

JUDICIAL RULES REVIEW AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill modifies the duties and structure of the Judicial Rules Review Committee and the Administrative Rules Review and General Oversight Committee.

Highlighted Provisions:

This bill:

- ▶ disbands the Judicial Rules Review Committee;
- ▶ moves the organizational statute for the Administrative Rules Review and General Oversight Committee to Title 36, Legislature;
- ▶ changes the name of the Administrative Rules Review and General Oversight Committee to the Rules Review and General Oversight Committee;
- ▶ places the duties and oversight of the Judicial Rules Review Committee within the duties and oversight of the Rules Review and General Oversight Committee;
- ▶ amends provisions requiring production of documents and information;
- ▶ reorganizes statutes to accommodate the consolidation of committees;
- ▶ clarifies existing statutory language; and
- ▶ makes corresponding changes and updates cross references.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

- 30 **19-1-201**, as last amended by Laws of Utah 2023, Chapter 272
- 31 **19-1-206**, as last amended by Laws of Utah 2023, Chapter 327
- 32 **19-1-207**, as last amended by Laws of Utah 2022, Chapter 443
- 33 **19-5-104.5**, as last amended by Laws of Utah 2022, Chapter 443
- 34 **26B-1-207**, as last amended by Laws of Utah 2023, Chapter 272
- 35 **26B-1-219**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 36 **26B-3-129**, as renumbered and amended by Laws of Utah 2023, Chapter 306
- 37 **40-6-22**, as last amended by Laws of Utah 2022, Chapter 443
- 38 **53B-27-303**, as last amended by Laws of Utah 2022, Chapter 443
- 39 **54-17-701**, as last amended by Laws of Utah 2022, Chapter 443
- 40 **63A-5b-607**, as last amended by Laws of Utah 2023, Chapter 329
- 41 **63A-13-202**, as last amended by Laws of Utah 2022, Chapter 443
- 42 **63A-13-305**, as last amended by Laws of Utah 2022, Chapter 443
- 43 **63C-9-403**, as last amended by Laws of Utah 2023, Chapter 329
- 44 **63G-3-301**, as last amended by Laws of Utah 2022, Chapter 443
- 45 **63G-3-304**, as last amended by Laws of Utah 2022, Chapter 443
- 46 **63G-3-402**, as last amended by Laws of Utah 2022, Chapter 443
- 47 **63G-3-403**, as last amended by Laws of Utah 2022, Chapter 443
- 48 **63G-3-502**, as last amended by Laws of Utah 2022, Chapter 443
- 49 **72-6-107.5**, as last amended by Laws of Utah 2023, Chapter 330
- 50 **79-2-404**, as last amended by Laws of Utah 2023, Chapter 330

51 ENACTS:

- 52 **36-35-101**, Utah Code Annotated 1953
- 53 **63G-3-503**, Utah Code Annotated 1953

54 RENUMBERS AND AMENDS:

- 55 **36-12-24**, (Renumbered from 36-32-207, as enacted by Laws of Utah 2020, Chapter
- 56 154)
- 57 **36-35-102**, (Renumbered from 63G-3-501, as last amended by Laws of Utah 2023,
- 58 Chapter 329)

59 **36-35-103**, (Renumbered from 36-32-202, as enacted by Laws of Utah 2020, Chapter
60 154)

61 **36-35-104**, (Renumbered from 36-32-203, as enacted by Laws of Utah 2020, Chapter
62 154)

63 **78A-2-203.5**, (Renumbered from 36-32-206, as enacted by Laws of Utah 2020,
64 Chapter 154)

65 REPEALS:

66 **36-32-101**, as enacted by Laws of Utah 2020, Chapter 154

67 **36-32-102**, as enacted by Laws of Utah 2020, Chapter 154

68 **36-32-201**, as enacted by Laws of Utah 2020, Chapter 154

69 **36-32-204**, as enacted by Laws of Utah 2020, Chapter 154

70 **36-32-205**, as enacted by Laws of Utah 2020, Chapter 154



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

73 Section 1. Section **19-1-201** is amended to read:

74 **19-1-201. Powers and duties of department -- Rulemaking authority --**
75 **Committee -- Monitoring environmental impacts of inland port.**

