (a) a state rule related to a federally-delegated program;
 - (b) a rule mandated by statute to be made, amended, or repealed on or before July 1, 2020; or
 - (c) subject to Subsection (2), a rule that is necessary because failure to make, amend, or repeal the rule will:
 - (i) cause an imminent peril to the public health, safety, or welfare;
 - (ii) cause an imminent budget reduction because of budget restraints or federal requirements;
 - (iii) place the agency in violation of federal or state law; or
 - (iv) fail to provide regulatory relief.
- (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).
- (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.
- (4) Only the Legislature may extend the time limitations of this section.
- (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.
- (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.

Section 4. Section **19-5-104.5** is amended to read:

19-5-104.5 (Effective 05/06/26) (Repealed 07/01/29). Legislative review and approval.

- (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:

- (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
- (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.

(2)(a) As used in this Subsection (2):

(i) "Expenditure" means the act of expending funds:

(A) by an individual public facility with a Utah Pollutant Discharge Elimination System permit, or by a group of private agricultural facilities; and

(B) through an initial capital investment, or through operational costs over a three-year period.

(ii) "Utah Pollutant Discharge Elimination System" means the state permit system created in accordance with 33 U.S.C. Sec. 1342.

(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).

(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.

(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.

(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).

(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.

(e)(i) A facility shall estimate the cost of compliance with a board-proposed rule or standard described in Subsection (2)(b) using:

(A) an independent, licensed engineer; and

(B) industry-accepted project cost estimate methods.

(ii) The board may evaluate and report on a compliance estimate described in Subsection (2)(e)(i).

(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.

(3) In reviewing a rule or standard, the Natural Resources, Agriculture, and Environment Interim Committee may:

(a) consider the impact of the rule or standard on:

(i) economic costs and benefit;

(ii) public health; and

(iii) the environment;

(b) suggest additional areas of consideration; or

(c) recommend the rule or standard to the board for:

(i) adoption; or

(ii) re-evaluation followed by further review by the Natural Resources, Agriculture, and Environment Interim Committee.

(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:

(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

(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.

Section 5. Section **26B-1-219** is amended to read:

26B-1-219 (Effective 05/06/26). Requirements for issuing, recommending, or facilitating rationing criteria.

(1) As used in this section:

(a) "Health care resource" means:

- 403 (i) health care as defined in Section 78B-3-403;
- 404 (ii) a prescription drug as defined in Section 58-17b-102;
- 405 (iii) a prescription device as defined in Section 58-17b-102;
- 406 (iv) a nonprescription drug as defined in Section 58-17b-102; or
- 407 (v) any supply or treatment that is intended for use in the course of providing health
- 408 care as defined in Section 78B-3-403.
- 409 (b)(i) "Rationing criteria" means any requirement, guideline, process, or
- 410 recommendation regarding:
- 411 (A) the distribution of a scarce health care resource; or
- 412 (B) qualifications or criteria for a person to receive a scarce health care resource.
- 413 (ii) "Rationing criteria" includes crisis standards of care with respect to any health
- 414 care resource.
- 415 (c) "Scarce health care resource" means a health care resource:
- 416 (i) for which the need for the health care resource in the state or region significantly
- 417 exceeds the available supply of that health care resource in that state or region;
- 418 (ii) that, based on the circumstances described in Subsection (1)(c)(i), is distributed
- 419 or provided using written requirements, guidelines, processes, or
- 420 recommendations as a factor in the decision to distribute or provide the health care
- 421 resource; and
- 422 (iii) that the federal government has allocated to the state to distribute.
- 423 (2)(a) On or before July 1, 2022, the department shall make rules in accordance with
- 424 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure
- 425 that the department will follow to adopt, modify, require, facilitate, or recommend
- 426 rationing criteria.
- 427 (b) Beginning July 1, 2022, the department may not adopt, modify, require, facilitate, or
- 428 recommend rationing criteria unless the department follows the procedure established
- 429 by the department under Subsection (2)(a).
- 430 (3) The procedures developed by the department under Subsection (2) shall include, at a
- 431 minimum:
- 432 (a) a requirement that the department notify the following individuals in writing before
- 433 rationing criteria are issued, are recommended, or take effect:
- 434 (i) the ~~[Rules Review and General Oversight]~~ General Oversight Committee created
- 435 in Section 36-35-102;
- 436 (ii) the governor or the governor's designee;

- 437 (iii) the president of the Senate or the president's designee;
438 (iv) the speaker of the House of Representatives or the speaker's designee;
439 (v) the executive director or the executive director's designee; and
440 (vi) if rationing criteria affect hospitals in the state, a representative of an association
441 representing hospitals throughout the state, as designated by the executive
442 director; and
- 443 (b) procedures for an emergency circumstance which shall include, at a minimum:
444 (i) a description of the circumstances under which emergency procedures described
445 in this Subsection (3)(b) may be used; and
446 (ii) a requirement that the department notify the individuals described in Subsections
447 (3)(a)(i) through (vi) as soon as practicable, but no later than 48 hours after the
448 rationing criteria take effect.
- 449 (4) The requirements described in this section and rules made under this section shall apply
450 regardless of whether rationing criteria:
451 (a) have the force and effect of law, or is solely advisory, informative, or descriptive;
452 (b) are carried out or implemented directly or indirectly by the department or by other
453 individuals or entities; or
454 (c) are developed solely by the department or in collaboration with other individuals or
455 entities.
- 456 (5) This section:
457 (a) may not be suspended under Section 53-2a-209 or any other provision of state law
458 relating to a state of emergency;
459 (b) does not limit a private entity from developing or implementing rationing criteria; and
460 (c) does not require the department to adopt, modify, require, facilitate, or recommend
461 rationing criteria that the department does not determine to be necessary or
462 appropriate.
- 463 (6) Subsection (2) does not apply to rationing criteria that are adopted, modified, required,
464 facilitated, or recommended by the department:
465 (a) through the regular, non-emergency rulemaking procedure described in Section
466 63G-3-301;
467 (b) if the modification is solely to correct a technical error in rationing criteria such as
468 correcting obvious errors and inconsistencies including those involving punctuation,
469 capitalization, cross references, numbering, and wording;
470 (c) to the extent that compliance with this section would result in a direct violation of

471 federal law;

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

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

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

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

478 **26B-3-129 (Effective 05/06/26). Review of claims -- Audit and investigation**
479 **procedures.**

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

487 (b) If the providers and health care professionals do not agree with the rules proposed or
488 adopted by the department under Subsection (1)(a), the providers or health care
489 professionals may:

490 (i) request a hearing for the proposed administrative rule or seek any other remedies
491 under the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking
492 Act; and

493 (ii) request a review of the rule by the Legislature's [~~Rules Review and General~~
494 ~~Oversight~~] General Oversight Committee created in Section 36-35-102.

495 (2) The department shall:

496 (a) notify and educate providers and health care professionals subject to audit and
497 investigation under the Medicaid program of the providers' and health care
498 professionals' responsibilities and rights under the administrative rules adopted by the
499 department under the provisions of this section;

500 (b) ensure that the department, or any entity that contracts with the department to
501 conduct audits:

502 (i) has on staff or contracts with a medical or dental professional who is experienced
503 in the treatment, billing, and coding procedures used by the type of provider being
504 audited; and

- 505 (ii) uses the services of the appropriate professional described in Subsection [(3)(b)(i)]
506 (2)(b)(i) if the provider who is the subject of the audit disputes the findings of the
507 audit;
- 508 (c) ensure that a finding of overpayment or underpayment to a provider is not based on
509 extrapolation, as defined in Section 63A-13-102, unless:
- 510 (i) there is a determination that the level of payment error involving the provider
511 exceeds a 10% error rate:
- 512 (A) for a sample of claims for a particular service code; and
513 (B) over a three year period of time;
- 514 (ii) documented education intervention has failed to correct the level of payment
515 error; and
- 516 (iii) the value of the claims for the provider, in aggregate, exceeds \$200,000 in
517 reimbursement for a particular service code on an annual basis; and
- 518 (d) require that any entity with which the office contracts, for the purpose of conducting
519 an audit of a service provider, shall be paid on a flat fee basis for identifying both
520 overpayments and underpayments.
- 521 (3)(a) If the department, or a contractor on behalf of the department:
- 522 (i) intends to implement the use of extrapolation as a method of auditing claims, the
523 department shall, prior to adopting the extrapolation method of auditing, report [its]
524 the department's intent to use extrapolation to the Social Services Appropriations
525 Subcommittee; and
- 526 (ii) determines Subsections (2)(c)(i) through (iii) are applicable to a provider, the
527 department or the contractor may use extrapolation only for the service code
528 associated with the findings under Subsections (2)(c)(i) through (iii).
- 529 (b)(i) If extrapolation is used under this section, a provider may, at the provider's
530 option, appeal the results of the audit based on:
- 531 (A) each individual claim; or
532 (B) the extrapolation sample.
- 533 (ii) Nothing in this section limits a provider's right to appeal the audit under [Title
534 ~~63G, General Government,~~] Title 63G, Chapter 4, Administrative Procedures Act,
535 the Medicaid program and its manual or rules, or other laws or rules that may
536 provide remedies to providers.
- 537 Section 7. Section **36-35-101** is amended to read:
- 538 **36-35-101 (Effective 05/06/26). Definitions.**

As used in this chapter:

- (1) "Abuse of authority" means an arbitrary or capricious exercise of power that:
- (a) adversely affects the employment rights of another; or
 - (b) results in personal gain to the person exercising the authority or to another person.
- (2) "Agency" means the same as that term is defined in Section 63G-3-102.
- (3) "Agency rule" means the same as the term "rule" is defined in Section 63G-3-101.
- ~~[(2)]~~ (4) "Committee" means the [Rules Review and General Oversight] General Oversight
Committee.
- ~~[(3)]~~ (5) "Court Rule" means any of the following, whether existing, new, or proposed:
- (a) rules of procedure, evidence, or practice for use of the courts of this state;
 - (b) rules governing and managing the appellate process adopted by the Supreme Court;
 - or
 - (c) rules adopted by the Judicial Council for the administration of the courts of the state.
- (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.
- ~~[(4)]~~ (7) "Judicial advisory committee" means the committee that proposes to the Supreme
Court rules or changes in court rules related to:
- (a) civil procedure;
 - (b) criminal procedure;
 - (c) juvenile procedure;
 - (d) appellate procedure;
 - (e) evidence;
 - (f) professional conduct; and
 - (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.
- ~~[(5)]~~ (8) "Judicial council" means the administrative body of the courts, established in Utah
Constitution, Article VIII, Section 12, and Section 78A-2-104.
- (9) "Legislative issue" means any issue that could impact or inform legislation or potential
legislation.
- (10) "Matter subject to litigation" means any issue that is directly or indirectly:
- (a) being litigated in a court; or
 - (b) likely to be litigated in a court.
- (11) "Office" means the same as that term is defined in Section 63G-3-102.

573 [(6)] (12) "Proposal for court rule" means the proposed language in a court rule that is
 574 submitted to:

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

578 [(7)] (13) "Rule" means an agency rule or a court rule.

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

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

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

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

592 **36-35-102 (Effective 05/06/26). General Oversight Committee.**

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

- 595 (i) [~~five~~] six members of the Senate appointed by the president of the Senate, no more
 596 than [~~three~~] four of whom may be from the same political party; and
- 597 (ii) [~~five~~] seven members of the House of Representatives appointed by the speaker
 598 of the House of Representatives, no more than [~~three~~] five of whom may be from
 599 the same political party.

