

DEPARTMENT OF ADMINISTRATIVE SERVICES

AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis Oda

Senate Sponsor: Howard A. Stephenson

LONG TITLE

Committee Note:

The Administrative Rules Review Committee recommended this bill.

General Description:

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

Highlighted Provisions:

This bill:

- ▶ replaces the Division of Administrative Rules with the Office of Administrative Rules within the Department of Administrative Services; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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



- 28 **63A-1-109**, as last amended by Laws of Utah 2011, Chapters 79 and 265
- 29 **63A-1-109.5**, as last amended by Laws of Utah 2011, Chapter 79
- 30 **63A-1-111**, as renumbered and amended by Laws of Utah 1993, Chapter 212
- 31 **63G-3-102**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 32 **63G-3-201**, as last amended by Laws of Utah 2009, Chapter 347
- 33 **63G-3-301**, as last amended by Laws of Utah 2009, Chapter 93
- 34 **63G-3-303**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 35 **63G-3-304**, as last amended by Laws of Utah 2008, Chapter 300 and renumbered and
- 36 amended by Laws of Utah 2008, Chapter 382
- 37 **63G-3-305**, as last amended by Laws of Utah 2014, Chapter 57
- 38 **63G-3-401**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 39 **63G-3-402**, as last amended by Laws of Utah 2010, Chapter 341
- 40 **63G-3-403**, as last amended by Laws of Utah 2008, Chapter 300 and renumbered and
- 41 amended by Laws of Utah 2008, Chapter 382
- 42 **63G-3-501**, as last amended by Laws of Utah 2015, Chapter 383
- 43 **63G-3-702**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 44 **63J-1-602.4**, as last amended by Laws of Utah 2015, Chapters 179 and 283

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

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

48 **31A-2-404. Duties of the commissioner and Title and Escrow Commission.**

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

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

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

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

56 (C) that is enforced by the commissioner.

57 (ii) The commissioner shall consult with and seek concurrence of the commission in a
58 meeting subject to Title 52, Chapter 4, Open and Public Meetings Act, regarding the

59 imposition of a penalty, and if concurrence cannot be reached, the commissioner has final
60 authority.

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

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

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

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

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

72 (B) provide recommendations to the commissioner.

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

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

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

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

80 (B) provide recommendations to the commission.

81 (2) The commission shall:

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

84 (i) rating standards and rating methods for a title licensee, as provided in Section
85 [31A-19a-209](#);

86 (ii) the licensing for a title licensee, including the licensing requirements of Section
87 [31A-23a-204](#);

88 (iii) continuing education requirements of Section [31A-23a-202](#); and

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

- 90 (b) concur in the issuance and renewal of a license in accordance with Section
- 91 31A-23a-105 or 31A-26-203;
- 92 (c) in accordance with Section 31A-3-103, establish, with the concurrence of the
- 93 commissioner, the fees imposed by this title on a title licensee;
- 94 (d) in accordance with Section 31A-23a-415 determine, after consulting with the
- 95 commissioner, the assessment on a title insurer as defined in Section 31A-23a-415;
- 96 (e) with the concurrence of the commissioner, approve a continuing education program
- 97 required by Section 31A-23a-202;
- 98 (f) on a regular basis advise the commissioner of the most critical matters affecting the
- 99 title insurance industry and request the commissioner to direct the department's investigative
- 100 resources to investigate and enforce those matters;
- 101 (g) in accordance with Section 31A-23a-204, participate in the annual license testing
- 102 evaluation conducted by the commissioner's test administrator;
- 103 (h) advise the commissioner on matters affecting the commissioner's budget related to
- 104 title insurance; and
- 105 (i) perform other duties as provided in this title.
- 106 (3) The commission may make rules establishing an examination for a license that will
- 107 satisfy Section 31A-23a-204:
- 108 (a) after consultation with the commissioner's test administrator; and
- 109 (b) subject to Subsection (4).
- 110 (4) (a) The commission may make a rule under this title only:
- 111 (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 112 (ii) with the concurrence of the commissioner, except that if concurrence cannot be
- 113 reached, the commissioner has final authority; and
- 114 (iii) if at the time the commission files its proposed rule and rule analysis with the
- 115 ~~Division~~ Office of Administrative Rules in accordance with Section 63G-3-301, the
- 116 commission provides the Real Estate Commission that same information.
- 117 (b) The commission may not make a rule regarding adjudicative procedures.
- 118 (c) In accordance with Section 31A-2-201, the commissioner may make rules regarding
- 119 adjudicative procedures.
- 120 (5) (a) The commissioner shall annually report the information described in Subsection

