

1 **DEPARTMENT OF ADMINISTRATIVE SERVICES**

2 **AMENDMENTS**

3 2016 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Curtis Oda**

6 Senate Sponsor: Howard A. Stephenson

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions relating to the Department of Administrative Services.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ replaces the Division of Administrative Rules with the Office of Administrative
- 14 Rules within the Department of Administrative Services;
- 15 ▶ provides that a coordinator shall administer the Office of Administrative Rules;
- 16 ▶ creates certain duties of the Office of Administrative Rules regarding technological
- 17 improvements to the rulemaking process; and
- 18 ▶ makes technical and conforming changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **31A-2-404**, as last amended by Laws of Utah 2015, Chapter 330

26 **35A-3-302**, as last amended by Laws of Utah 2015, Chapter 221

27 **53-2a-209**, as last amended by Laws of Utah 2015, Chapter 358

28 **53C-1-201**, as last amended by Laws of Utah 2015, Chapter 177

29 **63A-1-109**, as last amended by Laws of Utah 2011, Chapters 79 and 265

- 30 **63A-1-109.5**, as last amended by Laws of Utah 2011, Chapter 79
 - 31 **63A-1-111**, as renumbered and amended by Laws of Utah 1993, Chapter 212
 - 32 **63G-3-102**, as renumbered and amended by Laws of Utah 2008, Chapter 382
 - 33 **63G-3-201**, as last amended by Laws of Utah 2009, Chapter 347
 - 34 **63G-3-301**, as last amended by Laws of Utah 2009, Chapter 93
 - 35 **63G-3-303**, as renumbered and amended by Laws of Utah 2008, Chapter 382
 - 36 **63G-3-304**, as last amended by Laws of Utah 2008, Chapter 300 and renumbered and
 - 37 amended by Laws of Utah 2008, Chapter 382
 - 38 **63G-3-305**, as last amended by Laws of Utah 2014, Chapter 57
 - 39 **63G-3-401**, as renumbered and amended by Laws of Utah 2008, Chapter 382
 - 40 **63G-3-402**, as last amended by Laws of Utah 2010, Chapter 341
 - 41 **63G-3-403**, as last amended by Laws of Utah 2008, Chapter 300 and renumbered and
 - 42 amended by Laws of Utah 2008, Chapter 382
 - 43 **63G-3-501**, as last amended by Laws of Utah 2015, Chapter 383
 - 44 **63G-3-702**, as renumbered and amended by Laws of Utah 2008, Chapter 382
 - 45 **63J-1-602.4**, as last amended by Laws of Utah 2015, Chapters 179 and 283
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47 *Be it enacted by the Legislature of the state of Utah:*

48 Section 1. Section **31A-2-404** is amended to read:

49 **31A-2-404. Duties of the commissioner and Title and Escrow Commission.**

50 (1) (a) Notwithstanding the other provisions of this chapter, to the extent provided in
51 this part, the commissioner shall administer and enforce the provisions in this title related to a
52 title insurance matter.

53 (b) (i) The commissioner may impose a penalty:

54 (A) under this title related to a title insurance matter;

55 (B) after investigation by the commissioner in accordance with Part 3, Procedures and
56 Enforcement; and

57 (C) that is enforced by the commissioner.

58 (ii) The commissioner shall consult with and seek concurrence of the commission in a
59 meeting subject to Title 52, Chapter 4, Open and Public Meetings Act, regarding the
60 imposition of a penalty, and if concurrence cannot be reached, the commissioner has final
61 authority.

62 (c) Unless a provision of this title grants specific authority to the commission, the
63 commissioner has authority over the implementation of this title related to a title insurance
64 matter. When a provision requires concurrence between the commission and commissioner,
65 and concurrence cannot be reached, the commissioner has final authority.

66 (d) Except as provided in Subsection (1)(e), when this title requires concurrence
67 between the commissioner and commission related to a title insurance matter:

68 (i) the commissioner shall report to and update the commission on a regular basis
69 related to that title insurance matter; and

70 (ii) the commission shall review the report submitted by the commissioner under this
71 Subsection (1)(d) and concur with the report, or:

72 (A) provide a reason for not concurring with the report; and

73 (B) provide recommendations to the commissioner.

74 (e) When this title requires concurrence between the commissioner and commission
75 under Subsection (2), (3), or (4):

76 (i) the commission shall report to and update the commissioner on a regular basis
77 related to that title insurance matter; and

78 (ii) the commissioner shall review a report submitted by the commission under this
79 Subsection (1)(e) and concur with the report or:

80 (A) provide a reason for not concurring with the report; and

81 (B) provide recommendations to the commission.

82 (2) The commission shall:

83 (a) subject to Subsection (4), make rules for the administration of the provisions in this
84 title related to title insurance matters including rules related to:

85 (i) rating standards and rating methods for a title licensee, as provided in Section

86 31A-19a-209;

87 (ii) the licensing for a title licensee, including the licensing requirements of Section

88 31A-23a-204;

89 (iii) continuing education requirements of Section 31A-23a-202; and

90 (iv) standards of conduct for a title licensee;

91 (b) concur in the issuance and renewal of a license in accordance with Section

92 31A-23a-105 or 31A-26-203;

93 (c) in accordance with Section 31A-3-103, establish, with the concurrence of the
94 commissioner, the fees imposed by this title on a title licensee;

95 (d) in accordance with Section 31A-23a-415 determine, after consulting with the
96 commissioner, the assessment on a title insurer as defined in Section 31A-23a-415;

97 (e) with the concurrence of the commissioner, approve a continuing education program
98 required by Section 31A-23a-202;

99 (f) on a regular basis advise the commissioner of the most critical matters affecting the
100 title insurance industry and request the commissioner to direct the department's investigative
101 resources to investigate and enforce those matters;

102 (g) in accordance with Section 31A-23a-204, participate in the annual license testing
103 evaluation conducted by the commissioner's test administrator;

104 (h) advise the commissioner on matters affecting the commissioner's budget related to
105 title insurance; and

106 (i) perform other duties as provided in this title.

107 (3) The commission may make rules establishing an examination for a license that will
108 satisfy Section 31A-23a-204:

109 (a) after consultation with the commissioner's test administrator; and

110 (b) subject to Subsection (4).

111 (4) (a) The commission may make a rule under this title only:

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

113 (ii) with the concurrence of the commissioner, except that if concurrence cannot be

114 reached, the commissioner has final authority; and

115 (iii) if at the time the commission files its proposed rule and rule analysis with the
116 [~~Division~~] Office of Administrative Rules in accordance with Section 63G-3-301, the
117 commission provides the Real Estate Commission that same information.

