

**Representative Keven J. Stratton** proposes the following substitute bill:

**DEPARTMENT OF ENVIRONMENTAL QUALITY AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Keven J. Stratton**

Senate Sponsor: Margaret Dayton

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to the Water Quality Board.

**Highlighted Provisions:**

This bill:

- ▶ provides for review of certain Water Quality Board rules or standards;
- ▶ modifies the duties of the Administrative Rules Review Committee; and
- ▶ makes technical amendments.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**19-5-104.5**, as enacted by Laws of Utah 2011, Chapter 304

**63G-3-501**, as last amended by Laws of Utah 2016, Chapter 193

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

Section 1. Section **19-5-104.5** is amended to read:



26 **19-5-104.5. Legislative approval.**

27 (1) Before sending a board-approved report, strategy, or recommendation that will  
28 recommend a total maximum daily load end point and implementation strategy to the EPA for  
29 review and approval, ~~[the Water Quality Board]~~ or before the board adopts a state established  
30 nitrogen, phosphorus, or ammonia rule or standard, the board shall submit the report, strategy,  
31 rule, standard, or recommendation:

32 (a) for review to the Natural Resources, Agriculture, and Environment Interim  
33 Committee if the report, strategy, rule, standard, or recommendation will require [a public or  
34 private] an individual public facility, or group of private agricultural facilities, with an  
35 approved Utah pollutant discharge elimination system permit to make an expenditure in excess  
36 of \$10,000,000 but less than \$100,000,000 for compliance either through an initial capital  
37 investment or through operational costs over a 20-year period; or

38 (b) for approval to the Legislature if the strategy, rule, or standard will require ~~[a public~~  
39 ~~or private]~~ an individual public facility, or group of private agricultural facilities, with an  
40 approved Utah pollutant discharge elimination system permit to make an expenditure of  
41 \$100,000,000 or more either through an initial capital investment or through operational costs  
42 over a 20-year period.

43 ~~[(2) In reviewing a report, strategy, or recommendation, the Natural Resources,~~  
44 ~~Agriculture, and Environment Interim Committee may:]~~

45 ~~[(a) suggest additional areas of consideration; or]~~

46 ~~[(b) recommend the report, strategy, or recommendation be re-evaluated by the Water~~  
47 ~~Quality Board:]~~

48 (2) (a) An impacted facility, using an independent licensed engineer employed by a  
49 facility, shall determine an expenditure under Subsection (1)(a) or (b) using industry accepted  
50 project budgetary cost estimate methods.

51 (b) The board may evaluate and report on an expenditure estimate determined under  
52 Subsection (2)(a).

53 (3) In conducting a review under Subsection (1)(a), the Natural Resources, Agriculture,  
54 and Environment Interim Committee:

55 (a) shall consider the impact of the report, strategy, rule, standard, or recommendation  
56 on:

- 57 (i) economic costs and benefits;
- 58 (ii) public health; and
- 59 (iii) the environment; and
- 60 (b) may refer the report, strategy, rule, standard, or recommendation to the board:
- 61 (i) for final action; or
- 62 (ii) for re-evaluation followed by further review by the committee.

63 Section 2. Section **63G-3-501** is amended to read:

64 **63G-3-501. Administrative Rules Review Committee.**

65 (1) (a) There is created an Administrative Rules Review Committee of the following  
66 10 permanent members:

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

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

71 (b) Each permanent member shall serve:

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

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

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

76 (ii) When a vacancy exists:

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

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

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

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

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

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

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

93 (ii) The committee chairs may suspend the meeting requirement described in  
94 Subsection (1)(f)(i) at the committee chairs' discretion.

95 (2) The office shall submit a copy of each issue of the bulletin to the committee.

96 (3) (a) The committee shall exercise continuous oversight of the rulemaking process.

97 (b) The committee shall examine each rule submitted by an agency to determine:

98 (i) whether the rule is authorized by statute;

99 (ii) whether the rule complies with legislative intent;

100 (iii) the rule's impact on the economy and the government operations of the state and  
101 local political subdivisions; ~~and~~

102 (iv) the rule's impact on affected persons[-];

103 (v) the rule's total cost to entities regulated by the state;

104 (vi) the rule's benefits to the citizens of the state; and

105 (vii) whether adoption of the rule requires legislative notice or approval.

106 (c) To carry out these duties, the committee may examine any other issues that the  
107 committee considers necessary. The committee may also notify and refer rules to the chairs of  
108 the interim committee that has jurisdiction over a particular agency when the committee  
109 determines that an issue involved in an agency's rules may be more appropriately addressed by  
110 that committee.

111 (d) In reviewing a rule, the committee shall follow generally accepted principles of  
112 statutory construction.

113 (4) When the committee reviews existing rules, the committee chairs shall invite the  
114 Senate and House chairs of the standing committee and of the appropriation subcommittee that  
115 have jurisdiction over the agency whose existing rules are being reviewed to participate as  
116 nonvoting, ex officio members with the committee.

117 (5) (a) The committee may request that the Office of the Legislative Fiscal Analyst  
118 prepare a fiscal note on any rule.

119           **(b) If the fiscal impact of a rule is greater than \$10,000,000 to a single entity or**  
120 **\$100,000,000 to a group of entities, as determined by the Office of the Legislative Fiscal**  
121 **Analyst under Subsection (5)(a), the rule shall be referred to the relevant appropriations**  
122 **subcommittee for review.**

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

125           (7) (a) The committee may prepare written findings of the committee's review of a rule  
126 and may include any recommendations, including legislative action.

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

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

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

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

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

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

135           (iii) the president of the Senate;

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

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

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

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

143           (b) The report shall include:

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

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

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