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

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

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

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

606 (ii) When a vacancy exists:

- 607 (A) if the departing member is a member of the Senate, the president of the Senate
608 shall appoint a member of the Senate to fill the vacancy; or
- 609 (B) if the departing member is a member of the House of Representatives, the
610 speaker of the House of Representatives shall appoint a member of the House
611 of Representatives to fill the vacancy.
- 612 ~~[(iii) The newly appointed member shall serve the remainder of the departing~~
613 ~~member's unexpired term.]~~
- 614 (d)(i) The president of the Senate shall designate a member of the Senate appointed
615 under Subsection (1)(a)(i) as a cochair of the committee.
- 616 (ii) The speaker of the House of Representatives shall designate a member of the
617 House of Representatives appointed under Subsection (1)(a)(ii) as a cochair of the
618 committee.
- 619 (e) ~~[Three-]~~ Four representatives and three senators from the permanent members are a
620 quorum for the transaction of business at any meeting.
- 621 (f)~~[(i) Subject to Subsection (1)(f)(ii), the]~~ The committee shall meet ~~[at least once~~
622 ~~each month to review new agency rules and court rules, amendments to existing~~
623 ~~agency rules and court rules, and repeals of existing agency rules and court rules.]~~
624 at the discretion of the committee chairs.
- 625 ~~[(ii) The committee chairs may suspend the meeting requirement described in~~
626 ~~Subsection (1)(f)(i) at the committee chairs' discretion.]~~
- 627 (2) The office shall submit a copy of each issue of the bulletin to the committee.
- 628 (3)(a) The committee shall:
- 629 (i) exercise continuous oversight of the administrative rulemaking process ~~[under]~~
630 described in Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~[-]~~ ; and~~[~~
631 ~~shall,]~~
- 632 (ii) for each general session of the Legislature, request legislation that considers
633 legislative reauthorization of agency rules as ~~[provided under]~~ described in Section
634 63G-3-502.
- 635 (b) The committee shall examine each agency rule, including any agency rule made
636 according to the emergency rulemaking procedure described in Section 63G-3-304,
637 submitted by an agency to determine:
- 638 (i) whether the agency rule is authorized by statute;
- 639 (ii) whether the agency rule complies with legislative intent;
- 640 (iii) the agency rule's impact on the economy and the government operations of the

- 641 state and local political subdivisions;
- 642 (iv) the agency rule's impact on affected persons;
- 643 (v) the agency rule's total cost to entities regulated by the state;
- 644 (vi) the agency rule's benefit to the citizens of the state; and
- 645 (vii) whether adoption of the agency rule requires legislative review or approval.
- 646 (c) The committee may examine and review:
- 647 (i) any executive order, including an order issued [pursuant to] under Title 53,
- 648 Chapter 2a, Part 2, Disaster Response and Recovery Act;
- 649 (ii) any public health order issued during a public health emergency declared in
- 650 accordance with Title 26A, Local Health Authorities, or Title 26B, Utah Health
- 651 and Human Services Code;
- 652 (iii) any agency action or policy that:
- 653 (A) affects a class of persons other than the agency; or
- 654 (B) is contrary to legislative intent;
- 655 (iv) in accordance with [Subsection (10),] Section 36-35-102.5:
- 656 (A) an individual child welfare case; or
- 657 [(v)] (B) [in accordance with Subsection (11),] information from an agency that is
- 658 subject to a confidentiality agreement[.]; or
- 659 (v) any legislative issue.
- 660 (d) If the committee chooses to examine or review an order or policy described in
- 661 Subsection (3)(c), the agency that issued the order or policy shall, upon request by
- 662 the committee, provide to the committee:
- 663 (i) a copy of the order or policy; and
- 664 (ii) information related to the order or policy.
- 665 (e) The committee shall review court rules as provided in Section 36-35-103 and Section
- 666 36-35-104.
- 667 (f) The committee may close a meeting in accordance with Section 36-35-102.5.
- 668 (4)(a) To carry out the requirements of Subsection (3), the committee may examine any
- 669 other issues that the committee considers necessary.
- 670 (b) Notwithstanding anything to the contrary in this section, the committee may not
- 671 examine the internal policies, procedures, or practices of an agency or judicial branch
- 672 entity.
- 673 (c) In reviewing a rule, the committee shall follow generally accepted principles of
- 674 statutory construction.

- 675 (5) When the committee reviews an existing rule, the committee chairs:
- 676 (a) shall invite the Senate and House chairs of the standing committee and of the
- 677 appropriation subcommittee that have jurisdiction over the agency or judicial branch
- 678 entity whose existing rule is being reviewed to participate as nonvoting, ex officio
- 679 members with the committee during the review of the rule; and
- 680 (b) may notify and refer the rule to the chairs of the interim committee that has
- 681 jurisdiction over a particular agency or judicial branch entity when the committee
- 682 determines that an issue involved in the rule may be more appropriately addressed by
- 683 that committee.
- 684 (6) The committee may request that the Office of the Legislative Fiscal Analyst prepare a
- 685 fiscal note on any rule or proposal for court rule.
- 686 (7) In order to accomplish the committee's functions described in this chapter, the
- 687 committee has all the powers granted to legislative interim committees under Section
- 688 36-12-11.
- 689 (8)(a) The committee may prepare written findings of the committee's review of a rule,
- 690 proposal for court rule, policy, practice, ~~[or]~~ procedure, or legislative issue and may
- 691 include any recommendation, including:
- 692 (i) legislative action;
- 693 (ii) action by a standing committee or interim committee;
- 694 (iii) agency rulemaking action;
- 695 (iv) Supreme Court rulemaking action; or
- 696 (v) Judicial Council rulemaking action.
- 697 (b) When the committee reviews a rule, the committee shall provide to the agency or
- 698 judicial branch entity that enacted the rule:
- 699 (i) the committee's findings, if any; and
- 700 (ii) a request that the agency or judicial branch entity notify the committee of any
- 701 changes the agency or judicial branch entity makes to the rule.
- 702 (c) The committee shall provide a copy of the committee's findings described in
- 703 Subsection (8)(a), if any, to:
- 704 (i) any member of the Legislature, upon request;
- 705 (ii) any person affected by the rule, upon request;
- 706 (iii) the president of the Senate;
- 707 (iv) the speaker of the House of Representatives;
- 708 (v) the Senate and House chairs of the standing committee that has jurisdiction over

- 709 the agency or judicial branch entity whose rule, policy, practice, or procedure is
710 the subject of the finding;
- 711 (vi) the Senate and House chairs of the appropriation subcommittee that has
712 jurisdiction over the agency or judicial branch entity that made the rule;
- 713 (vii) the governor; and
- 714 (viii) if the findings involve a court rule or judicial branch entity:
- 715 (A) the Judiciary Interim Committee;
- 716 (B) the Supreme Court; and
- 717 (C) the Judicial Council.
- 718 (9)(a)(i) The committee may submit a report on the committee's review under this
719 section to each member of the Legislature at each regular session.
- 720 (ii) The report shall include:
- 721 (A) any finding or recommendation the committee made under Subsection (8);
- 722 (B) any action an agency, the Supreme Court, or the Judicial Council took in
723 response to a committee recommendation; and
- 724 (C) any recommendation by the committee for legislation.
- 725 (b) If the committee receives a recommendation not to reauthorize an agency rule, as
726 described in Subsection 63G-3-301(13)(b), and the committee recommends to the
727 Legislature reauthorization of the agency rule, the committee shall submit a report to
728 each member of the Legislature detailing the committee's decision.
- 729 (c) The committee may open a committee bill file to draft legislation by:
- 730 (i) committee vote; or
- 731 (ii) the House and Senate chairs agreeing to open a committee bill file if:
- 732 (A) the committee has voted to grant the chairs the ability to open committee bill
733 files in the first meeting of the committee after the Legislature has adjourned
734 sine die from the annual general session; and
- 735 (B) the chairs open a committee bill during the calendar year in which the vote
736 described in Subsection (9)(c)(ii)(A) has occurred.
- 737 (10)(a) Upon the unanimous vote of the committee, the committee may authorize the
738 Office of the Legislative Auditor General to conduct an audit of an entity.
- 739 (b) The committee may authorize only two audits in a calendar year under Subsection
740 (10)(a).
- 741 (c) The Office of the Legislative Auditor General:
- 742 (i) shall conduct an audit if authorized under Subsection (10)(a);

- (ii) may not expend more than 500 staff hours on an audit described in Subsection (10)(a); and
- (iii) shall report to the committee at the conclusion of the audit approved under Subsection (10)(a).

~~[(10) Notwithstanding any other provision of this section, when reviewing and discussing an individual child welfare case under Subsection (3)(c)(iv):]~~

~~[(a) the committee:]~~

~~[(i) shall close the committee's meeting in accordance with Title 52, Chapter 4, Open and Public Meetings Act;]~~

~~[(ii) shall make reasonable efforts to identify and consider the concerns of all parties to the case; and]~~

~~[(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;]~~

~~[(b) a record of the committee regarding an individual child welfare case:]~~

~~[(i) is classified as private under Section 63G-2-302; and]~~

~~[(ii) may be disclosed only in accordance with federal law and Title 63G, Chapter 2, Government Records Access and Management Act; and]~~

~~[(c) 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.]~~

~~[(11) Notwithstanding any other provision of this section, when reviewing information described in Subsection (3)(c)(v):]~~

~~[(a) the committee shall close the committee's meeting in accordance with Title 52, Chapter 4, Open and Public Meetings Act;]~~

~~[(b) a record of the committee regarding the information:]~~

~~[(i) is classified as private under Section 63G-2-302; and]~~

~~[(ii) may be disclosed only in accordance with federal law and Title 63G, Chapter 2, Government Records Access and Management Act; and]~~

~~[(c) 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.]~~

Section 9. Section **36-35-102.5** is enacted to read:

36-35-102.5 (Effective 05/06/26). Closed meeting authorized.

- 777 (1) When reviewing and discussing an individual child welfare case:
778 (a) the committee:
779 (i) shall close the committee's meeting in accordance with Title 52, Chapter 4, Open
780 and Public Meetings Act;
781 (ii) shall make reasonable efforts to identify and consider the concerns of all parties
782 to the case; and
783 (iii) may not make recommendations to the court, the division, or any other public or
784 private entity regarding the disposition of an individual child welfare case;
785 (b) a record of the committee regarding an individual child welfare case:
786 (i) is classified as private under Section 63G-2-302; and
787 (ii) may be disclosed only in accordance with federal law and Title 63G, Chapter 2,
788 Government Records Access and Management Act; and
789 (c) any documents received by the committee from the Division of Child and Family
790 Services shall maintain the same classification under Title 63G, Chapter 2,
791 Government Records Access and Management Act, that was designated by the
792 Division of Child and Family Services.
793 (2) When reviewing information subject to a confidentiality agreement:
794 (a) the committee shall close the committee's meeting in accordance with Title 52,
795 Chapter 4, Open and Public Meetings Act;
796 (b) a record of the committee regarding the information:
797 (i) is classified as private under Section 63G-2-302; and
798 (ii) may be disclosed only in accordance with federal law and Title 63G, Chapter 2,
799 Government Records Access and Management Act; and
800 (c) any documents received by the committee when reviewing the information shall
801 maintain the same classification under Title 63G, Chapter 2, Government Records
802 Access and Management Act, that was designated by the government entity
803 providing the documents.
804 (3)(a) The committee may close a committee meeting in accordance with Title 52,
805 Chapter 4, Open and Public Meetings Act, if the committee is reviewing a matter
806 subject to litigation or a whistleblower complaint.
807 (b) If the meeting is closed under Subsection (3)(a):
808 (i) the record of the committee related to the matter subject to litigation or
809 whistleblower complaint:
810 (A) is classified as private under Section 63G-2-302; and

(B) may be disclosed only in accordance with federal law and Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) any documents or materials received by the committee when reviewing the matter subject to litigation or whistleblower shall:

(A) except as provided in Subsection (3)(b)(ii)(B), be classified as private; or

(B) maintain the same classification under Title 63G, Chapter 2, Government Records Access and Management Act, that was designated by a government entity providing the documents or materials.