118 (b) The commission may not make a rule regarding adjudicative procedures.

119 (c) In accordance with Section 31A-2-201, the commissioner may make rules regarding
120 adjudicative procedures.

121 (5) (a) The commissioner shall annually report the information described in Subsection
122 (5)(b) in writing to the commission.

123 (b) The information required to be reported under this Subsection (5):

124 (i) may not identify a person; and

125 (ii) shall include:

126 (A) the number of complaints the commissioner receives with regard to transactions
127 involving title insurance or a title licensee during the calendar year immediately proceeding the
128 report;

129 (B) the type of complaints described in Subsection (5)(b)(ii)(A); and

130 (C) for each complaint described in Subsection (5)(b)(ii)(A):

131 (I) any action taken by the commissioner with regard to the complaint; and

132 (II) the time-period beginning the day on which a complaint is made and ending the
133 day on which the commissioner determines it will take no further action with regard to the
134 complaint.

135 Section 2. Section 35A-3-302 is amended to read:

136 **35A-3-302. Eligibility requirements.**

137 (1) There is created the "Family Employment Program" to provide cash assistance
138 under this part.

139 (2) (a) The department shall submit a state plan to the Secretary of the United States
140 Department of Health and Human Services to obtain funding under the federal Temporary
141 Assistance for Needy Families Block Grant.

142 (b) The department shall make the state plan consistent with this part and federal law.

143 (c) If a discrepancy exists between a provision of the state plan and this part, this part
144 supersedes the provision in the state plan.

145 (3) The services provided under this part are for both one-parent and two-parent
146 families.

147 (4) To be eligible for cash assistance under this part, a family shall:

148 (a) have at least one minor dependent child; or

149 (b) have a parent who is in the third trimester of a pregnancy.

150 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
151 department shall make rules for eligibility and the amount of cash assistance a family is eligible
152 to receive under this part based on:

153 (a) family size;

154 (b) family income;

155 (c) income disregards;

156 (d) other relevant factors; and

157 (e) if the applicant has met the eligibility requirements under Subsections (5)(a)
158 through (d), the assessment and other requirements described in Sections [35A-3-304](#) and
159 [35A-3-304.5](#).

160 (6) To determine eligibility, the department may not consider money on deposit in an
161 Individual Development Account established under Section [35A-3-312](#).

162 (7) The department shall provide for an appeal of a determination of eligibility in
163 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

164 (8) (a) The department shall make a report to either the Legislature's Executive
165 Appropriations Committee or the Social Services Appropriations Subcommittee on any
166 proposed rule change made under Subsection (5) that would modify the:

167 (i) eligibility requirements for cash assistance; or

168 (ii) amount of cash assistance a family is eligible to receive.

169 (b) The department shall submit the report under Subsection (8)(a) prior to

170 implementing the proposed rule change.

171 (c) The report under Subsection (8)(a) shall include:

172 (i) a description of the department's current practice or policy that it is proposing to
173 change;

174 (ii) an explanation of why the department is proposing the change;

175 (iii) the effect of an increase or decrease in cash benefits on families; and

176 (iv) the fiscal impact of the proposed change.

177 (d) The department may use the Notice of Proposed Rule Amendment form filed with
178 the ~~[Division]~~ Office of Administrative Rules as its report if the notice contains the information
179 required under Subsection (8)(c).

180 (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
181 department shall make rules to ensure that:

182 (a) a recipient of assistance from the Family Employment Program:

183 (i) has adequate access to the assistance;

184 (ii) has the ability to use and withdraw assistance with minimal fees or surcharges,
185 including the opportunity to obtain assistance with no fees or surcharges;

186 (iii) is provided information regarding fees and surcharges that may apply to assistance
187 accessed through an electronic fund transaction; and

188 (iv) is provided information explaining the restrictions on accessing assistance
189 described in Subsection (10); and

190 (b) information regarding fees and surcharges that may apply when accessing
191 assistance from the Family Employment Program through an electronic fund transaction is
192 available to the public.

193 (10) An individual receiving assistance under this section may not access the assistance
194 through an electronic benefit transfer, including through an automated teller machine or
195 point-of-sale device, in an establishment in the state that:

196 (a) exclusively or primarily sells intoxicating liquor;

197 (b) allows gambling or gaming; or

198 (c) provides adult-oriented entertainment where performers disrobe or perform
199 unclothed.

200 (11) An establishment described under Subsection (10)(a), (b), or (c) may not allow an
201 individual to access the assistance under this section on the establishment's premises through
202 an electronic benefit transfer, including through an automated teller machine or point-of-sale
203 device.

204 (12) In accordance with federal requirements and in accordance with Title 63G,
205 Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to prevent
206 individuals from accessing assistance in a manner prohibited by Subsections (10) and (11),
207 which rules may include enforcement provisions that impose sanctions that temporarily or
208 permanently disqualify an individual from receiving assistance.

209 Section 3. Section **53-2a-209** is amended to read:

210 **53-2a-209. Orders, rules, and regulations having force of law -- Filing**
211 **requirements -- Suspension of state agency rules -- Suspension of enforcement of certain**
212 **statutes during a state of emergency.**

213 (1) All orders, rules, and regulations promulgated by the governor, a municipality, a
214 county, or other agency authorized by this part to make orders, rules, and regulations, not in
215 conflict with existing laws except as specifically provided in this section, shall have the full
216 force and effect of law during the state of emergency.

217 (2) A copy of the order, rule, or regulation promulgated under Subsection (1) shall be
218 filed as soon as practicable with:

219 (a) the [~~Division~~] Office of Administrative Rules, if issued by the governor or a state
220 agency; or

221 (b) the office of the clerk of the municipality or county, if issued by the chief executive
222 officer of a municipality or county.

223 (3) The governor may suspend the provisions of any order, rule, or regulation of any
224 state agency, if the strict compliance with the provisions of the order, rule, or regulation would
225 substantially prevent, hinder, or delay necessary action in coping with the emergency or

226 disaster.