121 (5)(b) in writing to the commission.

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

123 (i) may not identify a person; and

124 (ii) shall include:

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

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

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

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

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

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

135 **35A-3-302. Eligibility requirements.**

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

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

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

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

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

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

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

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

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

152 (a) family size;
153 (b) family income;
154 (c) income disregards;
155 (d) other relevant factors; and
156 (e) if the applicant has met the eligibility requirements under Subsections (5)(a)
157 through (d), the assessment and other requirements described in Sections 35A-3-304 and
158 35A-3-304.5.

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

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

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

- 166 (i) eligibility requirements for cash assistance; or
- 167 (ii) amount of cash assistance a family is eligible to receive.

168 (b) The department shall submit the report under Subsection (8)(a) prior to
169 implementing the proposed rule change.

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

- 171 (i) a description of the department's current practice or policy that it is proposing to
172 change;
- 173 (ii) an explanation of why the department is proposing the change;
- 174 (iii) the effect of an increase or decrease in cash benefits on families; and
- 175 (iv) the fiscal impact of the proposed change.

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

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

- 181 (a) a recipient of assistance from the Family Employment Program:
182 (i) has adequate access to the assistance;

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

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

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

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

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

195 (a) exclusively or primarily sells intoxicating liquor;

196 (b) allows gambling or gaming; or

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

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

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

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

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

212 (1) All orders, rules, and regulations promulgated by the governor, a municipality, a
213 county, or other agency authorized by this part to make orders, rules, and regulations, not in

214 conflict with existing laws except as specifically provided in this section, shall have the full
215 force and effect of law during the state of emergency.

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

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

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

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

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

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

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

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

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

232 (iii) the executive order:

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

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

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

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

237 (iv) the governor acts in good faith;

238 (v) the governor provides notice of the suspension of the enforcement of the statute to
239 the speaker of the House of Representatives and the president of the Senate no later than 24
240 hours after suspending the enforcement of the statute; and

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

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

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

- 245 (A) the misdemeanor or infraction relates to food, health, or transportation; and
246 (B) the requirements of Subsection (4)(a) are met.
247 (c) A suspension described in this Subsection (4) terminates no later than the date the
248 governor terminates the state of emergency in accordance with Section 53-2a-206 to which the
249 suspension relates.
250 (d) The governor:
251 (i) shall provide the notice required by Subsection (4)(a)(v) using the best available
252 method under the circumstances as determined by the governor;
253 (ii) may provide the notice required by Subsection (4)(a)(v) in electronic format; and
254 (iii) shall provide the notice in written form, if practicable.
255 (e) If circumstances prevent the governor from providing notice to the speaker of the
256 House of Representatives or the president of the Senate, notice shall be provided in the best
257 available method to the presiding member of the respective body as is reasonable.

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

259 **53C-1-201. Creation of administration -- Purpose -- Director -- Participation in**
260 **Risk Management Fund.**

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

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

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

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

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

274 (ii) The administration shall return the proposal to the party who submitted the
275 proposal, and incur no further duties under Title 63G, Chapter 2, Government Records Access

276 and Management Act, if the administration determines not to proceed with the proposal.