Section 10. Section **52-4-205** is amended to read:

52-4-205 (Effective 05/06/26). Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

- (a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;
- (b) strategy sessions to discuss collective bargaining;
- (c) strategy sessions to discuss pending or reasonably imminent litigation;
- (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:
 - (i) disclose the appraisal or estimated value of the property under consideration; or
 - (ii) prevent the public body from completing the transaction on the best possible terms;
- (e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:
 - (i) public discussion of the transaction would:
 - (A) disclose the appraisal or estimated value of the property under consideration; or
 - (B) prevent the public body from completing the transaction on the best possible terms;
 - (ii) the public body previously gave public notice that the property would be offered for sale; and
 - (iii) the terms of the sale are publicly disclosed before the public body approves the

- 845 sale;
- 846 (f) discussion regarding deployment of security personnel, devices, or systems;
- 847 (g) investigative proceedings regarding allegations of criminal misconduct;
- 848 (h) as relates to the Independent Legislative Ethics Commission, conducting business
- 849 relating to the receipt or review of ethics complaints;
- 850 (i) as relates to an ethics committee of the Legislature, a purpose permitted under
- 851 Section 52-4-204;
- 852 (j) as relates to the Independent Executive Branch Ethics Commission created in Section
- 853 63A-14-202, conducting business relating to an ethics complaint;
- 854 (k) as relates to a county legislative body, discussing commercial information as defined
- 855 in Section 59-1-404;
- 856 (l) as relates to the Utah Higher Education Savings Board of Trustees and its appointed
- 857 board of directors, discussing fiduciary or commercial information;
- 858 (m) deliberations, not including any information gathering activities, of a public body
- 859 acting in the capacity of:
- 860 (i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code,
- 861 during the process of evaluating responses to a solicitation, as defined in Section
- 862 63G-6a-103;
- 863 (ii) a protest officer, defined in Section 63G-6a-103, during the process of making a
- 864 decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or
- 865 (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement
- 866 Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part
- 867 17, Procurement Appeals Board;
- 868 (n) the purpose of considering information that is designated as a trade secret, as defined
- 869 in Section 13-24-2, if the public body's consideration of the information is necessary
- 870 to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement
- 871 Code;
- 872 (o) the purpose of discussing information provided to the public body during the
- 873 procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the
- 874 time of the meeting:
- 875 (i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be
- 876 disclosed to a member of the public or to a participant in the procurement process;
- 877 and
- 878 (ii) the public body needs to review or discuss the information to properly fulfill its

- 879 role and responsibilities in the procurement process;
- 880 (p) as relates to the governing board of a governmental nonprofit corporation, as that
- 881 term is defined in Section 11-13a-102, the purpose of discussing information that is
- 882 designated as a trade secret, as that term is defined in Section 13-24-2, if:
- 883 (i) public knowledge of the discussion would reasonably be expected to result in
- 884 injury to the owner of the trade secret; and
- 885 (ii) discussion of the information is necessary for the governing board to properly
- 886 discharge the board's duties and conduct the board's business;
- 887 (q) as it relates to the Cannabis Production Establishment Licensing Advisory Board, to
- 888 review confidential information regarding violations and security requirements in
- 889 relation to the operation of cannabis production establishments;
- 890 (r) considering a loan application, if public discussion of the loan application would
- 891 disclose:
- 892 (i) nonpublic personal financial information; or
- 893 (ii) a nonpublic trade secret, as defined in Section 13-24-2, or nonpublic business
- 894 financial information the disclosure of which would reasonably be expected to
- 895 result in unfair competitive injury to the person submitting the information;
- 896 (s) a discussion of the board of the Point of the Mountain State Land Authority, created
- 897 in Section 11-59-201, regarding a potential tenant of point of the mountain state land,
- 898 as defined in Section 11-59-102; [or]
- 899 (t) as relates to the General Oversight Committee, discussing matters subject to litigation
- 900 and whistleblower complaints as described in Subsection 36-35-102.5(3); or
- 901 ~~[(t)]~~ (u) a purpose for which a meeting is required to be closed under Subsection (2).
- 902 (2) The following meetings shall be closed:
- 903 (a) a meeting of the Health and Human Services Interim Committee to review a report
- 904 described in Subsection 26B-1-506(1)(a), and a response to the report described in
- 905 Subsection 26B-1-506(2);
- 906 (b) a meeting of the Child Welfare Legislative Oversight Panel to:
- 907 (i) review a report described in Subsection 26B-1-506(1)(a), and a response to the
- 908 report described in Subsection 26B-1-506(2); or
- 909 (ii) review and discuss an individual case, as described in Section 36-33-103;
- 910 (c) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose
- 911 of advising the Natural Resource Conservation Service of the United States
- 912 Department of Agriculture on a farm improvement project if the discussed

- 913 information is protected information under federal law;
- 914 (d) a meeting of the Compassionate Use Board established in Section 26B-1-421 for the
- 915 purpose of reviewing petitions for a medical cannabis card in accordance with
- 916 Section 26B-1-421;
- 917 (e) a meeting of the Colorado River Authority of Utah if:
- 918 (i) the purpose of the meeting is to discuss an interstate claim to the use of the water
- 919 in the Colorado River system; and
- 920 (ii) failing to close the meeting would:
- 921 (A) reveal the contents of a record classified as protected under Subsection
- 922 63G-2-305(81);
- 923 (B) reveal a legal strategy relating to the state's claim to the use of the water in the
- 924 Colorado River system;
- 925 (C) harm the ability of the Colorado River Authority of Utah or river
- 926 commissioner to negotiate the best terms and conditions regarding the use of
- 927 water in the Colorado River system; or
- 928 (D) give an advantage to another state or to the federal government in negotiations
- 929 regarding the use of water in the Colorado River system;
- 930 (f) a meeting of the General Regulatory Sandbox Program Advisory Committee if:
- 931 (i) the purpose of the meeting is to discuss an application for participation in the
- 932 regulatory sandbox as defined in Section 63N-16-102; and
- 933 (ii) failing to close the meeting would reveal the contents of a record classified as
- 934 protected under Subsection 63G-2-305(82);
- 935 (g) a meeting of a project entity if:
- 936 (i) the purpose of the meeting is to conduct a strategy session to discuss market
- 937 conditions relevant to a business decision regarding the value of a project entity
- 938 asset if the terms of the business decision are publicly disclosed before the
- 939 decision is finalized and a public discussion would:
- 940 (A) disclose the appraisal or estimated value of the project entity asset under
- 941 consideration; or
- 942 (B) prevent the project entity from completing on the best possible terms a
- 943 contemplated transaction concerning the project entity asset;
- 944 (ii) the purpose of the meeting is to discuss a record, the disclosure of which could
- 945 cause commercial injury to, or confer a competitive advantage upon a potential or
- 946 actual competitor of, the project entity;

- 947 (iii) the purpose of the meeting is to discuss a business decision, the disclosure of
948 which could cause commercial injury to, or confer a competitive advantage upon a
949 potential or actual competitor of, the project entity; or
950 (iv) failing to close the meeting would prevent the project entity from getting the best
951 price on the market; and
952 (h) a meeting of the [~~Rules Review and General Oversight~~] General Oversight
953 Committee to review and discuss:
954 (i) an individual child welfare case as described in Subsection 36-35-102(3)(c); or
955 (ii) information that is subject to a confidentiality agreement as described in
956 Subsection 36-35-102(3)(c).
- 957 (3) In a closed meeting, a public body may not:
958 (a) interview a person applying to fill an elected position;
959 (b) discuss filling a midterm vacancy or temporary absence governed by Title 20A,
960 Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in
961 Elected Office; or
962 (c) discuss the character, professional competence, or physical or mental health of the
963 person whose name was submitted for consideration to fill a midterm vacancy or
964 temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and
965 Vacancy and Temporary Absence in Elected Office.
- 966 Section 11. Section **53E-3-525** is amended to read:
967 **53E-3-525 (Effective 05/06/26). State board transparency.**
- 968 (1) Beginning January 1, 2027, the state board shall:
969 (a) publish on the state board's website a record of each vote by the state board,
970 including:
971 (i) the date, time, and place of the meeting;
972 (ii) the subject of the vote;
973 (iii) the names of state board members present and absent;
974 (iv) the result of the vote, including each board member's individual vote; and
975 (v) the audio or video associated with the vote;
976 (b) distribute a contract the state board intends to consider at a meeting to each state
977 board member at least five days before the date on which the meeting is scheduled to
978 occur;
979 (c) ensure the information described in Subsection (1)(a) is accessible through a single
980 click from the state board's home webpage; and

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

(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:

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

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

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

53H-1-403 (Effective 05/06/26). Other required reports to the Legislature or state level entities.

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

(a) the board shall submit:

(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;

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

(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;

(iv) an annual report regarding the talent advisory councils as described in Section 53H-13-309;

(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;

(c) the Utah Education and Telehealth Network shall provide an annual report as described in Section 53H-4-213.7;

(d) an institution with and without housing facilities shall provide an annual report regarding crime statistics as described in Section 53H-7-603;

(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;

(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;

(g) the Utah Data Research Center shall provide an annual report as described in Section 53H-15-303;

- 1015 (h) the Higher Education and Corrections Council shall provide an annual report as
1016 described in Section 53H-1-604; and
- 1017 (i) the commissioner shall provide, in collaboration with the entities described in
1018 Subsection 53H-13-405(1), an annual report regarding the cooperative education
1019 program as described in Section 53H-13-407.
- 1020 (2) The following entities shall submit reports to the Executive Appropriations Committee
1021 as described in each referenced section:
- 1022 (a) the board shall submit:
- 1023 (i) in the September 2025 meeting, a report regarding institutions' strategic
1024 reinvestment plans as described in Section 53H-8-210; and
- 1025 (ii) in the September 2026 and 2027 meetings, a report regarding the progress of
1026 institutions in executing the institutions' strategic reinvestment plan as described
1027 in Section 53H-8-210; and
- 1028 (b) the Nucleus Institute shall provide an annual report as described in Section
1029 53H-16-406.
- 1030 (3) The following entities shall submit reports to the Natural Resources, Agriculture, and
1031 Environment Interim Committee as described in each referenced section:
- 1032 (a) the Utah State University Bingham Entrepreneurship and Energy Research Center
1033 shall annually report as described in Section 53H-4-316; and
- 1034 (b) the Utah State University Food Security Council shall prepare and submit an annual
1035 written report as described in Section 53H-4-313.
- 1036 (4) The following entities shall submit reports to the Economic Development and
1037 Workforce Services Interim Committee as described in each referenced section:
- 1038 (a) the commissioner shall provide, in collaboration with the entities described in
1039 Subsection 53H-13-405(1), an annual report regarding the cooperative education
1040 program as described in Section 53H-13-407;
- 1041 (b) Utah State University shall provide a report every three years regarding the remote
1042 online opportunities program as described in Section 53H-4-312;
- 1043 (c) the Utah State University Food Security Council shall prepare and submit an annual
1044 written report as described in Section 53H-4-313; and
- 1045 (d) the Nucleus Institute shall provide an annual report as described in Section
1046 53H-16-406.
- 1047 (5) The ASPIRE Engineering Research Center at Utah State University shall provide an
1048 annual report to the Transportation and Infrastructure Appropriations Subcommittee as

described in Section 53H-4-306.6.

- (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.
- (7) The board shall provide the following reports to state agencies and departments as described in each referenced section:
- (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;
 - (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
 - (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.
- (8) The board shall provide to the general session of the Legislature for budget recommendation purposes an annual report regarding:
- (a) waivers of tuition as described in Section 53H-11-307; and
 - (b) nonresident tuition scholarships as described in Section 53H-11-405.
- (9) An institution shall provide the following reports as described in each referenced section:
- (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;
 - (b) to the board, disclosures of foreign gifts received as described in Section 53H-8-503;
 - (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;
 - (d) for a degree-granting institution:
 - (i) to the board annually regarding post-tenured data as described in Section 53H-3-406;
 - (ii) to the board annually regarding technical education as described in Section 53H-3-609;
 - (e) for a technical college:
 - (i) to the board annually regarding secondary student needs and access to programs as described in Section 53H-3-1203;
 - (ii) to the board annually regarding annual leases as described in Section 53H-9-602;
 - (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

- 1083 53H-8-210;
- 1084 (g) in accordance with rules the board establishes, to the board annually regarding the
- 1085 Opportunity scholarships awarded as described in Section 53H-11-402;
- 1086 (h) in accordance with rules the board establishes, reports related to the promise grants
- 1087 as described in Section 53H-11-414;
- 1088 (i) to the board annually regarding credit for prior learning as described in Section
- 1089 53H-3-702; and
- 1090 (j) for an institution with or without housing facilities, an annual report regarding crime
- 1091 statistics to the Law Enforcement and Criminal Justice Interim Committee as
- 1092 described in Section 53H-7-603.
- 1093 (10) An institution's board of trustees shall provide to the board annually a report regarding
- 1094 any approved contracts or grants as described in Section 53H-8-208.
- 1095 (11) The commissioner shall provide the following reports as described in each referenced
- 1096 section:
- 1097 (a) an annual summary report regarding institutional matches for the faculty incentive
- 1098 component of the Engineering and Computer Science Initiative as described in
- 1099 Section 53H-1-603; and
- 1100 (b) in collaboration with the entities described in Subsection 53H-13-405(1), an annual
- 1101 report regarding the cooperative education program as described in Section
- 1102 53H-13-407 to the Talent, Education, and Industry Alignment Board and the board.
- 1103 (12) The Talent Ready Utah Program shall provide an annual report to the board as
- 1104 described in Section 53H-13-304.
- 1105 (13) The Utah Works Program shall provide an annual report to the board as described in
- 1106 Section 53H-13-307.
- 1107 (14) The University of Utah shall provide an annual report to the governor regarding the
- 1108 engineering experiment station as described in Section 53H-4-208.
- 1109 (15) The Center for Civic Excellence at Utah State University vice provost shall annually
- 1110 report to the provost, the president of the institution, and the commissioner as described
- 1111 in Section 53H-4-307.6.
- 1112 Section 13. Section **53H-7-303** is amended to read:
- 1113 **53H-7-303 (Effective 05/06/26). Complaint process -- Reporting.**
- 1114 (1) The board shall make rules in accordance with Title 63G, Chapter 3, Utah
- 1115 Administrative Rulemaking Act, establishing a procedure whereby a student enrolled in
- 1116 an institution may submit a complaint to the board alleging a policy of the institution

1117 directly affects one or more of the student's civil liberties.