227 (4) (a) Except as provided in Subsection (4)(b) and subject to Subsections (4)(c) and
228 (d), the governor may by executive order suspend the enforcement of a statute if:

229 (i) the governor declares a state of emergency in accordance with Section 53-2a-206;

230 (ii) the governor determines that suspending the enforcement of the statute is:

231 (A) directly related to the state of emergency described in Subsection (4)(a)(i); and

232 (B) necessary to address the state of emergency described in Subsection (4)(a)(i);

233 (iii) the executive order:

234 (A) describes how the suspension of the enforcement of the statute is:

235 (I) directly related to the state of emergency described in Subsection (4)(a)(i); and

236 (II) necessary to address the state of emergency described in Subsection (4)(a)(i); and

237 (B) provides the citation of the statute that is the subject of suspended enforcement;

238 (iv) the governor acts in good faith;

239 (v) the governor provides notice of the suspension of the enforcement of the statute to

240 the speaker of the House of Representatives and the president of the Senate no later than 24

241 hours after suspending the enforcement of the statute; and

242 (vi) the governor makes the report required by Section 53-2a-210.

243 (b) (i) Except as provided in Subsection (4)(b)(ii), the governor may not suspend the
244 enforcement of a criminal penalty created in statute.

245 (ii) The governor may suspend the enforcement of a misdemeanor or infraction if:

246 (A) the misdemeanor or infraction relates to food, health, or transportation; and

247 (B) the requirements of Subsection (4)(a) are met.

248 (c) A suspension described in this Subsection (4) terminates no later than the date the
249 governor terminates the state of emergency in accordance with Section 53-2a-206 to which the
250 suspension relates.

251 (d) The governor:

252 (i) shall provide the notice required by Subsection (4)(a)(v) using the best available
253 method under the circumstances as determined by the governor;

254 (ii) may provide the notice required by Subsection (4)(a)(v) in electronic format; and
255 (iii) shall provide the notice in written form, if practicable.

256 (e) If circumstances prevent the governor from providing notice to the speaker of the
257 House of Representatives or the president of the Senate, notice shall be provided in the best
258 available method to the presiding member of the respective body as is reasonable.

259 Section 4. Section **53C-1-201** is amended to read:

260 **53C-1-201. Creation of administration -- Purpose -- Director -- Participation in**
261 **Risk Management Fund.**

262 (1) (a) There is established within state government the School and Institutional Trust
263 Lands Administration.

264 (b) The administration shall manage all school and institutional trust lands and assets
265 within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation
266 of Revenue from Trust Lands, and Title 53D, Chapter 1, School and Institutional Trust Fund
267 Management Act.

268 (2) The administration is an independent state agency and not a division of any other
269 department.

270 (3) (a) It is subject to the usual legislative and executive department controls except as
271 provided in this Subsection (3).

272 (b) (i) The director may make rules as approved by the board that allow the
273 administration to classify a business proposal submitted to the administration as protected
274 under Section **63G-2-305**, for as long as is necessary to evaluate the proposal.

275 (ii) The administration shall return the proposal to the party who submitted the
276 proposal, and incur no further duties under Title 63G, Chapter 2, Government Records Access
277 and Management Act, if the administration determines not to proceed with the proposal.

278 (iii) The administration shall classify the proposal pursuant to law if it decides to
279 proceed with the proposal.

280 (iv) Section **63G-2-403** does not apply during the review period.

281 (c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah

282 Administrative Rulemaking Act, except that the administration is not subject to Subsections
283 63G-3-301(6) and (7) and Section 63G-3-601, and the director, with the board's approval, may
284 establish a procedure for the expedited approval of rules, based on written findings by the
285 director showing:

- 286 (i) the changes in business opportunities affecting the assets of the trust;
- 287 (ii) the specific business opportunity arising out of those changes which may be lost
288 without the rule or changes to the rule;
- 289 (iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without
290 causing the loss of the specific opportunity;
- 291 (iv) approval by at least five board members; and
- 292 (v) that the director has filed a copy of the rule and a rule analysis, stating the specific
293 reasons and justifications for its findings, with the ~~[Division]~~ Office of Administrative Rules
294 and notified interested parties as provided in Subsection 63G-3-301(10).

295 (d) (i) The administration shall comply with Title 67, Chapter 19, Utah State Personnel
296 Management Act, except as provided in this Subsection (3)(d).

297 (ii) The board may approve, upon recommendation of the director, that exemption for
298 specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable
299 the administration to efficiently fulfill its responsibilities under the law. The director shall
300 consult with the executive director of the Department of Human Resource Management prior
301 to making such a recommendation.

302 (iii) The positions of director, deputy director, associate director, assistant director,
303 legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs
304 officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).

305 (iv) Salaries for exempted positions, except for the director, shall be set by the director,
306 after consultation with the executive director of the Department of Human Resource
307 Management, within ranges approved by the board. The board and director shall consider
308 salaries for similar positions in private enterprise and other public employment when setting
309 salary ranges.

310 (v) The board may create an annual incentive and bonus plan for the director and other
311 administration employees designated by the board, based upon the attainment of financial
312 performance goals and other measurable criteria defined and budgeted in advance by the board.

313 (e) The administration shall comply with Title 63G, Chapter 6a, Utah Procurement
314 Code, except where the board approves, upon recommendation of the director, exemption from
315 the Utah Procurement Code, and simultaneous adoption of rules under Title 63G, Chapter 3,
316 Utah Administrative Rulemaking Act, for procurement, which enable the administration to
317 efficiently fulfill its responsibilities under the law.

318 (f) (i) Except as provided in Subsection (3)(f)(ii), the administration is not subject to
319 the fee agency requirements of Section 63J-1-504.

320 (ii) The following fees of the administration are subject to the requirements of Section
321 63J-1-504: application, assignment, amendment, affidavit for lost documents, name change,
322 reinstatement, grazing nonuse, extension of time, partial conveyance, patent reissue, collateral
323 assignment, electronic payment, and processing.

324 (g) (i) The administration is not subject to Subsection 63J-1-206(3)(f).

325 (ii) Before transferring appropriated funds between line items, the administration shall
326 submit a proposal to the board for its approval.

327 (iii) If the board gives approval to a proposal to transfer appropriated funds between
328 line items, the administration shall submit the proposal to the Legislative Executive
329 Appropriations Committee for its review and recommendations.

330 (iv) The Legislative Executive Appropriations Committee may recommend:

331 (A) that the administration transfer the appropriated funds between line items;

332 (B) that the administration not transfer the appropriated funds between line items; or

333 (C) to the governor that the governor call a special session of the Legislature to
334 supplement the appropriated budget for the administration.

335 (4) The administration is managed by a director of school and institutional trust lands
336 appointed by a majority vote of the board of trustees with the consent of the governor.

337 (5) (a) The board of trustees shall provide policies for the management of the

338 administration and for the management of trust lands and assets.

