

## Part 5 Legislative Oversight

### **63G-3-501 Administrative Rules Review Committee.**

- (1)
- (a) There is created an Administrative Rules Review Committee of the following 10 permanent members:
    - (i) five members of the Senate appointed by the president of the Senate, no more than three of whom may be from the same political party; and
    - (ii) five members of the House of Representatives appointed by the speaker of the House of Representatives, no more than three of whom may be from the same political party.
  - (b) Each permanent member shall serve:
    - (i) for a two-year term; or
    - (ii) until the permanent member's successor is appointed.
  - (c)
    - (i) A vacancy exists when a permanent member ceases to be a member of the Legislature, or when a permanent member resigns from the committee.
    - (ii) When a vacancy exists:
      - (A) if the departing member is a member of the Senate, the president of the Senate shall appoint a member of the Senate to fill the vacancy; or
      - (B) if the departing member is a member of the House of Representatives, the speaker of the House of Representatives shall appoint a member of the House of Representatives to fill the vacancy.
    - (iii) The newly appointed member shall serve the remainder of the departing member's unexpired term.
  - (d)
    - (i) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a)(i) as a cochair of the committee.
    - (ii) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(a)(ii) as a cochair of the committee.
  - (e) Three representatives and three senators from the permanent members are a quorum for the transaction of business at any meeting.
  - (f)
    - (i) Subject to Subsection (1)(f)(ii), the committee shall meet at least once each month to review new agency rules, amendments to existing agency rules, and repeals of existing agency rules.
    - (ii) The committee chairs may suspend the meeting requirement described in Subsection (1)(f)(i) at the committee chairs' discretion.
- (2) The office shall submit a copy of each issue of the bulletin to the committee.
- (3)
- (a) The committee shall exercise continuous oversight of the rulemaking process.
  - (b) The committee shall examine each rule submitted by an agency to determine:
    - (i) whether the rule is authorized by statute;
    - (ii) whether the rule complies with legislative intent;
    - (iii) the rule's impact on the economy and the government operations of the state and local political subdivisions; and
    - (iv) the rule's impact on affected persons.

- (c) To carry out these duties, the committee may examine any other issues that the committee considers necessary. The committee may also notify and refer rules to the chairs of the interim committee that has jurisdiction over a particular agency when the committee determines that an issue involved in an agency's rules may be more appropriately addressed by that committee.
- (d) In reviewing a rule, the committee shall follow generally accepted principles of statutory construction.
- (4) When the committee reviews existing rules, the committee chairs shall invite the Senate and House chairs of the standing committee and of the appropriation subcommittee that have jurisdiction over the agency whose existing rules are being reviewed to participate as nonvoting, ex officio members with the committee.
- (5) The committee may request that the Office of the Legislative Fiscal Analyst prepare a fiscal note on any rule.
- (6) In order to accomplish the committee's functions described in this chapter, the committee has all the powers granted to legislative interim committees under Section 36-12-11.
- (7)
  - (a) The committee may prepare written findings of the committee's review of a rule and may include any recommendations, including legislative action.
  - (b) When the committee reviews a rule, the committee shall provide to the agency that enacted the rule:
    - (i) the committee's findings, if any; and
    - (ii) a request that the agency notify the committee of any changes the agency makes to the rule.
  - (c) The committee shall provide a copy of the committee's findings, if any, to:
    - (i) any member of the Legislature, upon request;
    - (ii) any person affected by the rule, upon request;
    - (iii) the president of the Senate;
    - (iv) the speaker of the House of Representatives;
    - (v) the Senate and House chairs of the standing committee that has jurisdiction over the agency that made the rule; and
    - (vi) the Senate and House chairs of the appropriation subcommittee that has jurisdiction over the agency that made the rule.
- (8)
  - (a) The committee may submit a report on its review of state agency rules to each member of the Legislature at each regular session.
  - (b) The report shall include:
    - (i) any findings and recommendations the committee made under Subsection (7);
    - (ii) any action an agency took in response to committee recommendations; and
    - (iii) any recommendations by the committee for legislation.

Amended by Chapter 193, 2016 General Session

**63G-3-502 Legislative reauthorization of agency rules -- Extension of rules by governor.**

- (1) All grants of rulemaking power from the Legislature to a state 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 Administrative Rules Review Committee shall have omnibus legislation prepared for consideration by the Legislature during its annual general session.
  - (b) The omnibus 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 Administrative Rules Review Committee may send a letter to the governor and to the agency explaining specifically why the committee believes any 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 omnibus legislation considered by the Legislature.
- (4) The Legislature's reauthorization of a rule by legislation does not constitute legislative approval of the rule, nor is it admissible in any proceeding as evidence of legislative intent.
- (5)
- (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 omnibus bill 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 (5)(b) and (c).

Renumbered and Amended by Chapter 382, 2008 General Session