1118 (2)(a) When a student submits a complaint in accordance with the rules adopted under
1119 Subsection (1), the board shall:

1120 (i) examine the complaint and, within 30 days after the day on which the board
1121 receives the complaint, determine whether the complaint is made in good faith; and

1122 (ii)(A) if the board determines that the complaint is made in good faith, direct the
1123 institution against which the complaint is made to initiate rulemaking
1124 proceedings for the challenged policy; or

1125 (B) if the board determines that the complaint is made in bad faith, dismiss the
1126 complaint.

1127 (b) Before November 30 of each year, the board shall submit a report to the [~~Rules~~
1128 ~~Review and General Oversight~~] General Oversight Committee detailing:

1129 (i) the number of complaints the board received during the preceding year;

1130 (ii) the number of complaints the board found to be made in good faith during the
1131 preceding year; and

1132 (iii) each policy that is the subject of a good-faith complaint that the board received
1133 during the preceding year.

1134 (3) If the board directs an institution to initiate rulemaking proceedings for a challenged
1135 policy in accordance with this section, the institution shall initiate rulemaking
1136 proceedings for the policy within 60 days after the day on which the board directs the
1137 institution.

1138 Section 14. Section **54-17-701** is amended to read:

1139 **54-17-701 (Effective 05/06/26). Rules for carbon capture and geological storage.**

1140 (1) By January 1, 2011, the Division of Water Quality and the Division of Air Quality, on
1141 behalf of the Board of Water Quality and the Board of Air Quality, respectively, in
1142 collaboration with the commission and the Division of Oil, Gas, and Mining and the
1143 Utah Geological Survey, shall present recommended rules to the Legislature's [~~Rules~~
1144 ~~Review and General Oversight~~] General Oversight Committee for the following in
1145 connection with carbon capture and accompanying geological sequestration of captured
1146 carbon:

1147 (a) site characterization approval;

1148 (b) geomechanical, geochemical, and hydrogeological simulation;

1149 (c) risk assessment;

1150 (d) mitigation and remediation protocols;

- (e) issuance of permits for test, injection, and monitoring wells;
- (f) specifications for the drilling, construction, and maintenance of wells;
- (g) issues concerning ownership of subsurface rights and pore space;
- (h) allowed composition of injected matter;
- (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;
- (j) closure and decommissioning procedure;
- (k) short- and long-term liability and indemnification for sequestration sites;
- (l) conversion of enhanced oil recovery operations to carbon dioxide geological sequestration sites; and
- (m) other issues as identified.

(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).

(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.

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

(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.

(6) Rules recommended under this section shall:

- (a) ensure that adequate health and safety standards are met;
- (b) minimize the risk of unacceptable leakage from the injection well and injection zone for carbon capture and geologic sequestration; and
- (c) provide adequate regulatory oversight and public information concerning carbon capture and geologic sequestration.

Section 15. Section **63A-5b-607** is amended to read:

63A-5b-607 (Effective 05/06/26). Health insurance requirements -- Penalties.

- (1) As used in this section:
- (a) "Aggregate amount" means the dollar sum of all contracts, change orders, and modifications for a single project.
 - (b) "Change order" means the same as that term is defined in Section 63G-6a-103.
 - (c) "Eligible employee" means an employee, as defined in Section 34A-2-104, who:
 - (i) works at least 30 hours per calendar week; and
 - (ii) meets the employer eligibility waiting period for qualified health insurance coverage provided by the employer.
 - (d) "Health benefit plan" means:
 - (i) the same as that term is defined in Section 31A-1-301; or
 - (ii) an employee welfare benefit plan:
 - (A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;
 - (B) for an employer with 100 or more employees; and
 - (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.
 - (e) "Qualified health insurance coverage" means the same as that term is defined in Section 26B-3-909.
 - (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.
 - (g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.
- (2) Except as provided in Subsection (3), the requirements of this section apply to:
- (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
 - (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.
- (3) The requirements of this section do not apply to a contractor or subcontractor if:
- (a) the application of this section jeopardizes the division's receipt of federal funds;
 - (b) the contract is a sole source contract, as defined in Section 63G-6a-103; or
 - (c) the contract is the result of an emergency procurement.
- (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.

- 1219 (5)(a) A contractor that is subject to the requirements of this section shall:
- 1220 (i) make and maintain an offer of qualified health coverage for the contractor's
- 1221 eligible employees and the eligible employees' dependents; and
- 1222 (ii) submit to the director a written statement demonstrating that the contractor is in
- 1223 compliance with Subsection (5)(a)(i).
- 1224 (b) A statement under Subsection (5)(a)(ii):
- 1225 (i) shall be from:
- 1226 (A) an actuary selected by the contractor or the contractor's insurer;
- 1227 (B) an underwriter who is responsible for developing the employer group's
- 1228 premium rates; or
- 1229 (C) if the contractor provides a health benefit plan described in Subsection
- 1230 (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and
- 1231 (ii) may not be created more than one year before the day on which the contractor
- 1232 submits the statement to the director.
- 1233 (c)(i) A contractor that provides a health benefit plan described in Subsection
- 1234 (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as
- 1235 described in Subsection (5)(b)(i)(C), sufficient information to determine whether
- 1236 the contractor's contribution to the health benefit plan and the actuarial value of
- 1237 the health benefit plan meet the requirements of qualified health coverage.
- 1238 (ii) A contractor may not make a change to the contractor's contribution to the health
- 1239 benefit plan, unless the contractor provides notice to:
- 1240 (A) the actuary or underwriter selected by an administrator, as described in
- 1241 Subsection (5)(b)(i)(C), for the actuary or underwriter to update the written
- 1242 statement described in Subsection (5)(a) in compliance with this section; and
- 1243 (B) the division.
- 1244 (6)(a) A contractor that is subject to the requirements of this section shall:
- 1245 (i) ensure that each contract the contractor enters with a subcontractor that is subject
- 1246 to the requirements of this section requires the subcontractor to obtain and
- 1247 maintain an offer of qualified health coverage for the subcontractor's eligible
- 1248 employees and the eligible employees' dependents during the duration of the
- 1249 subcontract; and
- 1250 (ii) obtain from a subcontractor referred to in Subsection (6)(a)(i) a written statement
- 1251 demonstrating that the subcontractor offers qualified health coverage to eligible
- 1252 employees and eligible employees' dependents.

- (b) A statement under Subsection (6)(a)(ii):
- (i) shall be from:
 - (A) an actuary selected by the subcontractor or the subcontractor's insurer;
 - (B) an underwriter who is responsible for developing the employer group's premium rates; or
 - (C) if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and
 - (ii) may not be created more than one year before the day on which the contractor obtains the statement from the subcontractor.

- (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.
- (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.

- (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.

- (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.

- (8) The division shall make rules:

- (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (b) in coordination with:
 - (i) the Department of Environmental Quality in accordance with Section 19-1-206;
 - (ii) the Department of Natural Resources in accordance with Section 79-2-404;
 - (iii) a public transit district in accordance with Section 17B-2a-818.5;
 - (iv) the State Capitol Preservation Board in accordance with Section 63O-2-403;
 - (v) the Department of Transportation in accordance with Section 72-6-107.5; and
 - (vi) the Legislature's [~~Rules Review and General Oversight~~] General Oversight Committee created under Section 36-35-102; and

- (c) that establish:

- (i) the requirements and procedures for a contractor and a subcontractor to

- 1287 demonstrate compliance with this section, including:
- 1288 (A) a provision that a contractor or subcontractor's compliance with this section is
- 1289 subject to an audit by the division or the Office of the Legislative Auditor
- 1290 General;
- 1291 (B) a provision that a contractor that is subject to the requirements of this section
- 1292 obtain a written statement as provided in Subsection (5); and
- 1293 (C) a provision that a subcontractor that is subject to the requirements of this
- 1294 section obtain a written statement as provided in Subsection (6);
- 1295 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
- 1296 violates the provisions of this section, which may include:
- 1297 (A) a three-month suspension of the contractor or subcontractor from entering into
- 1298 a future contract with the state upon the first violation;
- 1299 (B) a six-month suspension of the contractor or subcontractor from entering into a
- 1300 future contract with the state upon the second violation;
- 1301 (C) an action for debarment of the contractor or subcontractor in accordance with
- 1302 Section 63G-6a-904 upon the third or subsequent violation; and
- 1303 (D) monetary penalties which may not exceed 50% of the amount necessary to
- 1304 purchase qualified health coverage for eligible employees and dependents of
- 1305 eligible employees of the contractor or subcontractor who were not offered
- 1306 qualified health coverage during the duration of the contract; and
- 1307 (iii) a website for the department to post the commercially equivalent benchmark for
- 1308 the qualified health coverage that is provided by the Department of Health and
- 1309 Human Services in accordance with Subsection 26B-3-909(2).
- 1310 (9) During the duration of a contract, the division may perform an audit to verify a
- 1311 contractor or subcontractor's compliance with this section.
- 1312 (10)(a) Upon the division's request, a contractor or subcontractor shall provide the
- 1313 division:
- 1314 (i) a signed actuarial certification that the coverage the contractor or subcontractor
- 1315 offers is qualified health coverage; or
- 1316 (ii) all relevant documents and information necessary for the division to determine
- 1317 compliance with this section.
- 1318 (b) If a contractor or subcontractor provides the documents and information described in
- 1319 Subsection (10)(a)(i), the Insurance Department shall assist the division in
- 1320 determining if the coverage the contractor or subcontractor offers is qualified health

- 1321 coverage.
- 1322 (11)(a)(i) In addition to the penalties imposed under Subsection (7), a contractor or
- 1323 subcontractor that intentionally violates the provisions of this section is liable to
- 1324 an eligible employee for health care costs that would have been covered by
- 1325 qualified health coverage.
- 1326 (ii) An employer has an affirmative defense to a cause of action under Subsection
- 1327 (11)(a)(i) if:
- 1328 (A) the employer relied in good faith on a written statement described in
- 1329 Subsection (5) or (6); or
- 1330 (B) the department determines that compliance with this section is not required
- 1331 under the provisions of Subsection (3).
- 1332 (b) An eligible employee has a private right of action against the employee's employer
- 1333 only as provided in this Subsection (11).
- 1334 (12) The director shall cause money collected from the imposition and collection of a
- 1335 penalty under this section to be deposited into the Medicaid Growth Reduction and
- 1336 Budget Stabilization Account created by Section 63J-1-315.
- 1337 (13) The failure of a contractor or subcontractor to provide qualified health coverage as
- 1338 required by this section:
- 1339 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
- 1340 or contractor under:
- 1341 (i) Section 63G-6a-1602; or
- 1342 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
- 1343 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
- 1344 contractor as a basis for any action or suit that would suspend, disrupt, or terminate
- 1345 the design or construction.
- 1346 (14) An employer's waiting period for an employee to become eligible for qualified health
- 1347 coverage may not extend beyond the first day of the calendar month following 60 days
- 1348 after the day on which the employee is hired.
- 1349 (15) An administrator, including an administrator's actuary or underwriter, who provides a
- 1350 written statement under Subsection (5)(a) or (c) regarding the qualified health coverage
- 1351 of a contractor or subcontractor who provides a health benefit plan described in
- 1352 Subsection (1)(d)(ii):
- 1353 (a) subject to Subsection [~~(11)(b)~~] (11)(a), is not liable for an error in the written
- 1354 statement, unless the administrator commits gross negligence in preparing the written

statement;

- (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
- (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.