339 (b) The board shall provide policies for the ownership and control of Native American
340 remains that are discovered or excavated on school and institutional trust lands in consultation
341 with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4,
342 Native American Grave Protection and Repatriation Act. The director may make rules in
343 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement
344 policies provided by the board regarding Native American remains.

345 (6) In connection with joint ventures and other transactions involving trust lands and
346 minerals approved under Sections 53C-1-303 and 53C-2-401, the administration, with board
347 approval, may become a member of a limited liability company under [~~Title 48, Chapter 2c,~~
348 ~~Utah Revised Limited Liability Company Act, or~~] Title 48, Chapter 3a, Utah Revised Uniform
349 Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405 and is
350 considered a person under [~~Section 48-2c-102 or~~] Section 48-3a-102.

351 (7) Subject to the requirements of Subsection 63E-1-304(2), the administration may
352 participate in coverage under the Risk Management Fund created by Section 63A-4-201.

353 Section 5. Section 63A-1-109 is amended to read:

354 **63A-1-109. Divisions of department -- Administration.**

355 (1) The department shall be composed of:

356 (a) the following divisions:

357 [~~(a) administrative rules;~~]

358 [~~(b)~~] (i) archives and records;

359 [~~(c)~~] (ii) facilities construction and management;

360 [~~(d)~~] (iii) finance;

361 [~~(e)~~] (iv) fleet operations;

362 [~~(f)~~] (v) state purchasing and general services; and

363 [~~(g)~~] (vi) risk management[-]; and

364 (b) the Office of Administrative Rules.

365 (2) Each division described in Subsection (1)(a) shall be administered and managed by

366 a division director.

367 Section 6. Section **63A-1-109.5** is amended to read:

368 **63A-1-109.5. Department authority to operate a division or office as an internal**
369 **service fund agency.**

370 Subject to Section **63A-1-114** and provisions governing internal service funds or
371 internal service fund agencies under Title 63J, Chapter 1, Budgetary Procedures Act, the
372 department may operate a division or office described in Section **63A-1-109** as an internal
373 service fund agency.

374 Section 7. Section **63A-1-111** is amended to read:

375 **63A-1-111. Service plans established by each division -- Contents -- Distribution.**

376 (1) Each division and each office of the department shall formulate and establish
377 service plans for each fiscal year.

378 (2) The service plans shall describe:

379 (a) the services to be rendered to state agencies;

380 (b) the methods of providing those services;

381 (c) the standards of performance; and

382 (d) the performance measures used to gauge compliance with those standards.

383 (3) Before the beginning of each fiscal year, the service plans shall be distributed to
384 each state agency and institution that uses the services provided by that division.

385 Section 8. Section **63G-3-102** is amended to read:

386 **63G-3-102. Definitions.**

387 As used in this chapter:

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

390 (a) the proposed rule, change in the proposed rule, and the rule analysis form;

391 (b) the public comment received and recorded by the agency during the public
392 comment period;

393 (c) the agency's response to the public comment;

- 394 (d) the agency's analysis of the public comment; and
395 (e) the agency's report of its decision-making process.
- 396 (2) "Agency" means each state board, authority, commission, institution, department,
397 division, officer, or other state government entity other than the Legislature, its committees, the
398 political subdivisions of the state, or the courts, which is authorized or required by law to make
399 rules, adjudicate, grant or withhold licenses, grant or withhold relief from legal obligations, or
400 perform other similar actions or duties delegated by law.
- 401 (3) "Bulletin" means the Utah State Bulletin.
- 402 (4) "Catchline" means a short summary of each section, part, rule, or title of the code
403 that follows the section, part, rule, or title reference placed before the text of the rule and serves
404 the same function as boldface in legislation as described in Section [68-3-13](#).
- 405 (5) "Code" means the body of all effective rules as compiled and organized by the
406 division and entitled "Utah Administrative Code."
- 407 [~~(6) "Director" means the director of the Division of Administrative Rules.~~]
408 [~~(7) "Division" means the Division of Administrative Rules.~~]
- 409 (6) "Department" means the Department of Administrative Services created in Section
410 [63A-1-104](#).
- 411 [~~(8)~~] (7) "Effective" means operative and enforceable.
- 412 (8) "Executive director" means the executive director of the department.
- 413 (9) (a) "File" means to submit a document to the [~~division~~] office as prescribed by the
414 [~~division~~] department.
- 415 (b) "Filing date" means the day and time the document is recorded as received by the
416 [~~division~~] office.
- 417 (10) "Interested person" means any person affected by or interested in a proposed rule,
418 amendment to an existing rule, or a nonsubstantive change made under Section [63G-3-402](#).
- 419 (11) "Office" means the Office of Administrative Rules created in Section [63G-3-401](#).
- 420 [~~(H)~~] (12) "Order" means an agency action that determines the legal rights, duties,
421 privileges, immunities, or other interests of one or more specific persons, but not a class of

422 persons.

423 ~~[(12)]~~ (13) "Person" means any individual, partnership, corporation, association,
424 governmental entity, or public or private organization of any character other than an agency.

425 ~~[(13)]~~ (14) "Publication" or "publish" means making a rule available to the public by
426 including the rule or a summary of the rule in the bulletin.

427 ~~[(14)]~~ (15) "Publication date" means the inscribed date of the bulletin.

428 ~~[(15)]~~ (16) "Register" may include an electronic database.

429 ~~[(16)]~~ (17) (a) "Rule" means an agency's written statement that:

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

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

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

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

434 (c) "Rule" does not mean:

435 (i) orders;

436 (ii) an agency's written statement that applies only to internal management and that
437 does not restrict the legal rights of a public class of persons or another agency;

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

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

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

442 (vi) rulings by an agency in adjudicative proceedings, except as required by Subsection
443 63G-3-201(6); or

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

445 ~~[(17)]~~ (18) "Rule analysis" means the format prescribed by the ~~[division]~~ department to
446 summarize and analyze rules.

447 ~~[(18)]~~ (19) "Small business" means a business employing fewer than 50 persons.

448 ~~[(19)]~~ (20) "Substantive change" means a change in a rule that affects the application
449 or results of agency actions.

450 Section 9. Section **63G-3-201** is amended to read:

451 **63G-3-201. When rulemaking is required.**

452 (1) Each agency shall:

453 (a) maintain a current version of its rules; and

454 (b) make it available to the public for inspection during its regular business hours.