76 (1) The department shall:

77 (a) enter into cooperative agreements with the Department of Health and Human
78 Services to delineate specific responsibilities to assure that assessment and management of risk
79 to human health from the environment are properly administered;

80 (b) consult with the Department of Health and Human Services and enter into
81 cooperative agreements, as needed, to ensure efficient use of resources and effective response
82 to potential health and safety threats from the environment, and to prevent gaps in protection
83 from potential risks from the environment to specific individuals or population groups;

84 (c) coordinate implementation of environmental programs to maximize efficient use of
85 resources by developing, in consultation with local health departments, a Comprehensive
86 Environmental Service Delivery Plan that:

87 (i) recognizes that the department and local health departments are the foundation for
88 providing environmental health programs in the state;

89 (ii) delineates the responsibilities of the department and each local health department

90 for the efficient delivery of environmental programs using federal, state, and local authorities,
91 responsibilities, and resources;

92 (iii) provides for the delegation of authority and pass through of funding to local health
93 departments for environmental programs, to the extent allowed by applicable law, identified in
94 the plan, and requested by the local health department; and

95 (iv) is reviewed and updated annually;

96 (d) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
97 Rulemaking Act, as follows:

98 (i) for a board created in Section 19-1-106, rules regarding:

99 (A) board meeting attendance; and

100 (B) conflicts of interest procedures; and

101 (ii) procedural rules that govern:

102 (A) an adjudicative proceeding, consistent with Section 19-1-301; and

103 (B) a special adjudicative proceeding, consistent with Section 19-1-301.5;

104 (e) ensure that training or certification required of a public official or public employee,

105 as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State

106 Training and Certification Requirements, if the training or certification is required:

107 (i) under this title;

108 (ii) by the department; or

109 (iii) by an agency or division within the department; and

110 (f) subject to Subsection (2), establish annual fees that conform with Title V of the
111 Clean Air Act for each regulated pollutant as defined in Section 19-2-109.1, applicable to a
112 source subject to the Title V program.

113 (2) (a) A fee established under Subsection (1)(f) is in addition to a fee assessed under
114 Subsection (6)(i) for issuance of an approval order.

115 (b) In establishing a fee under Subsection (1)(f), the department shall comply with
116 Section 63J-1-504 that requires a public hearing and requires the established fee to be
117 submitted to the Legislature for the Legislature's approval as part of the department's annual
118 appropriations request.

119 (c) A fee established under this section shall cover the reasonable direct and indirect
120 costs required to develop and administer the Title V program and the small business assistance

121 program established under Section 19-2-109.2.

122 (d) A fee established under Subsection (1)(f) shall be established for all sources subject
123 to the Title V program and for all regulated pollutants.

124 (e) An emission fee may not be assessed for a regulated pollutant if the emissions are
125 already accounted for within the emissions of another regulated pollutant.

126 (f) An emission fee may not be assessed for any amount of a regulated pollutant
127 emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

128 (g) An emission fee shall be based on actual emissions for a regulated pollutant unless
129 a source elects, before the issuance or renewal of a permit, to base the fee during the period of
130 the permit on allowable emissions for that regulated pollutant.

131 (h) The fees collected by the department under Subsection (1)(f) and penalties
132 collected under Subsection 19-2-109.1(4) shall be deposited into the General Fund as the Air
133 Pollution Operating Permit Program dedicated credit to be used solely to pay for the reasonable
134 direct and indirect costs incurred by the department in developing and administering the
135 program and the small business assistance program under Section 19-2-109.2.

136 (3) The department shall establish a committee that consists of:

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

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

139 (c) three representatives of local health departments appointed by a group of all the
140 local health departments in the state.

141 (4) (a) The committee established in Subsection (3) shall:

142 (i) review the allocation of environmental quality resources between the department
143 and the local health departments, including whether funds allocated by contract were allocated
144 in accordance with the formula described in Section 26A-1-116;

145 (ii) evaluate rules and department policies that affect local health departments in
146 accordance with Subsection (4)(b);

147 (iii) consider policy changes proposed by the department or by local health
148 departments;

149 (iv) coordinate the implementation of environmental quality programs to maximize
150 environmental quality resources; and

151 (v) review each department application for any grant from the federal government that

152 affects a local health department before the department submits the application.