Section 16. Section **63A-13-202** is amended to read:

63A-13-202 (Effective 05/06/26). Duties and powers of inspector general and office.

(1) The inspector general of Medicaid services shall:

- (a) administer, direct, and manage the office;
- (b) inspect and monitor the following in relation to the state Medicaid program:
 - (i) the use and expenditure of federal and state funds;
 - (ii) the provision of health benefits and other services;
 - (iii) implementation of, and compliance with, state and federal requirements; and
 - (iv) records and recordkeeping procedures;
- (c) receive reports of potential fraud, waste, or abuse in the state Medicaid program;
- (d) investigate and identify potential or actual fraud, waste, or abuse in the state Medicaid program;
- (e) consult with the Centers for Medicaid and Medicare Services and other states to determine and implement best practices for:
 - (i) educating and communicating with health care professionals and providers about program and audit policies and procedures;
 - (ii) discovering and eliminating fraud, waste, and abuse of Medicaid funds; and
 - (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;
- (f) obtain, develop, and utilize computer algorithms to identify fraud, waste, or abuse in the state Medicaid program;
- (g) work closely with the fraud unit to identify and recover improperly or fraudulently expended Medicaid funds;
- (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:
 - (i) in the most efficient and cost-effective manner possible; and

- 1389 (ii) in a manner that promotes adequate provider and health care professional
1390 participation and the provision of appropriate health benefits and services;
- 1391 (i) regularly advise the department and the division of an action that could be taken to
1392 ensure that the state Medicaid program is managed in the most efficient and
1393 cost-effective manner possible;
- 1394 (j) refer potential criminal conduct, relating to Medicaid funds or the state Medicaid
1395 program, to the fraud unit;
- 1396 (k) refer potential criminal conduct, including relevant data from the controlled
1397 substance database, relating to Medicaid fraud, to law enforcement in accordance
1398 with Title 58, Chapter 37f, Controlled Substance Database Act;
- 1399 (l) determine ways to:
- 1400 (i) identify, prevent, and reduce fraud, waste, and abuse in the state Medicaid
1401 program; and
- 1402 (ii) balance efforts to reduce costs and avoid or minimize increased costs of the state
1403 Medicaid program with the need to encourage robust health care professional and
1404 provider participation in the state Medicaid program;
- 1405 (m) recover improperly paid Medicaid funds;
- 1406 (n) track recovery of Medicaid funds by the state;
- 1407 (o) in accordance with Section 63A-13-502:
- 1408 (i) report on the actions and findings of the inspector general; and
- 1409 (ii) make recommendations to the Legislature and the governor;
- 1410 (p) provide training to:
- 1411 (i) agencies and employees on identifying potential fraud, waste, or abuse of
1412 Medicaid funds; and
- 1413 (ii) health care professionals and providers on program and audit policies and
1414 compliance; and
- 1415 (q) develop and implement principles and standards for the fulfillment of the duties of
1416 the inspector general, based on principles and standards used by:
- 1417 (i) the Federal Offices of Inspector General;
- 1418 (ii) the Association of Inspectors General; and
- 1419 (iii) the United States Government Accountability Office.
- 1420 (2)(a) The office may, in fulfilling the duties under Subsection (1), conduct a
1421 performance or financial audit of:
- 1422 (i) a state executive branch entity or a local government entity, including an entity

- 1423 described in Section 63A-13-301, that:
- 1424 (A) manages or oversees a state Medicaid program; or
- 1425 (B) manages or oversees the use or expenditure of state or federal Medicaid funds;
- 1426 or
- 1427 (ii) Medicaid funds received by a person by a grant from, or under contract with, a
- 1428 state executive branch entity or a local government entity.
- 1429 (b)(i) The office may not, in fulfilling the duties under Subsection (1), amend the
- 1430 state Medicaid program or change the policies and procedures of the state
- 1431 Medicaid program.
- 1432 (ii) The office shall identify conflicts between the state Medicaid plan, department
- 1433 administrative rules, Medicaid provider manuals, and Medicaid information
- 1434 bulletins and recommend that the department reconcile inconsistencies. If the
- 1435 department does not reconcile the inconsistencies, the office shall report the
- 1436 inconsistencies to the Legislature's [~~Rules Review and General Oversight~~] General
- 1437 Oversight Committee created in Section 36-35-102.
- 1438 (iii) Beginning July 1, 2013, the office shall review a Medicaid provider manual and
- 1439 a Medicaid information bulletin in accordance with Subsection (2)(b)(ii), prior to
- 1440 the department making the provider manual or Medicaid information bulletin
- 1441 available to the public.
- 1442 (c) Beginning July 1, 2013, the Department of Health and Human Services shall submit
- 1443 a Medicaid provider manual and a Medicaid information bulletin to the office for the
- 1444 review required by Subsection (2)(b)(ii) prior to releasing the document to the public.
- 1445 The department and the Office of Inspector General of Medicaid Services shall enter
- 1446 into a memorandum of understanding regarding the timing of the review process
- 1447 under Subsection (2)(b)(iii).
- 1448 (3)(a) The office shall, in fulfilling the duties under this section to investigate, discover,
- 1449 and recover fraud, waste, and abuse in the Medicaid program, apply the state
- 1450 Medicaid plan, department administrative rules, Medicaid provider manuals, and
- 1451 Medicaid information bulletins in effect at the time the medical services were
- 1452 provided.
- 1453 (b) A health care provider may rely on the policy interpretation included in a current
- 1454 Medicaid provider manual or a current Medicaid information bulletin that is available
- 1455 to the public.
- 1456 (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.

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

63A-13-305 (Effective 05/06/26). Audit and investigation procedures.

- (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.
- (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:
- (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
 - (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.
- (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.

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

63G-3-102 (Effective 05/06/26). Definitions.

As used in this chapter:

- (1) "Administrative record" means information an agency relies upon when making a rule under this chapter including:
- (a) the proposed rule, change in the proposed rule, and the rule analysis form;
 - (b) the public comment received and recorded by the agency during the public comment period;
 - (c) the agency's response to the public comment;
 - (d) the agency's analysis of the public comment; and
 - (e) the agency's report of the agency's decision-making process.
- (2)(a) "Agency" [~~includes~~] means:
- (i) [~~each~~] any state board, authority, commission, institution, department, division, or officer; or
 - (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.

(b) "Agency" does not include:

- (i) the Legislature;
- (ii) the Legislature's committees;
- (iii) the political subdivisions of the state; or
- (iv) the courts.

(3) "Bulletin" means the Utah State Bulletin.

(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.

(5) "Code" means the body of all effective rules as compiled and organized by the office and entitled "Utah Administrative Code."

(6) "Department" means the Department of Government Operations created in Section 63A-1-104.

(7) "Director" means the director of the office.

(8) "Effective" means operative and enforceable.

(9) "Executive director" means the executive director of the department.

(10) "File" means to submit a document to the office as prescribed by the office.

(11) "Filing date" means the day and time the document is recorded as received by the office.

(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).

~~[(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.

~~[(13)]~~ (14) "Office" means the Office of Administrative Rules created in Section 63G-3-401.

~~[(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.

~~[(15)]~~ (16) "Person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency.

~~[(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.

[(17)] (18) "Publication date" means the inscribed date of the bulletin.

[(18) "Register" may include an electronic database.]

(19)(a) "Rule" means an agency's written statement that:

(i) is explicitly or implicitly required by state or federal statute or other applicable law;

(ii) implements or interprets a state or federal legal mandate; and

(iii) applies to a class of persons or another agency.

(b) "Rule" includes the amendment or repeal of an existing rule.

(c) "Rule" does not mean:

(i) orders;

(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;

(iii) the governor's executive orders or proclamations;

(iv) opinions issued by the attorney general's office;

(v) declaratory rulings issued by the agency according to Section 63G-4-503 except as required by Section 63G-3-201;

(vi) rulings by an agency in adjudicative proceedings, except as required by Subsection 63G-3-201(6); or

(vii) an agency written statement that is in violation of any state or federal law.

(20) "Rule analysis" means the format prescribed by the office to summarize and analyze rules.

(21) "Small business" means a business employing fewer than 50 persons.

(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).

(23) "Substantive change" means a change in a rule that affects the application or results of agency actions.

Section 19. Section **63G-3-201** is amended to read:

63G-3-201 (Effective 05/06/26). When rulemaking is required.

(1) Each agency shall:

(a) maintain a current version of ~~[its]~~ the agency's rules; and

(b) make ~~[it]~~ the rules available to the public for inspection during ~~[its]~~ the agency's regular business hours.

- 1559 (2)(a) An agency may take action if authorized implicitly or explicitly by statute.
1560 (b) In addition to other rulemaking required by law, each agency shall make rules when
1561 agency action:
1562 [(a)] (i) authorizes, requires, or prohibits an action;
1563 [(b)] (ii) provides or prohibits a material benefit; and
1564 [(c)] (iii) applies to a class of persons or another agency[; ~~and~~] .
1565 [~~(d) is explicitly or implicitly authorized by statute.~~]
- 1566 (3) Rulemaking is also required when an agency issues a written interpretation of a state or
1567 federal legal mandate.
- 1568 (4) Rulemaking is not required when:
1569 (a) agency action applies only to internal agency management, inmates or residents of a
1570 state correctional, diagnostic, or detention facility, persons under state legal custody,
1571 patients admitted to a state hospital, members of the state retirement system, or,
1572 except as provided in Title 53H, Chapter 7, Part 3, Student Civil Liberties Protection,
1573 students enrolled in a state education institution;
1574 (b) a standardized agency manual applies only to internal fiscal or administrative details
1575 of governmental entities supervised under statute;
1576 (c) an agency issues policy or other statements that are advisory, informative, or
1577 descriptive, and do not conform to the requirements of Subsections (2) and (3); or
1578 (d) an agency makes nonsubstantive changes in a rule, except that the agency shall file
1579 all nonsubstantive changes in a rule with the office.
- 1580 (5)(a) A rule shall enumerate any penalty authorized by statute that may result from its
1581 violation, subject to Subsections (5)(b) and (c).
1582 (b) A violation of a rule may not be subject to the criminal penalty of a class C
1583 misdemeanor or greater offense, except as provided under Subsection (5)(c).
1584 (c) A violation of a rule may be subject to a class C misdemeanor or greater criminal
1585 penalty under Subsection (5)(a) when:
1586 (i) authorized by a specific state statute;
1587 (ii) a state law and programs under that law are established in order for the state to
1588 obtain or maintain primacy over a federal program; or
1589 (iii) state civil or criminal penalties established by state statute regarding the program
1590 are equivalent to or less than corresponding federal civil or criminal penalties.
- 1591 (6) Each agency shall enact rules incorporating the principles of law not already in [its] the
1592 agency's rules that are established by final adjudicative decisions within 120 days after

the decision is announced in [its] the agency's cases.

(7)(a) Each agency may enact a rule that incorporates by reference:

- (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 recognized organization or association;
- (ii) state agency implementation plans mandated by the federal government for participation in the federal program;
- (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.

(b) Rules incorporating materials by reference shall:

- (i) be enacted according to the procedures outlined in this chapter;
- (ii) state that the referenced material is incorporated by reference;
- (iii) state the date, issue, or version of the material being incorporated; and
- (iv) define specifically what material is incorporated by reference and identify any agency deviations from it.

(c) The agency shall identify any substantive changes in the material incorporated by reference by following the rulemaking procedures of this chapter.

(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.

(8)(a) This chapter is not intended to inhibit the exercise of agency discretion within the limits prescribed by statute or agency rule.