455 (2) In addition to other rulemaking required by law, each agency shall make rules when
456 agency action:

457 (a) authorizes, requires, or prohibits an action;

458 (b) provides or prohibits a material benefit;

459 (c) applies to a class of persons or another agency; and

460 (d) is explicitly or implicitly authorized by statute.

461 (3) Rulemaking is also required when an agency issues a written interpretation of a
462 state or federal legal mandate.

463 (4) Rulemaking is not required when:

464 (a) agency action applies only to internal agency management, inmates or residents of a
465 state correctional, diagnostic, or detention facility, persons under state legal custody, patients
466 admitted to a state hospital, members of the state retirement system, or students enrolled in a
467 state education institution;

468 (b) a standardized agency manual applies only to internal fiscal or administrative
469 details of governmental entities supervised under statute;

470 (c) an agency issues policy or other statements that are advisory, informative, or
471 descriptive, and do not conform to the requirements of Subsections (2) and (3); or

472 (d) an agency makes nonsubstantive changes in a rule, except that the agency shall file
473 all nonsubstantive changes in a rule with the ~~[division]~~ office.

474 (5) (a) A rule shall enumerate any penalty authorized by statute that may result from its
475 violation, subject to Subsections (5)(b) and (c).

476 (b) A violation of a rule may not be subject to the criminal penalty of a class C
477 misdemeanor or greater offense, except as provided under Subsection (5)(c).

478 (c) A violation of a rule may be subject to a class C or greater criminal penalty under
479 Subsection (5)(a) when:

480 (i) authorized by a specific state statute;

481 (ii) a state law and programs under that law are established in order for the state to
482 obtain or maintain primacy over a federal program; or

483 (iii) state civil or criminal penalties established by state statute regarding the program
484 are equivalent to or less than corresponding federal civil or criminal penalties.

485 (6) Each agency shall enact rules incorporating the principles of law not already in its
486 rules that are established by final adjudicative decisions within 120 days after the decision is
487 announced in its cases.

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

489 (i) all or any part of another code, rule, or regulation that has been adopted by a federal
490 agency, an agency or political subdivision of this state, an agency of another state, or by a
491 nationally recognized organization or association;

492 (ii) state agency implementation plans mandated by the federal government for
493 participation in the federal program;

494 (iii) lists, tables, illustrations, or similar materials that are subject to frequent change,
495 fully described in the rule, and are available for public inspection; or

496 (iv) lists, tables, illustrations, or similar materials that the executive director or the
497 executive director's designee determines are too expensive to reproduce in the administrative
498 code.

499 (b) Rules incorporating materials by reference shall:

500 (i) be enacted according to the procedures outlined in this chapter;

501 (ii) state that the referenced material is incorporated by reference;

502 (iii) state the date, issue, or version of the material being incorporated; and

503 (iv) define specifically what material is incorporated by reference and identify any
504 agency deviations from it.

505 (c) The agency shall identify any substantive changes in the material incorporated by

506 reference by following the rulemaking procedures of this chapter.

507 (d) The agency shall maintain a complete and current copy of the referenced material
508 available for public review at the agency and at the [~~division~~] office.

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

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

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

514 Section 10. Section **63G-3-301** is amended to read:

515 **63G-3-301. Rulemaking procedure.**

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

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

520 (a) the requirements of this section;

521 (b) consistent procedures required by other statutes;

522 (c) applicable federal mandates; and

523 (d) rules made by the [~~division~~] department to implement this chapter.

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

527 (4) (a) Each agency shall file its proposed rule and rule analysis with the [~~division~~]
528 office.

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

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

533 (ii) For rule amendments, only the section or subsection of the rule being amended

534 need be printed.

535 (iii) If the executive director or the executive director's designee determines that the
536 rule is too long to publish, the [~~director~~] office shall publish the rule analysis and shall publish
537 the rule by reference to a copy on file with the [~~division~~] office.

538 (5) Prior to filing a rule with the [~~division~~] office, the department head shall consider
539 and comment on the fiscal impact a rule may have on businesses.

540 (6) If the agency reasonably expects that a proposed rule will have a measurable
541 negative fiscal impact on small businesses, the agency shall consider, as allowed by federal
542 law, each of the following methods of reducing the impact of the rule on small businesses:

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

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

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

549 (d) establishing performance standards for small businesses to replace design or
550 operational standards required in the proposed rule; and

551 (e) exempting small businesses from all or any part of the requirements contained in
552 the proposed rule.

553 (7) If during the public comment period an agency receives comment that the proposed
554 rule will cost small business more than one day's annual average gross receipts, and the agency
555 had not previously performed the analysis in Subsection (6), the agency shall perform the
556 analysis described in Subsection (6).

557 (8) The rule analysis shall contain:

558 (a) a summary of the rule or change;

559 (b) the purpose of the rule or reason for the change;

560 (c) the statutory authority or federal requirement for the rule;

561 (d) the anticipated cost or savings to:

- 562 (i) the state budget;
- 563 (ii) local governments;
- 564 (iii) small businesses; and
- 565 (iv) persons other than small businesses, businesses, or local governmental entities;
- 566 (e) the compliance cost for affected persons;
- 567 (f) how interested persons may review the full text of the rule;
- 568 (g) how interested persons may present their views on the rule;
- 569 (h) the time and place of any scheduled public hearing;
- 570 (i) the name and telephone number of an agency employee who may be contacted
- 571 about the rule;
- 572 (j) the name of the agency head or designee who authorized the rule;
- 573 (k) the date on which the rule may become effective following the public comment
- 574 period; and
- 575 (l) comments by the department head on the fiscal impact the rule may have on
- 576 businesses.
- 577 (9) (a) For a rule being repealed and reenacted, the rule analysis shall contain a
- 578 summary that generally includes the following:
 - 579 (i) a summary of substantive provisions in the repealed rule which are eliminated from
 - 580 the enacted rule; and
 - 581 (ii) a summary of new substantive provisions appearing only in the enacted rule.
- 582 (b) The summary required under this Subsection (9) is to aid in review and may not be
- 583 used to contest any rule on the ground of noncompliance with the procedural requirements of
- 584 this chapter.
- 585 (10) A copy of the rule analysis shall be mailed to all persons who have made timely
- 586 request of the agency for advance notice of its rulemaking proceedings and to any other person
- 587 who, by statutory or federal mandate or in the judgment of the agency, should also receive
- 588 notice.
- 589 (11) (a) Following the publication date, the agency shall allow at least 30 days for

590 public comment on the rule.

591 (b) The agency shall review and evaluate all public comments submitted in writing
592 within the time period under Subsection (11)(a) or presented at public hearings conducted by
593 the agency within the time period under Subsection (11)(a).