153 (b) When evaluating a policy or rule that affects a local health department, the
154 committee shall:

155 (i) compute an estimate of the cost a local health department will bear to comply with
156 the policy or rule;

157 (ii) specify whether there is any funding provided to a local health department to
158 implement the policy or rule; and

159 (iii) advise whether the policy or rule is still needed.

160 (c) Before November 1 of each year, the department shall provide a report to the
161 [~~Administrative~~] Rules Review and General Oversight Committee regarding the determinations
162 made under Subsection (4)(b).

163 (5) The committee shall create bylaws to govern the committee's operations.

164 (6) The department may:

165 (a) investigate matters affecting the environment;

166 (b) investigate and control matters affecting the public health when caused by
167 environmental hazards;

168 (c) prepare, publish, and disseminate information to inform the public concerning
169 issues involving environmental quality;

170 (d) establish and operate programs, as authorized by this title, necessary for protection
171 of the environment and public health from environmental hazards;

172 (e) use local health departments in the delivery of environmental health programs to
173 the extent provided by law;

174 (f) enter into contracts with local health departments or others to meet responsibilities
175 established under this title;

176 (g) acquire real and personal property by purchase, gift, devise, and other lawful
177 means;

178 (h) prepare and submit to the governor a proposed budget to be included in the budget
179 submitted by the governor to the Legislature;

180 (i) in accordance with Section [63J-1-504](#), establish a schedule of fees that may be
181 assessed for actions and services of the department that are reasonable, fair, and reflect the cost
182 of services provided;

183 (j) for an owner or operator of a source subject to a fee established by Subsection (6)(i)
184 who fails to timely pay that fee, assess a penalty of not more than 50% of the fee, in addition to
185 the fee, plus interest on the fee computed at 12% annually;

186 (k) prescribe by rule reasonable requirements not inconsistent with law relating to
187 environmental quality for local health departments;

188 (l) perform the administrative functions of the boards established by Section 19-1-106,
189 including the acceptance and administration of grants from the federal government and from
190 other sources, public or private, to carry out the board's functions;

191 (m) upon the request of a board or a division director, provide professional, technical,
192 and clerical staff and field and laboratory services, the extent of which are limited by the
193 money available to the department for the staff and services; and

194 (n) establish a supplementary fee, not subject to Section 63J-1-504, to provide service
195 that the person paying the fee agrees by contract to be charged for the service to efficiently use
196 department resources, protect department permitting processes, address extraordinary or
197 unanticipated stress on permitting processes, or make use of specialized expertise.

198 (7) In providing service under Subsection (6)(n), the department may not provide
199 service in a manner that impairs another person's service from the department.

200 (8) (a) As used in this Subsection (8):

201 (i) "Environmental impacts" means:

202 (A) impacts on air quality, including impacts associated with air emissions; and

203 (B) impacts on water quality, including impacts associated with storm water runoff.

204 (ii) "Inland port" means the same as that term is defined in Section 11-58-102.

205 (iii) "Inland port area" means the area in and around the inland port that bears the
206 environmental impacts of destruction, construction, development, and operational activities
207 within the inland port.

208 (iv) "Monitoring facilities" means:

209 (A) for monitoring air quality, a sensor system consisting of monitors to measure levels
210 of research-grade particulate matter, ozone, and oxides of nitrogen, and data logging equipment
211 with internal data storage that are interconnected at all times to capture air quality readings and
212 store data; and

213 (B) for monitoring water quality, facilities to collect groundwater samples, including in

214 existing conveyances and outfalls, to evaluate sediment, metals, organics, and nutrients due to
215 storm water.

216 (b) The department shall:

217 (i) develop and implement a sampling and analysis plan to:

218 (A) characterize the environmental baseline for air quality and water quality in the
219 inland port area;

220 (B) characterize the environmental baseline for only air quality for the Salt Lake
221 International Airport; and

222 (C) define the frequency, parameters, and locations for monitoring;

223 (ii) establish and maintain monitoring facilities to measure the environmental impacts
224 in the inland port area arising from destruction, construction, development, and operational
225 activities within the inland port;

226 (iii) publish the monitoring data on the department's website; and

227 (iv) provide at least annually before November 30 a written report summarizing the
228 monitoring data to:

229 (A) the Utah Inland Port Authority board, established under Title 11, Chapter 58, Part
230 3, Port Authority Board; and

231 (B) the Legislative Management Committee.