(b) An agency may enact a rule creating a justified exception to a rule.

(9) An agency may obtain assistance from the attorney general to ensure that its rules meet legal and constitutional requirements.

Section 20. Section **63G-3-301** is amended to read:

63G-3-301 (Effective 05/06/26). Rulemaking procedure.

(1) An agency authorized to make rules is also authorized to amend or repeal those rules.

(2) Except as provided in Sections 63G-3-303 and 63G-3-304, when making, amending, or repealing a rule, agencies shall comply with:

- (a) the requirements of this section;
- (b) consistent procedures required by other statutes;
- (c) applicable federal mandates; and

(d) rules made by the office to implement this chapter.

(3) Subject to the requirements of this chapter, each agency shall develop and use flexible approaches in drafting rules that meet the needs of the agency and that involve persons affected by the agency's rules.

(4)(a) Each agency shall file the agency's proposed rule and rule analysis with the office.

(b) Rule amendments shall be marked with new language underlined and deleted language struck out.

(c)(i) The office shall publish the information required under Subsection (8) on the rule analysis and the text of the proposed rule in the next issue of the bulletin.

(ii) For rule amendments, only the section or subsection of the rule being amended need be printed.

~~[(iii) If the director determines that the rule is too long to publish, the office shall publish the rule analysis and shall publish the rule by reference to a copy on file with the office.]~~

(5) Before filing a rule with the office, the agency shall conduct a thorough analysis, consistent with the criteria established by the Governor's Office of Planning and Budget, of the fiscal impact a rule may have on businesses, which criteria may include:

(a) the type of industries that will be impacted by the rule, and for each identified industry, an estimate of the total number of businesses within the industry, and an estimate of the number of those businesses that are small businesses;

(b) the individual fiscal impact that would incur to a single business for a one-year period;

(c) the aggregated total fiscal impact that would incur to all businesses within the state for a one-year period;

(d) the total cost that would incur to all impacted entities over a five-year period; and

(e) the department head's comments on the analysis.

(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 rule on small businesses:

(a) establishing less stringent compliance or reporting requirements for small businesses;

(b) establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) consolidating or simplifying compliance or reporting requirements for small businesses;

- 1661 (d) establishing performance standards for small businesses to replace design or
1662 operational standards required in the proposed rule; and
- 1663 (e) exempting small businesses from all or any part of the requirements contained in the
1664 proposed rule.
- 1665 (7) If during the public comment period an agency receives comment that the proposed rule
1666 will cost small business more than one day's annual average gross receipts, and the
1667 agency had not previously performed the analysis in Subsection (6), the agency shall
1668 perform the analysis described in Subsection (6).
- 1669 (8) The rule analysis shall contain:
- 1670 (a) a summary of the rule or change;
- 1671 (b) the purpose of the rule or reason for the change;
- 1672 (c) the statutory authority or federal requirement for the rule;
- 1673 (d) the anticipated cost or savings to:
- 1674 (i) the state budget;
- 1675 (ii) local governments;
- 1676 (iii) small businesses; and
- 1677 (iv) persons other than small businesses, businesses, or local governmental entities;
- 1678 (e) the compliance cost for affected persons;
- 1679 (f) how interested persons may review the full text of the rule;
- 1680 (g) how interested persons may present their views on the rule;
- 1681 (h) the time and place of any scheduled public hearing;
- 1682 (i) the name, email, and telephone number of an agency employee who may be
1683 contacted about the rule;
- 1684 (j) the name of the agency head or designee who authorized the rule;
- 1685 (k) the date on which the rule may become effective following the public comment
1686 period;
- 1687 (l) the agency's analysis on the fiscal impact of the rule as required under Subsection (5);
- 1688 (m) any additional comments the department head may choose to submit regarding the
1689 fiscal impact the rule may have on businesses; and
- 1690 (n) if applicable, a summary of the agency's efforts to comply with the requirements of
1691 Subsection (6).
- 1692 (9)(a) For a rule being repealed and reenacted, the rule analysis shall contain a summary
1693 that generally includes the following:
- 1694 (i) a summary of substantive provisions in the repealed rule which are eliminated

- 1695 from the enacted rule; and
- 1696 (ii) a summary of new substantive provisions appearing only in the enacted rule.
- 1697 (b) The summary required under this Subsection (9) is to aid in review and may not be
- 1698 used to contest any rule on the ground of noncompliance with the procedural
- 1699 requirements of this chapter.
- 1700 (10) An agency shall ~~mail~~ provide a copy of the rule analysis to a person that makes a
- 1701 timely request of the agency for advance notice of the agency's rulemaking proceedings
- 1702 and to any other person that, by statutory or federal mandate or in the judgment of the
- 1703 agency, should also receive notice.
- 1704 (11)(a) Following the publication date, the agency shall allow at least 30 days for public
- 1705 comment on the rule.
- 1706 (b) The agency shall review and evaluate all public comments submitted in writing
- 1707 within the time period under Subsection (11)(a) or presented at public hearings
- 1708 conducted by the agency within the time period under Subsection (11)(a).
- 1709 (12)(a) Except as provided in ~~[Sections]~~ Section 63G-3-303, Section 63G-3-304, and
- 1710 Section 63G-3-304.1, a proposed rule becomes effective on any date specified by the
- 1711 agency that is:
- 1712 (i) no fewer than seven calendar days after the day on which the public comment
- 1713 period closes under Subsection (11); and
- 1714 (ii) no more than 120 days after the day on which the rule is published.
- 1715 (b) The agency shall provide notice of the rule's effective date to the office in the form
- 1716 required by the office.
- 1717 (c) The notice of effective date may not provide for an effective date before the day on
- 1718 which the office receives the notice.
- 1719 (d) The office shall publish notice of the effective date of the rule in the next issue of the
- 1720 bulletin.
- 1721 (e) A proposed rule lapses if a notice of effective date or a change to a proposed rule is
- 1722 not filed with the office within 120 days after the day on which the rule is published.
- 1723 (13)(a)(i) Before an agency ~~enacts~~ makes a rule effective, the agency shall submit to
- 1724 the appropriations subcommittee and interim committee with jurisdiction over the
- 1725 agency the agency's proposed rule for review, if the proposed rule, over a
- 1726 five-year period, has ~~[a fiscal impact]~~ an anticipated cost, as calculated in
- 1727 Subsection (8)(d), of more than \$1,000,000 statewide.
- 1728 (ii) A proposed rule that is subject to Subsection (13)(e) is exempt from Subsection

1729 (13)(a)(i).

1730 (b) An appropriations subcommittee or interim committee that reviews a rule an agency
1731 submits under Subsection (13)(a) shall:

1732 (i) before the review, directly inform the chairs of the [~~Rules Review and General~~
1733 ~~Oversight~~] General Oversight Committee of the coming review, including the
1734 date, time, and place of the review; and

1735 (ii) after the review, directly inform the chairs of the [~~Rules Review and General~~
1736 ~~Oversight~~] General Oversight Committee of the outcome of the review, including
1737 any recommendation.

1738 (c) An appropriations subcommittee or interim committee that reviews a rule an agency
1739 submits under Subsection (13)(a) may recommend to the [~~Rules Review and General~~
1740 ~~Oversight~~] General Oversight Committee that the [~~Rules Review and General~~
1741 ~~Oversight~~] General Oversight Committee not recommend reauthorization of the rule
1742 in the legislation described in Section 63G-3-502.

1743 [~~(d)~~] The agency shall calculate the substantial fiscal impact in accordance with
1744 Subsection (5).]

1745 [~~(e)~~] (d) Unless an agency cannot implement a statute or execute a federally delegated
1746 authority without making a rule that is estimated to have substantial fiscal impact, the
1747 agency may not [make] file the rule.

1748 [~~(f)~~] (e) The requirements described in Subsections (13)(a) and (13)(b) do not apply to:

1749 (i) the State Tax Commission; or

1750 (ii) the State Board of Education.

1751 [~~(14)(a)~~] As used in this Subsection (14), "initiate rulemaking proceedings" means the
1752 filing, for the purposes of publication in accordance with Subsection (4), of an
1753 agency's proposed rule that is required by state statute.]

1754 [~~(b)~~] (14)(a) [~~A state~~] An agency shall initiate rulemaking proceedings no later than 180
1755 days after the day on which the statutory provision that specifically requires the
1756 rulemaking takes effect, except under Subsection [~~(14)(e)~~] (14)(b).

1757 [~~(e)~~] (b) When a statute is enacted that requires agency rulemaking and the affected
1758 agency already has rules in place that meet the statutory requirement, the agency
1759 shall submit the rules to the [~~Rules Review and General Oversight~~] General
1760 Oversight Committee for review within 60 days after the day on which the statute
1761 requiring the rulemaking takes effect.

1762 [~~(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.

Section 21. Section **63G-3-302** is amended to read:

63G-3-302 (Effective 05/06/26). Public hearings.

- (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.
- (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:
 - (a) a public hearing is required by state or federal mandate; or
 - (b)(i) another state agency, 10 interested persons, or an interested association having not fewer than 10 members request a public hearing; and
 - (ii) the agency receives the request in writing not more than 15 days after the publication date of the proposed rule.
- (3) The agency shall hold the hearing:
 - (a) except for a rule made in accordance with Section 63G-3-304, before the rule becomes effective; and
 - (b) no less than seven days nor more than 30 days after receipt of the request for hearing.
- (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.

Section 22. Section **63G-3-303** is amended to read:

63G-3-303 (Effective 05/06/26). Changes in rules.

- (1)(a) To change a proposed rule already published in the bulletin, an agency shall file with the office:
 - (i) the text of the changed rule; and
 - (ii) a rule analysis containing a description of the change and the information required by Section 63G-3-301.
- (b) A change to a proposed rule may not be filed more than 120 days after publication of the rule being changed.
- (c) The office shall publish the rule analysis for the changed rule in the bulletin.
- (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.

(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.

(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).

(2) If the rule change is nonsubstantive:

(a) the agency need not comply with the requirements of Subsection (1); and

(b) the agency shall notify the office of the change in writing.

(3) If the rule is effective, the agency shall amend the rule according to the procedures specified in Section 63G-3-301.

Section 23. Section **63G-3-304** is amended to read:

63G-3-304 (Effective 05/06/26). Emergency rulemaking procedure.

(1) All agencies shall comply with the rulemaking procedures of Section 63G-3-301 unless an agency finds that these procedures would:

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

(b) cause an imminent budget reduction because of budget restraints or federal requirements; or

(c) place the agency in violation of federal or state law.

(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~~:

(i) the text of the rule; and

(ii) a rule analysis that includes the specific reasons and justifications for [its] the agency's findings.

(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.

~~[(b)]~~ (c) The office shall publish the rule in the bulletin as provided in Subsection 63G-3-301(4).

~~[(e)]~~ (d) The agency shall notify interested persons as provided in Subsection 63G-3-301(10).

~~[(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.

- (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.

Section 24. Section **63G-3-304.1** is amended to read:

63G-3-304.1 (Effective 05/06/26). Delaying the effective date of a proposed rule.

- (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.

- (2) The [~~Rules Review and General Oversight~~] General Oversight Committee:

- (a) may choose to delay the effective date of an entire proposed rule, a single section, or any complete paragraph of a rule; and
- (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).

- [~~(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).~~]

- [~~(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.~~]

- [~~(4)~~] (3) The [~~Rules Review and General Oversight~~] General Oversight Committee shall notify the [~~State Board of Education~~] affected agency and the office of:

- (a) [~~the delay of the effective date.~~] the decision to delay the effective date under Subsection (1); and
- (b) the decision to remove the delay of effective date as described in Subsection (2)(b).

- (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.

- (5) A [~~State Board of Education~~]proposed rule's effective date may not be delayed if:

- (a) the rule is explicitly mandated by a federal law or regulation;
- (b) a provision of Utah's constitution vests the [~~State Board of Education~~] agency with specific constitutional authority to promulgate the rule; or
- (c) the rule is an emergency rule filed under Section 63G-3-304.

- (6) The office shall make rules in accordance with this chapter to determine how to

bifurcate a rule that has had a section or paragraph's effective date delayed under this section.

- (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.