594 (12) (a) Except as provided in Sections 63G-3-303 and 63G-3-304, a proposed rule
595 becomes effective on any date specified by the agency that is no fewer than seven calendar days
596 after the close of the public comment period under Subsection (11), nor more than 120 days
597 after the publication date.

598 (b) The agency shall provide notice of the rule's effective date to the [~~division~~] office in
599 the form required by the [~~division~~] department.

600 (c) The notice of effective date may not provide for an effective date prior to the date it
601 is received by the [~~division~~] office.

602 (d) The [~~division~~] office shall publish notice of the effective date of the rule in the next
603 issue of the bulletin.

604 (e) A proposed rule lapses if a notice of effective date or a change to a proposed rule is
605 not filed with the [~~division~~] office within 120 days of publication.

606 (13) (a) As used in this Subsection (13), "initiate rulemaking proceedings" means the
607 filing, for the purposes of publication in accordance with Subsection (4), of an agency's
608 proposed rule that is required by state statute.

609 (b) A state agency shall initiate rulemaking proceedings no later than 180 days after the
610 effective date of the statutory provision that specifically requires the rulemaking, except under
611 Subsection (13)(c).

612 (c) When a statute is enacted that requires agency rulemaking and the affected agency
613 already has rules in place that meet the statutory requirement, the agency shall submit the rules
614 to the Administrative Rules Review Committee for review within 60 days after the statute
615 requiring the rulemaking takes effect.

616 (d) If a state agency does not initiate rulemaking proceedings in accordance with the
617 time requirements in Subsection (13)(b), the state agency shall appear before the legislative

618 Administrative Rules Review Committee and provide the reasons for the delay.

619 Section 11. Section **63G-3-303** is amended to read:

620 **63G-3-303. Changes in rules.**

621 (1) (a) To change a proposed rule already published in the bulletin, an agency shall file
622 with the [~~division~~] office:

623 (i) the text of the changed rule; and

624 (ii) a rule analysis containing a description of the change and the information required
625 by Section **63G-3-301**.

626 (b) A change to a proposed rule may not be filed more than 120 days after publication
627 of the rule being changed.

628 (c) The [~~division~~] office shall publish the rule analysis for the changed rule in the
629 bulletin.

630 (d) The changed proposed rule and its associated proposed rule will become effective
631 on a date specified by the agency, not less than 30 days or more than 120 days after publication
632 of the last change in proposed rule.

633 (e) A changed proposed rule and its associated proposed rule lapse if a notice of
634 effective date or another change to a proposed rule is not filed with the [~~division~~] office within
635 120 days of publication of the last change in proposed rule.

636 (2) If the rule change is nonsubstantive:

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

638 (b) the agency shall notify the [~~division~~] office of the change in writing.

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

641 Section 12. Section **63G-3-304** is amended to read:

642 **63G-3-304. Emergency rulemaking procedure.**

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

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

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

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

649 (2) (a) When finding that its rule is excepted from regular rulemaking procedures by
650 this section, the agency shall file with the [division] office:

651 (i) the text of the rule; and

652 (ii) a rule analysis that includes the specific reasons and justifications for its findings.

653 (b) The [division] office shall publish the rule in the bulletin as provided in Subsection
654 63G-3-301(4).

655 (c) The agency shall notify interested persons as provided in Subsection
656 63G-3-301(10).

657 (d) The rule becomes effective for a period not exceeding 120 days on the date of filing
658 or any later date designated in the rule.

659 (3) If the agency intends the rule to be effective beyond 120 days, the agency shall also
660 comply with the procedures of Section 63G-3-301.

661 Section 13. Section 63G-3-305 is amended to read:

662 **63G-3-305. Agency review of rules -- Schedule of filings -- Limited exemption for**
663 **certain rules.**

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

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

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

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

673 (i) a concise explanation of the particular statutory provisions under which the rule is

674 enacted and how these provisions authorize or require the rule;

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

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

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

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

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

683 (c) If the agency amends and continues the rule, the agency shall comply with the
684 requirements described in Section 63G-3-301 and file with the [division] office the five-year
685 notice of review and statement of continuation required in Subsection (3)(a).

686 (4) The [division] office shall publish a five-year notice of review and statement of
687 continuation in the bulletin no later than one year after the deadline described in Subsection
688 (1).

689 (5) (a) The [division] office shall make a reasonable effort to notify an agency that a
690 rule is due for review at least 180 days before the deadline described in Subsection (1).

691 (b) The [division's] office's failure to comply with the requirement described in
692 Subsection (5)(a) does not exempt an agency from complying with any provision of this
693 section.

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

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

697 (b) the [division] office shall publish notice of the extension in the bulletin in
698 accordance with the [division's] office's publication schedule established by [division] rule
699 under Section 63G-3-402.

700 (7) An extension permits the agency to comply with the requirements described in
701 Subsections (1) and (3) up to 120 days after the deadline described in Subsection (1).

702 (8) (a) If an agency does not comply with the requirements described in Subsection (3),
703 and does not file an extension under Subsection (6), the rule expires automatically on the day
704 immediately after the date of the missed deadline.

705 (b) If an agency files an extension under Subsection (6) and does not comply with the
706 requirements described in Subsection (3) within 120 days after the day on which the deadline
707 described in Subsection (1) expires, the rule expires automatically on the day immediately after
708 the date of the missed deadline.

709 (9) After a rule expires under Subsection (8), the ~~[division]~~ office shall:

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

712 (b) remove the rule from the code; and

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

714 (10) After a rule expires, an agency must comply with the requirements of Section
715 [63G-3-301](#) to reenact the rule.

716 Section 14. Section **63G-3-401** is amended to read:

717 **63G-3-401. Office of Administrative Rules created -- Coordinator.**

718 (1) There is created within the Department of Administrative Services the ~~[Division]~~
719 Office of Administrative Rules, to be administered by a ~~[director]~~ coordinator.

720 ~~[(2) The director of administrative rules shall be appointed by the executive director
721 with the approval of the governor.]~~

722 (2) The coordinator shall hire, train, and supervise staff necessary for the office to carry
723 out the provisions of this chapter.