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

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

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

285 (i) the changes in business opportunities affecting the assets of the trust;

286 (ii) the specific business opportunity arising out of those changes which may be lost
287 without the rule or changes to the rule;

288 (iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without
289 causing the loss of the specific opportunity;

290 (iv) approval by at least five board members; and

291 (v) that the director has filed a copy of the rule and a rule analysis, stating the specific
292 reasons and justifications for its findings, with the [Division] Office of Administrative Rules
293 and notified interested parties as provided in Subsection 63G-3-301(10).

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

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

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

304 (iv) Salaries for exempted positions, except for the director, shall be set by the director,
305 after consultation with the executive director of the Department of Human Resource
306 Management, within ranges approved by the board. The board and director shall consider

307 salaries for similar positions in private enterprise and other public employment when setting
308 salary ranges.

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

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

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

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

323 (g) (i) The administration is not subject to Subsection [63J-1-206\(3\)\(f\)](#).

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

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

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

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

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

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

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

336 (5) (a) The board of trustees shall provide policies for the management of the
337 administration and for the management of trust lands and assets.

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

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

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

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

353 **63A-1-109. Divisions of department -- Administration.**

354 (1) The department shall be composed of:

355 (a) the following divisions:

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

357 [~~(b)~~ (i) archives and records;

358 [~~(c)~~ (ii) facilities construction and management;

359 [~~(d)~~ (iii) finance;

360 [~~(e)~~ (iv) fleet operations;

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

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

363 (b) the Office of Administrative Rules.

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

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

367 **63A-1-109.5. Department authority to operate a division or office as an internal**
 368 **service fund agency.**

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

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

374 **63A-1-111. Service plans established by each division -- Contents -- Distribution.**

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

377 (2) The service plans shall describe:

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

379 (b) the methods of providing those services;

380 (c) the standards of performance; and

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

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

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

385 **63G-3-102. Definitions.**

386 As used in this chapter:

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

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

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

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

393 (d) the agency's analysis of the public comment; and

394 (e) the agency's report of its decision-making process.

395 (2) "Agency" means each state board, authority, commission, institution, department,
396 division, officer, or other state government entity other than the Legislature, its committees, the
397 political subdivisions of the state, or the courts, which is authorized or required by law to make
398 rules, adjudicate, grant or withhold licenses, grant or withhold relief from legal obligations, or
399 perform other similar actions or duties delegated by law.

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

401 (4) "Catchline" means a short summary of each section, part, rule, or title of the code
402 that follows the section, part, rule, or title reference placed before the text of the rule and serves
403 the same function as boldface in legislation as described in Section [68-3-13](#).

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

406 [~~(6)~~] "Director" means the director of the Division of Administrative Rules.]

407 [~~(7)~~] "Division" means the Division of Administrative Rules.]

408 (6) "Department" means the Department of Administrative Services created in Section
409 [63A-1-104](#).

410 [~~(8)~~] (7) "Effective" means operative and enforceable.

411 (8) "Executive director" means the executive director of the department.

412 (9) (a) "File" means to submit a document to the [~~division~~] office as prescribed by the
413 [~~division~~] department.

414 (b) "Filing date" means the day and time the document is recorded as received by the
415 [~~division~~] office.

416 (10) "Interested person" means any person affected by or interested in a proposed rule,
417 amendment to an existing rule, or a nonsubstantive change made under Section [63G-3-402](#).

418 (11) "Office" means the Office of Administrative Rules created in Section [63G-3-401](#).

419 [~~(11)~~] (12) "Order" means an agency action that determines the legal rights, duties,
420 privileges, immunities, or other interests of one or more specific persons, but not a class of
421 persons.

422 [~~(12)~~] (13) "Person" means any individual, partnership, corporation, association,
423 governmental entity, or public or private organization of any character other than an agency.

424 [~~(13)~~] (14) "Publication" or "publish" means making a rule available to the public by
425 including the rule or a summary of the rule in the bulletin.

426 [~~(14)~~] (15) "Publication date" means the inscribed date of the bulletin.

427 [~~(15)~~] (16) "Register" may include an electronic database.