Section 25. Section **63G-3-305** is amended to read:

63G-3-305 (Effective 05/06/26). Agency review of rules -- Schedule of filings -- Limited exemption for certain rules.

- (1) Each agency shall review each of its 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.
- (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).
- (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.
 - (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:
 - (i) a concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require the rule;
 - (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
 - (iii) a reasoned justification for continuation of the rule, including reasons why the agency disagrees with comments in opposition to the rule, if any.
 - (b) If the agency repeals the rule, the agency shall:
 - (i) comply with Section 63G-3-301; and
 - (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.
 - (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).
- (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)~~].
- (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).

(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.

(6) If an agency finds that it will not meet the deadline established in Subsection (1):

(a) before the deadline described in Subsection (1), the agency may file one extension with the office indicating the reason for the extension; and

(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.

(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).

(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.

(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 Subsection (1) expires, the rule expires automatically on the day immediately after the date of the missed deadline.

(9) After a rule expires under Subsection (8), the office shall:

(a) publish a notice in the next issue of the bulletin that the rule has expired and is no longer enforceable;

(b) remove the rule from the code; and

(c) notify the agency that the rule has expired.

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

Section 26. Section **63G-3-401** is amended to read:

63G-3-401 (Effective 05/06/26). Office of Administrative Rules created -- Director.

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

(2)(a) The executive director shall appoint the director.

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

Section 27. Section **63G-3-402** is amended to read:

63G-3-402 (Effective 05/06/26). Office of Administrative Rules -- Duties

1933 **generally.**

1934 (1) The office shall:

- 1935 (a) record in [a] an electronic register the receipt of all agency rules, rule analysis forms,
1936 and notices of effective dates;
- 1937 (b) make the register, copies of all proposed rules, and rulemaking documents available
1938 for public inspection;
- 1939 (c) publish all proposed rules, rule analyses, notices of effective dates, and review
1940 notices in the bulletin at least monthly~~[-except that the office may publish the~~
1941 ~~complete text of any proposed rule that the director determines is too long to print or~~
1942 ~~too expensive to publish by reference to the text maintained by the office];~~
- 1943 (d) compile, format, number, and index all effective rules in an administrative code, and
1944 periodically publish that code and supplements or revisions to it;
- 1945 (e) publish a digest of all rules and notices contained in the most recent bulletin;
- 1946 (f) publish at least annually an index of all changes to the administrative code and the
1947 effective date of each change;
- 1948 (g) ~~[print, or contract to print,]~~ publish all rulemaking publications the director
1949 determines necessary to implement this chapter;
- 1950 (h) distribute without charge the bulletin and administrative code to state-designated
1951 repositories, the ~~[Rules Review and General Oversight]~~ General Oversight
1952 Committee, the Office of Legislative Research and General Counsel, and the two
1953 houses of the Legislature;
- 1954 (i) distribute without charge the digest and index to state legislators, agencies, political
1955 subdivisions on request, and the Office of Legislative Research and General Counsel;
- 1956 ~~[(j) distribute, at prices covering publication costs, all paper rulemaking publications to~~
1957 ~~all other requesting persons and agencies;]~~
- 1958 ~~[(k)]~~ (j) provide agencies assistance in rulemaking;
- 1959 ~~[(l)]~~ (k) if the department operates the office as an internal service fund agency in
1960 accordance with Section 63A-1-109.5, submit to the Rate Committee established in
1961 Section 63A-1-114:
- 1962 (i) the proposed rate and fee schedule as required by Section 63A-1-114; and
1963 (ii) other information or analysis requested by the Rate Committee;
- 1964 ~~[(m)]~~ (l) administer this chapter and require state agencies to comply with filing,
1965 publication, and hearing procedures; and
- 1966 ~~[(n)]~~ (m) make technological improvements to the rulemaking process, including

- 1967 improvements to automation and digital accessibility.
- 1968 (2) The office shall establish by rule in accordance with Title 63G, Chapter 3, Utah
- 1969 Administrative Rulemaking Act, all filing, publication, and hearing procedures
- 1970 necessary to make rules under this chapter.
- 1971 (3) The office may after notifying the agency make nonsubstantive changes to rules filed
- 1972 with the office or published in the bulletin or code by:
- 1973 (a) implementing a uniform system of formatting, punctuation, capitalization,
- 1974 organization, numbering, and wording;
- 1975 (b) correcting obvious errors and inconsistencies in punctuation, capitalization,
- 1976 numbering, referencing, and wording;
- 1977 (c) changing a catchline to more accurately reflect the substance of each section, part,
- 1978 rule, or title;
- 1979 (d) updating or correcting annotations associated with a section, part, rule, or title; and
- 1980 (e) merging or determining priority of any amendment, enactment, or repeal to the same
- 1981 rule or section made effective by an agency.
- 1982 (4) In addition, the office may make the following nonsubstantive changes with the
- 1983 concurrence of the agency:
- 1984 (a) eliminate duplication within rules;
- 1985 (b) eliminate obsolete and redundant words; and
- 1986 (c) correct defective or inconsistent section and paragraph structure in arrangement of
- 1987 the subject matter of rules.
- 1988 (5)(a) For nonsubstantive changes made in accordance with Subsection (3) or (4) after
- 1989 publication of the rule in the bulletin, the office shall publish a list of nonsubstantive
- 1990 changes in the bulletin.
- 1991 (b) For each nonsubstantive change, the list shall include:
- 1992 [~~(a)~~] (i) the affected code citation;
- 1993 [~~(b)~~] (ii) a brief description of the change; and
- 1994 [~~(c)~~] (iii) the date the change was made.
- 1995 (6) All funds appropriated or collected for publishing the office's publications shall be
- 1996 nonlapsing.
- 1997 Section 28. Section **63G-3-403** is amended to read:
- 1998 **63G-3-403 (Effective 05/06/26). Repeal and reenactment of Utah Administrative**
- 1999 **Code.**
- 2000 (1) When the director determines that the Utah Administrative Code requires extensive

- 2001 revision and reorganization, the office may repeal the code and reenact a new code
2002 according to the requirements of this section.
- 2003 (2) The office may:
- 2004 (a) reorganize, reformat, and renumber the code;
- 2005 (b) require each agency to review its rules and make any organizational or substantive
2006 changes according to the requirements of Section 63G-3-303; and
- 2007 (c) require each agency to prepare a brief summary of all substantive changes made by
2008 the agency.
- 2009 (3) The office may make nonsubstantive changes in the code by:
- 2010 (a) adopting a uniform system of punctuation, capitalization, numbering, and wording;
- 2011 (b) eliminating duplication;
- 2012 (c) correcting defective or inconsistent section and paragraph structure in arrangement of
2013 the subject matter of rules;
- 2014 (d) eliminating all obsolete or redundant words;
- 2015 (e) correcting obvious errors and inconsistencies in punctuation, capitalization,
2016 numbering, referencing, and wording;
- 2017 (f) changing a catchline to more accurately reflect the substance of each section, part,
2018 rule, or title;
- 2019 (g) updating or correcting annotations associated with a section, part, rule, or title; and
- 2020 (h) merging or determining priority of any amendment, enactment, or repeal to the same
2021 rule or section made effective by an agency.
- 2022 (4)(a) To inform the public about the proposed code reenactment, the office shall publish
2023 in the bulletin:
- 2024 (i) notice of the code reenactment;
- 2025 (ii) the date, time, and place of a public hearing where members of the public may
2026 comment on the proposed reenactment of the code;
- 2027 (iii) locations where the proposed reenactment of the code may be reviewed; and
- 2028 (iv) agency summaries of substantive changes in the reenacted code.
- 2029 (b) To inform the public about substantive changes in agency rules contained in the
2030 proposed reenactment, each agency shall:
- 2031 (i) make the text of their reenacted rules available:
- 2032 (A) for public review during regular business hours; and
- 2033 (B) in an electronic version; and
- 2034 (ii) comply with the requirements of Subsection 63G-3-301(10).

(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).

(6) The office shall distribute complete text of the proposed code reenactment without charge to:

(a) state-designated repositories in Utah;

(b) the ~~[Rules Review and General Oversight]~~ General Oversight Committee; and

(c) the Office of Legislative Research and General Counsel.

(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.

(8) Repeal and reenactment of the code meets the requirements of Section 63G-3-305 for a review of all agency rules.

Section 29. Section **63G-3-502** is amended to read:

63G-3-502 (Effective 05/06/26). Legislative reauthorization of agency rules -- Extension of rules by governor.

(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.

(2)(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.

(b) Notwithstanding the provisions of Subsection (2)(a), an agency's rules do not expire if:

(i) the rule is explicitly mandated by a federal law or regulation; or

(ii) a provision of Utah's constitution vests the agency with specific constitutional authority to regulate.

(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.

(b) The legislation shall be substantially in the following form: "All rules of Utah state agencies are reauthorized except for the following:".

(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.

(d) For the purpose of this section, the entire rule, a single section, or any complete paragraph of a rule may be excepted for reauthorization in the legislation considered by the Legislature.

(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.

(5) The Legislature's reauthorization of a rule by legislation:

(a) does not constitute legislative approval of the rule~~[-, nor is it admissible in any proceeding as-]~~ ; and

(b) is not evidence of legislative intent.

(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.

(b) In seeking the extension, the agency shall submit a petition to the governor that affirmatively states:

(i) that the rule is necessary; and

(ii) a citation to the source of its authority to make the rule.

(c)(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.

(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.

(d) 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).

Section 30. Section **63G-3-503** is amended to read:

63G-3-503 (Effective 05/06/26). 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.

Section 31. Section **63G-3-601** is amended to read:

63G-3-601 (Effective 05/06/26). Interested parties -- Petition for agency action.

~~[(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.]~~

~~[(2)]~~ (1) An interested person may petition an agency to request the making, amendment, or repeal of a rule.

~~[(3)]~~ (2) The office shall prescribe by rule the form for petitions and the procedure for their submission, consideration, and disposition.

~~[(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.

~~[(5)]~~ (4) Within 60 days after submission of a petition, the agency shall~~[-either]~~ :

(a) deny the petition in writing, stating ~~[its-]~~reasons for the denial~~[-]~~ ; or

(b) initiate rulemaking proceedings to implement the petition.

~~[(6)]~~ (5)(a) If the petition is submitted to a board 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.

(b) Within 80 days of the submission of the petition, the board shall either:

(i) deny the petition in writing stating its reasons for denial; or

(ii) initiate rulemaking proceedings to implement the petition.

~~[(7)]~~ (6) If the agency or board 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.

Section 32. Section **63O-2-403** is amended to read:

63O-2-403 (Effective 05/06/26). Contracting power of executive director -- Health insurance coverage.

(1) As used in this section:

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

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

- 2137 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or
2138 "operative" who:
- 2139 (i) works at least 30 hours per calendar week; and
- 2140 (ii) meets employer eligibility waiting requirements for health care insurance, which
2141 may not exceed the first of the calendar month following 60 days after the day on
2142 which the individual is hired.
- 2143 (d) "Health benefit plan" means:
- 2144 (i) the same as that term is defined in Section 31A-1-301; or
- 2145 (ii) an employee welfare benefit plan:
- 2146 (A) established under the Employee Retirement Income Security Act of 1974, 29
2147 U.S.C. Sec. 1001 et seq.;
- 2148 (B) for an employer with 100 or more employees; and
- 2149 (C) in which the employer establishes a self-funded or partially self-funded group
2150 health plan to provide medical care for the employer's employees and
2151 dependents of the employees.
- 2152 (e) "Qualified health coverage" means the same as that term is defined in Section
2153 26B-3-909.
- 2154 (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.
- 2155 (g) "Third party administrator" or "administrator" means the same as that term is defined
2156 in Section 31A-1-301.
- 2157 (2) Except as provided in Subsection (3), the requirements of this section apply to:
- 2158 (a) a contractor of a design or construction contract entered into by the board, or on
2159 behalf of the board, on or after July 1, 2009, if the prime contract is in an aggregate
2160 amount equal to or greater than \$2,000,000; and
- 2161 (b) a subcontractor of a contractor of a design or construction contract entered into by
2162 the board, or on behalf of the board, on or after July 1, 2009, if the subcontract is in
2163 an aggregate amount equal to or greater than \$1,000,000.
- 2164 (3) The requirements of this section do not apply to a contractor or subcontractor described
2165 in Subsection (2) if:
- 2166 (a) the application of this section jeopardizes the receipt of federal funds;
- 2167 (b) the contract is a sole source contract; or
- 2168 (c) the contract is an emergency procurement.
- 2169 (4) A person that intentionally uses change orders, contract modifications, or multiple
2170 contracts to circumvent the requirements of this section is guilty of an infraction.