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

233 **19-1-206. Contracting powers of department -- Health insurance coverage.**

234 (1) As used in this section:

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

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

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

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

241 (ii) meets employer eligibility waiting requirements for health care insurance, which
242 may not exceed the first day of the calendar month following 60 days after the day on which
243 the individual is hired.

244 (d) "Health benefit plan" means:

- 245 (i) the same as that term is defined in Section 31A-1-301; or
246 (ii) an employee welfare benefit plan:
247 (A) established under the Employee Retirement Income Security Act of 1974, 29
248 U.S.C. Sec. 1001 et seq.;
- 249 (B) for an employer with 100 or more employees; and
250 (C) in which the employer establishes a self-funded or partially self-funded group
251 health plan to provide medical care for the employer's employees and dependents of the
252 employees.
- 253 (e) "Qualified health coverage" means the same as that term is defined in Section
254 26B-3-909.
- 255 (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.
256 (g) "Third party administrator" or "administrator" means the same as that term is
257 defined in Section 31A-1-301.
- 258 (2) Except as provided in Subsection (3), the requirements of this section apply to:
259 (a) a contractor of a design or construction contract entered into by, or delegated to, the
260 department, or a division or board of the department, on or after July 1, 2009, if the prime
261 contract is in an aggregate amount equal to or greater than \$2,000,000; and
262 (b) a subcontractor of a contractor of a design or construction contract entered into by,
263 or delegated to, the department, or a division or board of the department, on or after July 1,
264 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.
- 265 (3) This section does not apply to contracts entered into by the department or a division
266 or board of the department if:
267 (a) the application of this section jeopardizes the receipt of federal funds;
268 (b) the contract or agreement is between:
269 (i) the department or a division or board of the department; and
270 (ii) (A) another agency of the state;
271 (B) the federal government;
272 (C) another state;
273 (D) an interstate agency;
274 (E) a political subdivision of this state; or
275 (F) a political subdivision of another state;

276 (c) the executive director determines that applying the requirements of this section to a
277 particular contract interferes with the effective response to an immediate health and safety
278 threat from the environment; or

279 (d) the contract is:

280 (i) a sole source contract; or

281 (ii) an emergency procurement.

282 (4) A person that intentionally uses change orders, contract modifications, or multiple
283 contracts to circumvent the requirements of this section is guilty of an infraction.

284 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
285 executive director that the contractor has and will maintain an offer of qualified health
286 coverage for the contractor's employees and the employees' dependents during the duration of
287 the contract by submitting to the executive director a written statement that:

288 (i) the contractor offers qualified health coverage that complies with Section
289 [26B-3-909](#);

290 (ii) is from:

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

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

294 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),
295 an actuary or underwriter selected by a third party administrator; and

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

297 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)
298 shall provide the actuary or underwriter selected by an administrator, as described in
299 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's
300 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the
301 requirements of qualified health coverage.

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

304 (A) the actuary or underwriter selected by an administrator, as described in Subsection
305 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in
306 Subsection (5)(a) in compliance with this section; and

307 (B) the department.

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

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

310 is subject to the requirements of this section shall obtain and maintain an offer of qualified

311 health coverage for the subcontractor's employees and the employees' dependents during the

312 duration of the subcontract; and

313 (ii) obtain from a subcontractor that is subject to the requirements of this section a

314 written statement that:

315 (A) the subcontractor offers qualified health coverage that complies with Section

316 [26B-3-909](#);

317 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an

318 underwriter who is responsible for developing the employer group's premium rates, or if the

319 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or

320 underwriter selected by an administrator; and

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

322 statement.

323 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage

324 described in Subsection (5)(a) during the duration of the contract is subject to penalties in

325 accordance with administrative rules adopted by the department under Subsection (6).