724 Section 15. Section **63G-3-402** is amended to read:

725 **63G-3-402. Office of Administrative Rules -- Duties generally.**

726 (1) The ~~[Division of Administrative Rules]~~ office shall:

727 ~~[(a) establish all filing, publication, and hearing procedures necessary to make rules
728 under this chapter;]~~

729 ~~[(b)]~~ (a) record in a register the receipt of all agency rules, rule analysis forms, and

730 notices of effective dates;

731 [(e)] (b) make the register, copies of all proposed rules, and rulemaking documents
732 available for public inspection;

733 [(f)] (c) publish all proposed rules, rule analyses, notices of effective dates, and review
734 notices in the bulletin at least monthly, except that the [division] office may publish the
735 complete text of any proposed rule that the executive director or the executive director's
736 designee determines is too long to print or too expensive to publish by reference to the text
737 maintained by the [division] office;

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

740 [(h)] (e) publish a digest of all rules and notices contained in the most recent bulletin;

741 [(i)] (f) publish at least annually an index of all changes to the administrative code and
742 the effective date of each change;

743 [(j)] (g) print, or contract to print, all rulemaking publications the [division] executive
744 director determines necessary to implement this chapter;

745 [(k)] (h) distribute without charge the bulletin and administrative code to
746 state-designated repositories, the Administrative Rules Review Committee, the Office of
747 Legislative Research and General Counsel, and the two houses of the Legislature;

748 [(l)] (i) distribute without charge the digest and index to state legislators, agencies,
749 political subdivisions on request, and the Office of Legislative Research and General Counsel;

750 [(m)] (j) distribute, at prices covering publication costs, all paper rulemaking
751 publications to all other requesting persons and agencies;

752 [(n)] (k) provide agencies assistance in rulemaking;

753 [(o)] (l) if the [~~Department of Administrative Services~~] department operates the
754 [division] office as an internal service fund agency in accordance with Section 63A-1-109.5,
755 submit to the Rate Committee established in Section 63A-1-114:

756 (i) the proposed rate and fee schedule as required by Section 63A-1-114; and

757 (ii) other information or analysis requested by the Rate Committee; [~~and~~]

758 ~~[(n)]~~ (m) administer this chapter and require state agencies to comply with filing,
759 publication, and hearing procedures~~[-];~~ and

760 (n) make technological improvements to the rulemaking process, including
761 improvements to automation and digital accessibility.

762 (2) The department shall establish by rule in accordance with Title 63G, Chapter 3,
763 Utah Administrative Rulemaking Act, all filing, publication, and hearing procedures necessary
764 to make rules under this chapter.

765 ~~[(2)]~~ (3) The ~~[division]~~ office may after notifying the agency make nonsubstantive
766 changes to rules filed with the ~~[division]~~ office or published in the bulletin or code by:

767 (a) implementing a uniform system of formatting, punctuation, capitalization,
768 organization, numbering, and wording;

769 (b) correcting obvious errors and inconsistencies in punctuation, capitalization,
770 numbering, referencing, and wording;

771 (c) changing a catchline to more accurately reflect the substance of each section, part,
772 rule, or title;

773 (d) updating or correcting annotations associated with a section, part, rule, or title; and

774 (e) merging or determining priority of any amendment, enactment, or repeal to the
775 same rule or section made effective by an agency.

776 ~~[(3)]~~ (4) In addition, the ~~[division]~~ office may make the following nonsubstantive
777 changes with the concurrence of the agency:

778 (a) eliminate duplication within rules;

779 (b) eliminate obsolete and redundant words; and

780 (c) ~~[correcting]~~ correct defective or inconsistent section and paragraph structure in
781 arrangement of the subject matter of rules.

782 ~~[(4)]~~ (5) For nonsubstantive changes made in accordance with Subsection ~~[(2) or (3)]~~
783 (3) or (4) after publication of the rule in the bulletin, the ~~[division]~~ office shall publish a list of
784 nonsubstantive changes in the bulletin. For each nonsubstantive change, the list shall include:

785 (a) the affected code citation;

786 (b) a brief description of the change; and

787 (c) the date the change was made.

788 [~~5~~] (6) All funds appropriated or collected for publishing the [~~division's~~] office's
789 publications shall be nonlapsing.

790 Section 16. Section **63G-3-403** is amended to read:

791 **63G-3-403. Repeal and reenactment of Utah Administrative Code.**

792 (1) When the executive director determines that the Utah Administrative Code requires
793 extensive revision and reorganization, the [~~division~~] office may repeal the code and reenact a
794 new code according to the requirements of this section.

795 (2) The [~~division~~] office may:

796 (a) reorganize, reformat, and renumber the code;

797 (b) require each agency to review its rules and make any organizational or substantive
798 changes according to the requirements of Section **63G-3-303**; and

799 (c) require each agency to prepare a brief summary of all substantive changes made by
800 the agency.

801 (3) The [~~division~~] office may make nonsubstantive changes in the code by:

802 (a) adopting a uniform system of punctuation, capitalization, numbering, and wording;

803 (b) eliminating duplication;

804 (c) correcting defective or inconsistent section and paragraph structure in arrangement
805 of the subject matter of rules;

806 (d) eliminating all obsolete or redundant words;

807 (e) correcting obvious errors and inconsistencies in punctuation, capitalization,
808 numbering, referencing, and wording;

809 (f) changing a catchline to more accurately reflect the substance of each section, part,
810 rule, or title;

811 (g) updating or correcting annotations associated with a section, part, rule, or title; and

812 (h) merging or determining priority of any amendment, enactment, or repeal to the
813 same rule or section made effective by an agency.

814 (4) (a) To inform the public about the proposed code reenactment, the [division] office
815 shall publish in the bulletin:

816 (i) notice of the code reenactment;

817 (ii) the date, time, and place of a public hearing where members of the public may
818 comment on the proposed reenactment of the code;

819 (iii) locations where the proposed reenactment of the code may be reviewed; and

820 (iv) agency summaries of substantive changes in the reenacted code.

821 (b) To inform the public about substantive changes in agency rules contained in the
822 proposed reenactment, each agency shall:

823 (i) make the text of their reenacted rules available:

824 (A) for public review during regular business hours; and

825 (B) in an electronic version; and

826 (ii) comply with the requirements of Subsection [63G-3-301\(10\)](#).

827 (5) The [division] office shall hold a public hearing on the proposed code reenactment
828 no fewer than 30 days nor more than 45 days after the publication required by Subsection
829 (4)(a).

830 (6) The [division] office shall distribute complete text of the proposed code
831 reenactment without charge to:

832 (a) state-designated repositories in Utah;

833 (b) the Administrative Rules Review Committee; and

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

835 (7) The former code is repealed and the reenacted code is effective at noon on a date
836 designated by the [division] office that is not fewer than 45 days nor more than 90 days after
837 the publication date required by this section.