- (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:
- (i) the contractor offers qualified health coverage that complies with Section 26B-3-909;
 - (ii) is from:
 - (A) an actuary selected by the contractor or the contractor's insurer;
 - (B) an underwriter who is responsible for developing the employer group's premium rates; or
 - (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
 - (iii) was created within one year before the day on which the statement is submitted.
- (b)(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.
- (ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:
- (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
 - (B) the executive director.
- (c) A contractor that is subject to the requirements of this section shall:
- (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
 - (ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:
 - (A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;

(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

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

(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).

(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).

(ii)(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).

(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).

(6) The department shall make rules:

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

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

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

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

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

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

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

(c) that establish:

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

- 2239 (A) that a contractor or subcontractor's compliance with this section is subject to
2240 an audit by the department or the Office of the Legislative Auditor General;
- 2241 (B) that a contractor that is subject to the requirements of this section shall obtain
2242 a written statement described in Subsection (5)(a); and
- 2243 (C) that a subcontractor that is subject to the requirements of this section shall
2244 obtain a written statement described in Subsection (5)(c)(ii);
- 2245 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
2246 violates the provisions of this section, which may include:
- 2247 (A) a three-month suspension of the contractor or subcontractor from entering into
2248 future contracts with the state upon the first violation;
- 2249 (B) a six-month suspension of the contractor or subcontractor from entering into
2250 future contracts with the state upon the second violation;
- 2251 (C) an action for debarment of the contractor or subcontractor in accordance with
2252 Section 63G-6a-904 upon the third or subsequent violation; and
- 2253 (D) monetary penalties which may not exceed 50% of the amount necessary to
2254 purchase qualified health coverage for employees and dependents of
2255 employees of the contractor or subcontractor who were not offered qualified
2256 health coverage during the duration of the contract; and
- 2257 (iii) a website on which the department shall post the commercially equivalent
2258 benchmark, for the qualified health coverage identified in Subsection (1)(e), that
2259 is provided by the Department of Health and Human Services, in accordance with
2260 Subsection 26B-3-909(2).
- 2261 (7)(a)(i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor
2262 or subcontractor who intentionally violates the provisions of this section is liable
2263 to the employee for health care costs that would have been covered by qualified
2264 health coverage.
- 2265 (ii) An employer has an affirmative defense to a cause of action under Subsection
2266 (7)(a)(i) if:
- 2267 (A) the employer relied in good faith on a written statement described in
2268 Subsection (5)(a) or (5)(c)(ii); or
- 2269 (B) the department determines that compliance with this section is not required
2270 under the provisions of Subsection (3).
- 2271 (b) An employee has a private right of action only against the employee's employer to
2272 enforce the provisions of this Subsection (7).

- (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.
- (9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:
- (a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:
 - (i) Section 63G-6a-1602; or
 - (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
 - (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.
- (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):
- (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;
 - (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
 - (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.
- Section 33. Section **72-6-107.5** is amended to read:
- 72-6-107.5 (Effective 05/06/26). Construction of improvements of highway -- Contracts -- Health insurance coverage.**
- (1) As used in this section:
- (a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.
 - (b) "Change order" means the same as that term is defined in Section 63G-6a-103.
 - (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:
 - (i) works at least 30 hours per calendar week; and
 - (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.

(d) "Health benefit plan" means:

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

(ii) an employee welfare benefit plan:

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

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

(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.

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

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

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(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

(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.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(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.

(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:

(i) the contractor offers qualified health coverage that complies with Section

2341 26B-3-909;

2342 (ii) is from:

2343 (A) an actuary selected by the contractor or the contractor's insurer;

2344 (B) an underwriter who is responsible for developing the employer group's
2345 premium rates; or

2346 (C) if the contractor provides a health benefit plan described in Subsection

2347 (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

2348 (iii) was created within one year before the day on which the statement is submitted.

2349 (b)(i) A contractor that provides a health benefit plan described in Subsection

2350 (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as

2351 described in Subsection (5)(a)(ii)(C), sufficient information to determine whether

2352 the contractor's contribution to the health benefit plan and the actuarial value of

2353 the health benefit plan meet the requirements of qualified health coverage.

2354 (ii) A contractor may not make a change to the contractor's contribution to the health
2355 benefit plan, unless the contractor provides notice to:

2356 (A) the actuary or underwriter selected by an administrator, as described in

2357 Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written

2358 statement described in Subsection (5)(a) in compliance with this section; and

2359 (B) the department.

2360 (c) A contractor that is subject to the requirements of this section shall:

2361 (i) place a requirement in each of the contractor's subcontracts that a subcontractor

2362 that is subject to the requirements of this section shall obtain and maintain an offer

2363 of qualified health coverage for the subcontractor's employees and the employees'

2364 dependents during the duration of the subcontract; and

2365 (ii) obtain from a subcontractor that is subject to the requirements of this section a
2366 written statement that:

2367 (A) the subcontractor offers qualified health coverage that complies with Section
2368 26B-3-909;

2369 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer,
2370 an underwriter who is responsible for developing the employer group's

2371 premium rates, or if the subcontractor provides a health benefit plan described

2372 in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator;

2373 and

2374 (C) was created within one year before the day on which the contractor obtains the

statement.

(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).

(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).

(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).

(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).

(6) The department shall adopt administrative rules:

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

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

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

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

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

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

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

(c) that establish:

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

(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;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

- 2409 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
2410 violates the provisions of this section, which may include:
- 2411 (A) a three-month suspension of the contractor or subcontractor from entering into
2412 future contracts with the state upon the first violation;
- 2413 (B) a six-month suspension of the contractor or subcontractor from entering into
2414 future contracts with the state upon the second violation;
- 2415 (C) an action for debarment of the contractor or subcontractor in accordance with
2416 Section 63G-6a-904 upon the third or subsequent violation; and
- 2417 (D) monetary penalties which may not exceed 50% of the amount necessary to
2418 purchase qualified health coverage for an employee and a dependent of the
2419 employee of the contractor or subcontractor who was not offered qualified
2420 health coverage during the duration of the contract; and
- 2421 (iii) a website on which the department shall post the commercially equivalent
2422 benchmark, for the qualified health coverage identified in Subsection (1)(e), that
2423 is provided by the Department of Health and Human Services, in accordance with
2424 Subsection 26B-3-909(2).
- 2425 (7)(a)(i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor
2426 or subcontractor who intentionally violates the provisions of this section is liable
2427 to the employee for health care costs that would have been covered by qualified
2428 health coverage.
- 2429 (ii) An employer has an affirmative defense to a cause of action under Subsection
2430 (7)(a)(i) if:
- 2431 (A) the employer relied in good faith on a written statement described in
2432 Subsection (5)(a) or (5)(c)(ii); or
- 2433 (B) the department determines that compliance with this section is not required
2434 under the provisions of Subsection (3).
- 2435 (b) An employee has a private right of action only against the employee's employer to
2436 enforce the provisions of this Subsection (7).
- 2437 (8) Any penalties imposed and collected under this section shall be deposited into the
2438 Medicaid Growth Reduction and Budget Stabilization Account created in Section
2439 63J-1-315.
- 2440 (9) The failure of a contractor or subcontractor to provide qualified health coverage as
2441 required by this section:
- 2442 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,

or contractor under:

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

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

(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.

(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):

(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;

(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

(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.

Section 34. Section **79-2-404** is amended to read:

79-2-404 (Effective 05/06/26). Contracting powers of department -- Health insurance coverage.

(1) As used in this section:

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

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

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

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

(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.

(d) "Health benefit plan" means:

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

(ii) an employee welfare benefit plan:

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

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

(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.

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

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

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(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

(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.

(3) This section does not apply to contracts entered into by the department or a division, board, or council of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division, board, or council of the department; and

(ii)(A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state; or

(c) the contract or agreement is:

(i) for the purpose of disbursing grants or loans authorized by statute;

(ii) a sole source contract; or

(iii) an emergency procurement.

(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.

- (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:
- (i) the contractor offers qualified health coverage that complies with Section 26B-3-909;
 - (ii) is from:
 - (A) an actuary selected by the contractor or the contractor's insurer;
 - (B) an underwriter who is responsible for developing the employer group's premium rates; or
 - (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
 - (iii) was created within one year before the day on which the statement is submitted.
- (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.
- (ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:
- (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
 - (B) the department.
- (c) A contractor that is subject to the requirements of this section shall:
- (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
 - (ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:
 - (A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;

(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

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

(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).

(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).

(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).

(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).

(6) The department shall adopt administrative rules:

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

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

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

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

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

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

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

(c) that establish:

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

- 2579 (A) that a contractor or subcontractor's compliance with this section is subject to
2580 an audit by the department or the Office of the Legislative Auditor General;
- 2581 (B) that a contractor that is subject to the requirements of this section shall obtain
2582 a written statement described in Subsection (5)(a); and
- 2583 (C) that a subcontractor that is subject to the requirements of this section shall
2584 obtain a written statement described in Subsection (5)(c)(ii);
- 2585 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
2586 violates the provisions of this section, which may include:
- 2587 (A) a three-month suspension of the contractor or subcontractor from entering into
2588 future contracts with the state upon the first violation;
- 2589 (B) a six-month suspension of the contractor or subcontractor from entering into
2590 future contracts with the state upon the second violation;
- 2591 (C) an action for debarment of the contractor or subcontractor in accordance with
2592 Section 63G-6a-904 upon the third or subsequent violation; and
- 2593 (D) monetary penalties which may not exceed 50% of the amount necessary to
2594 purchase qualified health coverage for an employee and a dependent of an
2595 employee of the contractor or subcontractor who was not offered qualified
2596 health coverage during the duration of the contract; and
- 2597 (iii) a website on which the department shall post the commercially equivalent
2598 benchmark, for the qualified health coverage identified in Subsection (1)(e),
2599 provided by the Department of Health and Human Services, in accordance with
2600 Subsection 26B-3-909(2).
- 2601 (7)(a)(i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor
2602 or subcontractor who intentionally violates the provisions of this section is liable
2603 to the employee for health care costs that would have been covered by qualified
2604 health coverage.
- 2605 (ii) An employer has an affirmative defense to a cause of action under Subsection
2606 (7)(a)(i) if:
- 2607 (A) the employer relied in good faith on a written statement described in
2608 Subsection (5)(a) or (5)(c)(ii); or
- 2609 (B) the department determines that compliance with this section is not required
2610 under the provisions of Subsection (3).
- 2611 (b) An employee has a private right of action only against the employee's employer to
2612 enforce the provisions of this Subsection (7).

- 2613 (8) Any penalties imposed and collected under this section shall be deposited into the
2614 Medicaid Growth Reduction and Budget Stabilization Account created in Section
2615 63J-1-315.
- 2616 (9) The failure of a contractor or subcontractor to provide qualified health coverage as
2617 required by this section:
- 2618 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
2619 or contractor under:
- 2620 (i) Section 63G-6a-1602; or
2621 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
- 2622 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
2623 contractor as a basis for any action or suit that would suspend, disrupt, or terminate
2624 the design or construction.
- 2625 (10) An administrator, including an administrator's actuary or underwriter, who provides a
2626 written statement under Subsection (5)(a) or (c) regarding the qualified health coverage
2627 of a contractor or subcontractor who provides a health benefit plan described in
2628 Subsection (1)(d)(ii):
- 2629 (a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless
2630 the administrator commits gross negligence in preparing the written statement;
- 2631 (b) is not liable for any error in the written statement if the administrator relied in good
2632 faith on information from the contractor or subcontractor; and
- 2633 (c) may require as a condition of providing the written statement that a contractor or
2634 subcontractor hold the administrator harmless for an action arising under this section.
- 2635 **Section 35. Repealer.**
2636 This bill repeals:
2637 **Section 63G-3-101, Title.**
2638 **Section 36. Effective Date.**
2639 This bill takes effect on May 6, 2026.