326 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain

327 and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

328 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health

329 coverage described in Subsection (5)(c) during the duration of the subcontract is subject to

330 penalties in accordance with administrative rules adopted by the department under Subsection

331 (6).

332 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain

333 an offer of qualified health coverage described in Subsection (5)(a).

334 (6) The department shall adopt administrative rules:

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

336 (b) in coordination with:

337 (i) a public transit district in accordance with Section [17B-2a-818.5](#);

338 (ii) the Department of Natural Resources in accordance with Section 79-2-404;
339 (iii) the Division of Facilities Construction and Management in accordance with
340 Section 63A-5b-607;
341 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;
342 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
343 (vi) the Legislature's [~~Administrative~~] Rules Review and General Oversight Committee
344 created in Section 36-35-102; and
345 (c) that establish:
346 (i) the requirements and procedures a contractor and a subcontractor shall follow to
347 demonstrate compliance with this section, including:
348 (A) that a contractor or subcontractor's compliance with this section is subject to an
349 audit by the department or the Office of the Legislative Auditor General;
350 (B) that a contractor that is subject to the requirements of this section shall obtain a
351 written statement described in Subsection (5)(a); and
352 (C) that a subcontractor that is subject to the requirements of this section shall obtain a
353 written statement described in Subsection (5)(c)(ii);
354 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
355 violates the provisions of this section, which may include:
356 (A) a three-month suspension of the contractor or subcontractor from entering into
357 future contracts with the state upon the first violation;
358 (B) a six-month suspension of the contractor or subcontractor from entering into future
359 contracts with the state upon the second violation;
360 (C) an action for debarment of the contractor or subcontractor in accordance with
361 Section 63G-6a-904 upon the third or subsequent violation; and
362 (D) notwithstanding Section 19-1-303, monetary penalties which may not exceed 50%
363 of the amount necessary to purchase qualified health coverage for an employee and the
364 dependents of an employee of the contractor or subcontractor who was not offered qualified
365 health coverage during the duration of the contract; and
366 (iii) a website on which the department shall post the commercially equivalent
367 benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by
368 the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

369 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor
370 or subcontractor who intentionally violates the provisions of this section is liable to the
371 employee for health care costs that would have been covered by qualified health coverage.

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

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

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

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

380 (8) Any penalties imposed and collected under this section shall be deposited into the
381 Medicaid Restricted Account created in Section [26B-1-309](#).

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

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

386 (i) Section [63G-6a-1602](#); or

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

388 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
389 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
390 or construction.

391 (10) An administrator, including an administrator's actuary or underwriter, who
392 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health
393 coverage of a contractor or subcontractor who provides a health benefit plan described in
394 Subsection (1)(d)(ii):

395 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,
396 unless the administrator commits gross negligence in preparing the written statement;

397 (b) is not liable for any error in the written statement if the administrator relied in good
398 faith on information from the contractor or subcontractor; and

399 (c) may require as a condition of providing the written statement that a contractor or

400 subcontractor hold the administrator harmless for an action arising under this section.

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

402 **19-1-207. Regulatory certainty to support economic recovery.**

403 (1) On or before June 30, 2021, the Air Quality Board or the Water Quality Board may
404 not make, amend, or repeal a rule related to air or water quality pursuant to this title, if formal
405 rulemaking was not initiated on or before July 1, 2020, unless the rule constitutes:

406 (a) a state rule related to a federally-delegated program;

407 (b) a rule mandated by statute to be made, amended, or repealed on or before July 1,
408 2020; or

409 (c) subject to Subsection (2), a rule that is necessary because failure to make, amend, or
410 repeal the rule will:

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

412 (ii) cause an imminent budget reduction because of budget restraints or federal
413 requirements;

414 (iii) place the agency in violation of federal or state law; or

415 (iv) fail to provide regulatory relief.

416 (2) In addition to complying with Title 63G, Chapter 3, Utah Administrative
417 Rulemaking Act, the department shall report to the [~~Administrative~~] Rules Review and General
418 Oversight Committee as to whether the need to act meets the requirements of Subsection
419 (1)(c).