428 [~~(16)~~] (17) (a) "Rule" means an agency's written statement that:

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

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

- 431 (iii) applies to a class of persons or another agency.
- 432 (b) "Rule" includes the amendment or repeal of an existing rule.
- 433 (c) "Rule" does not mean:
- 434 (i) orders;
- 435 (ii) an agency's written statement that applies only to internal management and that
- 436 does not restrict the legal rights of a public class of persons or another agency;
- 437 (iii) the governor's executive orders or proclamations;
- 438 (iv) opinions issued by the attorney general's office;
- 439 (v) declaratory rulings issued by the agency according to Section 63G-4-503 except as
- 440 required by Section 63G-3-201;
- 441 (vi) rulings by an agency in adjudicative proceedings, except as required by Subsection
- 442 63G-3-201(6); or
- 443 (vii) an agency written statement that is in violation of any state or federal law.
- 444 [(+17)] (18) "Rule analysis" means the format prescribed by the [~~division~~] department to
- 445 summarize and analyze rules.
- 446 [(+18)] (19) "Small business" means a business employing fewer than 50 persons.
- 447 [(+19)] (20) "Substantive change" means a change in a rule that affects the application
- 448 or results of agency actions.
- 449 Section 9. Section 63G-3-201 is amended to read:
- 450 **63G-3-201. When rulemaking is required.**
- 451 (1) Each agency shall:
- 452 (a) maintain a current version of its rules; and
- 453 (b) make it available to the public for inspection during its regular business hours.
- 454 (2) In addition to other rulemaking required by law, each agency shall make rules when
- 455 agency action:
- 456 (a) authorizes, requires, or prohibits an action;
- 457 (b) provides or prohibits a material benefit;
- 458 (c) applies to a class of persons or another agency; and
- 459 (d) is explicitly or implicitly authorized by statute.
- 460 (3) Rulemaking is also required when an agency issues a written interpretation of a
- 461 state or federal legal mandate.

462 (4) Rulemaking is not required when:

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

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

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

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

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

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

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

479 (i) authorized by a specific state statute;

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

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

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

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

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

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

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

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

498 (b) Rules incorporating materials by reference shall:

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

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

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

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

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

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

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

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

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

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

514 **63G-3-301. Rulemaking procedure.**

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

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

519 (a) the requirements of this section;

520 (b) consistent procedures required by other statutes;

521 (c) applicable federal mandates; and

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

523 (3) Subject to the requirements of this chapter, each agency shall develop and use

524 flexible approaches in drafting rules that meet the needs of the agency and that involve persons
525 affected by the agency's rules.

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

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

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

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

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

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

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

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

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

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

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

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

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

555 analysis described in Subsection (6).

556 (8) The rule analysis shall contain:

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

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

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

560 (d) the anticipated cost or savings to:

561 (i) the state budget;

562 (ii) local governments;

563 (iii) small businesses; and

564 (iv) persons other than small businesses, businesses, or local governmental entities;

565 (e) the compliance cost for affected persons;

566 (f) how interested persons may review the full text of the rule;

567 (g) how interested persons may present their views on the rule;

568 (h) the time and place of any scheduled public hearing;

569 (i) the name and telephone number of an agency employee who may be contacted

570 about the rule;

571 (j) the name of the agency head or designee who authorized the rule;

572 (k) the date on which the rule may become effective following the public comment

573 period; and

574 (l) comments by the department head on the fiscal impact the rule may have on

575 businesses.

576 (9) (a) For a rule being repealed and reenacted, the rule analysis shall contain a

577 summary that generally includes the following:

578 (i) a summary of substantive provisions in the repealed rule which are eliminated from
579 the enacted rule; and

580 (ii) a summary of new substantive provisions appearing only in the enacted rule.

581 (b) The summary required under this Subsection (9) is to aid in review and may not be
582 used to contest any rule on the ground of noncompliance with the procedural requirements of
583 this chapter.

584 (10) A copy of the rule analysis shall be mailed to all persons who have made timely
585 request of the agency for advance notice of its rulemaking proceedings and to any other person

586 who, by statutory or federal mandate or in the judgment of the agency, should also receive
587 notice.