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

840 Section 17. Section [63G-3-501](#) is amended to read:

841 **[63G-3-501. Administrative Rules Review Committee.](#)**

842 (1) (a) There is created an Administrative Rules Review Committee of the following
843 10 permanent members:

844 (i) five members of the Senate appointed by the president of the Senate, no more than
845 three of whom may be from the same political party; and

846 (ii) five members of the House of Representatives appointed by the speaker of the
847 House of Representatives, no more than three of whom may be from the same political party.

848 (b) Each permanent member shall serve:

849 (i) for a two-year term; or

850 (ii) until the permanent member's successor is appointed.

851 (c) (i) A vacancy exists when a permanent member ceases to be a member of the
852 Legislature, or when a permanent member resigns from the committee.

853 (ii) When a vacancy exists:

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

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

859 (iii) The newly appointed member shall serve the remainder of the departing member's
860 unexpired term.

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

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

865 (e) Three representatives and three senators from the permanent members are a quorum
866 for the transaction of business at any meeting.

867 (f) (i) Subject to Subsection (1)(f)(ii), the committee shall meet at least once each
868 month to review new agency rules, amendments to existing agency rules, and repeals of
869 existing agency rules.

- 870 (ii) The committee chairs may suspend the meeting requirement described in
871 Subsection (1)(f)(i) at the committee chairs' discretion.
- 872 (2) The ~~[division]~~ office shall submit a copy of each issue of the bulletin to the
873 committee.
- 874 (3) (a) The committee shall exercise continuous oversight of the rulemaking process.
- 875 (b) The committee shall examine each rule submitted by an agency to determine:
- 876 (i) whether the rule is authorized by statute;
- 877 (ii) whether the rule complies with legislative intent;
- 878 (iii) the rule's impact on the economy and the government operations of the state and
879 local political subdivisions; and
- 880 (iv) the rule's impact on affected persons.
- 881 (c) To carry out these duties, the committee may examine any other issues that the
882 committee considers necessary. The committee may also notify and refer rules to the chairs of
883 the interim committee that has jurisdiction over a particular agency when the committee
884 determines that an issue involved in an agency's rules may be more appropriately addressed by
885 that committee.
- 886 (d) In reviewing a rule, the committee shall follow generally accepted principles of
887 statutory construction.
- 888 (4) When the committee reviews existing rules, the committee chairs shall invite the
889 Senate and House chairs of the standing committee and of the appropriation subcommittee that
890 have jurisdiction over the agency whose existing rules are being reviewed to participate as
891 nonvoting, ex officio members with the committee.
- 892 (5) The committee may request that the Office of the Legislative Fiscal Analyst prepare
893 a fiscal note on any rule.
- 894 (6) In order to accomplish the committee's functions described in this chapter, the
895 committee has all the powers granted to legislative interim committees under Section [36-12-11](#).
- 896 (7) (a) The committee may prepare written findings of the committee's review of a rule
897 and may include any recommendations, including legislative action.

898 (b) When the committee reviews a rule, the committee shall provide to the agency that
899 enacted the rule:

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

901 (ii) a request that the agency notify the committee of any changes the agency makes to
902 the rule.

903 (c) The committee shall provide a copy of the committee's findings, if any, to:

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

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

906 (iii) the president of the Senate;

907 (iv) the speaker of the House of Representatives;

908 (v) the Senate and House chairs of the standing committee that has jurisdiction over the
909 agency that made the rule; and

910 (vi) the Senate and House chairs of the appropriation subcommittee that has
911 jurisdiction over the agency that made the rule.

912 (8) (a) The committee may submit a report on its review of state agency rules to each
913 member of the Legislature at each regular session.

914 (b) The report shall include:

915 (i) any findings and recommendations the committee made under Subsection (7);

916 (ii) any action an agency took in response to committee recommendations; and

917 (iii) any recommendations by the committee for legislation.

918 Section 18. Section **63G-3-702** is amended to read:

919 **63G-3-702. Utah Administrative Code -- Organization -- Official compilation.**

920 (1) The Utah Administrative Code shall be divided into three parts:

921 (a) titles, whose number shall begin with "R";

922 (b) rules; and

923 (c) sections.

924 (2) All sections contained in the code are referenced by a three-part number indicating
925 its location in the code.

926 (3) The ~~[division]~~ office shall maintain the official compilation of the code and is the
927 state-designated repository for administrative rules. If a dispute arises in which there is more
928 than one version of a rule, the latest effective version on file with the ~~[division]~~ office is
929 considered the correct, current version.

930 Section 19. Section **63J-1-602.4** is amended to read:

931 **63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through Title 63N.**

932 (1) Funds paid to the Division of Real Estate for the cost of a criminal background
933 check for a mortgage loan license, as provided in Section [61-2c-202](#).

934 (2) Funds paid to the Division of Real Estate for the cost of a criminal background
935 check for principal broker, associate broker, and sales agent licenses, as provided in Section
936 [61-2f-204](#).

937 (3) Certain funds donated to the Department of Human Services, as provided in
938 Section [62A-1-111](#).

939 (4) Appropriations from the National Professional Men's Basketball Team Support of
940 Women and Children Issues Restricted Account created in Section [62A-1-202](#).

941 (5) Certain funds donated to the Division of Child and Family Services, as provided in
942 Section [62A-4a-110](#).

943 (6) Appropriations from the Choose Life Adoption Support Restricted Account created
944 in Section [62A-4a-608](#).

945 (7) Appropriations to the Division of Services for People with Disabilities, as provided
946 in Section [62A-5-102](#).

947 (8) Appropriations to the Division of Fleet Operations for the purpose of upgrading
948 underground storage tanks under Section [63A-9-401](#).

949 (9) A portion of the funds appropriated to the Utah Seismic Safety Commission, as
950 provided in Section [63C-6-104](#).

951 (10) Funds appropriated or collected for publishing the ~~[Division]~~ Office of
952 Administrative Rules' publications, as provided in Section [63G-3-402](#).

953 (11) The Immigration Act Restricted Account created in Section [63G-12-103](#).

954 (12) Money received by the military installation development authority, as provided in
955 Section [63H-1-504](#).

956 (13) Appropriations to fund the Governor's Office of Economic Development's
957 Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

958 (14) The Motion Picture Incentive Account created in Section [63N-8-103](#).

959 (15) Certain money payable for commission expenses of the Pete Suazo Utah Athletic
960 Commission, as provided under Section [63N-10-301](#).