420 (3) On or after August 31, 2020, but on or before June 30, 2021, the Air Quality Board,
421 Division of Air Quality, Water Quality Board, or Division of Water Quality may not impose a
422 new fee or increase a fee related to air or water quality pursuant to this title or rules made under
423 this title.

424 (4) Only the Legislature may extend the time limitations of this section.

425 (5) Notwithstanding the other provisions of this section, this section does not apply to a
426 rule, fee, or fee increase to the extent that the rule, fee, or fee increase applies to an activity in a
427 county of the first or second class.

428 (6) Notwithstanding the other provisions of this section, the agencies may engage with
429 stakeholders in the process of discussing, developing, and drafting a rule, fee, or fee increase
430 on or after July 1, 2020, but on or before June 30, 2021.

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

432 **19-5-104.5. Legislative review and approval.**

433 (1) Before sending a total maximum daily load and implementation strategy to the EPA
434 for review and approval, the Water Quality Board shall submit the total maximum daily load:

435 (a) for review to the Natural Resources, Agriculture, and Environment Interim
436 Committee if the total maximum daily load will require a public or private expenditure in
437 excess of \$10,000,000 but less than \$100,000,000 for compliance; or

438 (b) for approval to the Legislature if the total maximum daily load will require a public
439 or private expenditure of \$100,000,000 or more.

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

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

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

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

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

448 (b) Before the board adopts a nitrogen or phosphorus rule or standard, the board shall
449 submit the rule or standard as directed in Subsections (2)(c) and (d).

450 (c) (i) If compliance with the rule or standard requires an expenditure in excess of
451 \$250,000, but less than \$10,000,000, the board shall submit the rule or standard for review to
452 the Natural Resources, Agriculture, and Environment Interim Committee.

453 (ii) (A) Except as provided in Subsection (2)(c)(ii)(B), the Natural Resources,
454 Agriculture, and Environment Interim Committee shall review a rule or standard the board
455 submits under Subsection (2)(c)(i) during the Natural Resources, Agriculture, and Environment
456 Interim Committee's committee meeting immediately following the day on which the board
457 submits the rule or standard.

458 (B) If the committee meeting described in Subsection (2)(c)(ii)(A) is within five days
459 after the day on which the board submits the rule or standard for review, the Natural Resources,
460 Agriculture, and Environment Interim Committee shall review the rule or standard during the
461 committee meeting described in Subsection (2)(c)(ii)(A) or during the committee meeting

462 immediately following the committee meeting described in Subsection (2)(c)(ii)(A).

463 (d) If compliance with the rule or standard requires an expenditure of \$10,000,000 or
464 more, the board shall submit the rule or standard for approval to the Legislature.

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

467 (A) an independent, licensed engineer; and

468 (B) industry-accepted project cost estimate methods.

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

471 (f) If there is a discrepancy in the estimated cost to comply with a rule or standard, the
472 Office of the Legislative Fiscal Analyst shall determine the estimated cost to comply with the
473 rule or standard.

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

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

477 (i) economic costs and benefit;

478 (ii) public health; and

479 (iii) the environment;

480 (b) suggest additional areas of consideration; or

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

482 (i) adoption; or

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

485 (4) When the Natural Resources, Agriculture, and Environment Interim Committee
486 sets the review of a rule or standard submitted under Subsection (2)(c)(i) as an agenda item, the
487 committee shall:

488 (a) before the review, directly inform the chairs of the [Administrative] Rules Review
489 and General Oversight Committee of the coming review, including the date, time, and place of
490 the review; and

491 (b) after the review, directly inform the chairs of the [Administrative] Rules Review
492 and General Oversight Committee of the outcome of the review, including any

493 recommendation.

494 Section 5. Section **26B-1-207** is amended to read:

495 **26B-1-207. Policymaking responsibilities -- Regulations for local health**
496 **departments prescribed by department -- Local standards not more stringent than**
497 **federal or state standards -- Consultation with local health departments -- Committee to**
498 **evaluate health policies and to review federal grants.**

499 (1) In establishing public health policy, the department shall consult with the local
500 health departments established under Title 26A, Chapter 1, Local Health Departments.

501 (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
502 the department may prescribe by administrative rule made in accordance with Title 63G,
503 Chapter 3, Utah Administrative Rulemaking Act, reasonable requirements not inconsistent
504 with law for a local health department as defined in Section [26A-1-102](#).