588 (11) (a) Following the publication date, the agency shall allow at least 30 days for
589 public comment on the rule.

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

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

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

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

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

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

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

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

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

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

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

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

619 **63G-3-303. Changes in rules.**

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

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

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

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

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

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

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

635 (2) If the rule change is nonsubstantive:

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

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

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

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

641 **63G-3-304. Emergency rulemaking procedure.**

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

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

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

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

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

650 (i) the text of the rule; and

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

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

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

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

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

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

661 **63G-3-305. Agency review of rules -- Schedule of filings -- Limited exemption for**
662 **certain rules.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

710 longer enforceable;

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

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

713 (10) After a rule expires, an agency must comply with the requirements of Section

714 [63G-3-301](#) to reenact the rule.

715 Section 14. Section [63G-3-401](#) is amended to read:

716 **63G-3-401. Office of Administrative Rules created.**

717 [(H)] There is created within the Department of Administrative Services the [Division]

718 Office of Administrative Rules[, to be administered by a director].

719 [(2)] ~~The director of administrative rules shall be appointed by the executive director~~

720 ~~with the approval of the governor.]~~

721 Section 15. Section [63G-3-402](#) is amended to read:

722 **63G-3-402. Office of Administrative Rules -- Duties generally.**

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

724 [(a)] ~~establish all filing, publication, and hearing procedures necessary to make rules~~

725 ~~under this chapter;]~~

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

727 notices of effective dates;

728 [(c)] (b) make the register, copies of all proposed rules, and rulemaking documents

729 available for public inspection;

730 [(d)] (c) publish all proposed rules, rule analyses, notices of effective dates, and review

731 notices in the bulletin at least monthly, except that the [division] office may publish the

732 complete text of any proposed rule that the executive director or the executive director's

733 designee determines is too long to print or too expensive to publish by reference to the text

734 maintained by the [division] office;

735 [(e)] (d) compile, format, number, and index all effective rules in an administrative

736 code, and periodically publish that code and supplements or revisions to it;

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

738 [(g)] (f) publish at least annually an index of all changes to the administrative code and

739 the effective date of each change;

740 [(h)] (g) print, or contract to print, all rulemaking publications the [division] executive

741 director determines necessary to implement this chapter;

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

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

747 ~~[(†)]~~ (j) distribute, at prices covering publication costs, all paper rulemaking
748 publications to all other requesting persons and agencies;

749 ~~[(†)]~~ (k) provide agencies assistance in rulemaking;

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

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

754 (ii) other information or analysis requested by the Rate Committee; and

755 ~~[(m)]~~ (m) administer this chapter and require state agencies to comply with filing,
756 publication, and hearing procedures.

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

760 ~~[(2)]~~ (3) The ~~[division]~~ office may after notifying the agency make nonsubstantive
761 changes to rules filed with the ~~[division]~~ office or published in the bulletin or code by:

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

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

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

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

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

771 ~~[(3)]~~ (4) In addition, the ~~[division]~~ office may make the following nonsubstantive

772 changes with the concurrence of the agency:

- 773 (a) eliminate duplication within rules;
- 774 (b) eliminate obsolete and redundant words; and
- 775 (c) ~~[correcting]~~ correct defective or inconsistent section and paragraph structure in
- 776 arrangement of the subject matter of rules.

777 ~~[(4)]~~ (5) For nonsubstantive changes made in accordance with Subsection ~~[(2) or (3)]~~

778 (3) or (4) after publication of the rule in the bulletin, the ~~[division]~~ office shall publish a list of

779 nonsubstantive changes in the bulletin. For each nonsubstantive change, the list shall include:

- 780 (a) the affected code citation;
- 781 (b) a brief description of the change; and
- 782 (c) the date the change was made.

783 ~~[(5)]~~ (6) All funds appropriated or collected for publishing the ~~[division's]~~ office's

784 publications shall be nonlapsing.

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

786 **63G-3-403. Repeal and reenactment of Utah Administrative Code.**

787 (1) When the executive director determines that the Utah Administrative Code requires

788 extensive revision and reorganization, the ~~[division]~~ office may repeal the code and reenact a

789 new code according to the requirements of this section.

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

- 791 (a) reorganize, reformat, and renumber the code;
- 792 (b) require each agency to review its rules and make any organizational or substantive
- 793 changes according to the requirements of Section **63G-3-303**; and
- 794 (c) require each agency to prepare a brief summary of all substantive changes made by
- 795 the agency.

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

- 797 (a) adopting a uniform system of punctuation, capitalization, numbering, and wording;
- 798 (b) eliminating duplication;
- 799 (c) correcting defective or inconsistent section and paragraph structure in arrangement
- 800 of the subject matter of rules;
- 801 (d) eliminating all obsolete or redundant words;
- 802 (e) correcting obvious errors and inconsistencies in punctuation, capitalization,

803 numbering, referencing, and wording;

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

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

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

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

811 (i) notice of the code reenactment;

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

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

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

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

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

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

820 (B) in an electronic version; and

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

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

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

827 (a) state-designated repositories in Utah;

828 (b) the Administrative Rules Review Committee; and

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

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

833 (8) Repeal and reenactment of the code meets the requirements of Section [63G-3-305](#)

834 for a review of all agency rules.

835 Section 17. Section **63G-3-501** is amended to read:

836 **63G-3-501. Administrative Rules Review Committee.**

837 (1) (a) There is created an Administrative Rules Review Committee of the following
838 10 permanent members:

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

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

843 (b) Each permanent member shall serve:

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

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

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

848 (ii) When a vacancy exists:

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

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

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

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

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

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

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

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

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

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

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

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

901 (iii) the president of the Senate;

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

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

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

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

909 (b) The report shall include:

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

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

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

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

914 **63G-3-702. Utah Administrative Code -- Organization -- Official compilation.**

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

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

917 (b) rules; and

918 (c) sections.

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

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

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

926 **63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through Title 63N.**

- 927 (1) Funds paid to the Division of Real Estate for the cost of a criminal background
928 check for a mortgage loan license, as provided in Section 61-2c-202.
- 929 (2) Funds paid to the Division of Real Estate for the cost of a criminal background
930 check for principal broker, associate broker, and sales agent licenses, as provided in Section
931 61-2f-204.
- 932 (3) Certain funds donated to the Department of Human Services, as provided in
933 Section 62A-1-111.
- 934 (4) Appropriations from the National Professional Men's Basketball Team Support of
935 Women and Children Issues Restricted Account created in Section 62A-1-202.
- 936 (5) Certain funds donated to the Division of Child and Family Services, as provided in
937 Section 62A-4a-110.
- 938 (6) Appropriations from the Choose Life Adoption Support Restricted Account created
939 in Section 62A-4a-608.
- 940 (7) Appropriations to the Division of Services for People with Disabilities, as provided
941 in Section 62A-5-102.
- 942 (8) Appropriations to the Division of Fleet Operations for the purpose of upgrading
943 underground storage tanks under Section 63A-9-401.
- 944 (9) A portion of the funds appropriated to the Utah Seismic Safety Commission, as
945 provided in Section 63C-6-104.
- 946 (10) Funds appropriated or collected for publishing the [~~Division~~] Office of
947 Administrative Rules' publications, as provided in Section 63G-3-402.
- 948 (11) The Immigration Act Restricted Account created in Section 63G-12-103.
- 949 (12) Money received by the military installation development authority, as provided in
950 Section 63H-1-504.
- 951 (13) Appropriations to fund the Governor's Office of Economic Development's
952 Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.
- 953 (14) The Motion Picture Incentive Account created in Section 63N-8-103.
- 954 (15) Certain money payable for commission expenses of the Pete Suazo Utah Athletic
955 Commission, as provided under Section 63N-10-301.

Legislative Review Note
Office of Legislative Research and General Counsel