505 (b) Except where specifically allowed by federal law or state statute, a local health
506 department, as defined in Section [26A-1-102](#), may not establish standards or regulations that
507 are more stringent than those established by federal law, state statute, or administrative rule
508 adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

509 (c) Nothing in this Subsection (2), limits the ability of a local health department to
510 make standards and regulations in accordance with Subsection [26A-1-121\(1\)\(a\)](#) for:

511 (i) emergency rules made in accordance with Section [63G-3-304](#); or
512 (ii) items not regulated under federal law, state statute, or state administrative rule.

513 (3) (a) As used in this Subsection (3):

514 (i) "Committee" means the committee established under Subsection (3)(b).

515 (ii) "Exempt application" means an application for a federal grant that meets the
516 criteria established under Subsection (3)(c)(iii).

517 (iii) "Expedited application" means an application for a federal grant that meets the
518 criteria established under Subsection (3)(c)(iv).

519 (iv) "Federal grant" means a grant from the federal government that could provide
520 funds for local health departments to help them fulfill their duties and responsibilities.

521 (v) "Reviewable application" means an application for a federal grant that is not an
522 exempt application.

523 (b) The department shall establish a committee consisting of:

- 524 (i) the executive director, or the executive director's designee;
- 525 (ii) two representatives of the department, appointed by the executive director; and
- 526 (iii) three representatives of local health departments, appointed by all local health
- 527 departments.
- 528 (c) The committee shall:
- 529 (i) evaluate the allocation of public health resources between the department and local
- 530 health departments, including whether funds allocated by contract were allocated in accordance
- 531 with the formula described in Section [26A-1-116](#);
- 532 (ii) evaluate policies and rules that affect local health departments in accordance with
- 533 Subsection (3)(g);
- 534 (iii) consider department policy and rule changes proposed by the department or local
- 535 health departments;
- 536 (iv) establish criteria by which an application for a federal grant may be judged to
- 537 determine whether it should be exempt from the requirements under Subsection (3)(d); and
- 538 (v) establish criteria by which an application for a federal grant may be judged to
- 539 determine whether committee review under Subsection (3)(d)(i) should be delayed until after
- 540 the application is submitted because the application is required to be submitted under a
- 541 timetable that makes committee review before it is submitted impracticable if the submission
- 542 deadline is to be met.
- 543 (d) (i) The committee shall review the goals and budget for each reviewable
- 544 application:
- 545 (A) before the application is submitted, except for an expedited application; and
- 546 (B) for an expedited application, after the application is submitted but before funds
- 547 from the federal grant for which the application was submitted are disbursed or encumbered.
- 548 (ii) Funds from a federal grant under a reviewable application may not be disbursed or
- 549 encumbered before the goals and budget for the federal grant are established by:
- 550 (A) a two-thirds vote of the committee, following the committee review under
- 551 Subsection (3)(d)(i); or
- 552 (B) if two-thirds of the committee cannot agree on the goals and budget, the chair of
- 553 the health advisory council, after consultation with the committee in a manner that the
- 554 committee determines.

555 (e) An exempt application is exempt from the requirements of Subsection (3)(d).

556 (f) The department may use money from a federal grant to pay administrative costs
557 incurred in implementing this Subsection (3).

558 (g) When evaluating a policy or rule that affects a local health department, the
559 committee shall determine:

560 (i) whether the department has the authority to promulgate the policy or rule;

561 (ii) an estimate of the cost a local health department will bear to comply with the policy
562 or rule;

563 (iii) whether there is any funding provided to a local health department to implement
564 the policy or rule; and

565 (iv) whether the policy or rule is still needed.

566 (h) Before November 1 of each year, the department shall provide a report to the
567 [~~Administrative~~] Rules Review and General Oversight Committee regarding the determinations
568 made under Subsection (3)(g).

569 Section 6. Section **26B-1-219** is amended to read:

570 **26B-1-219. Requirements for issuing, recommending, or facilitating rationing**
571 **criteria.**

572 (1) As used in this section:

573 (a) "Health care resource" means:

574 (i) health care as defined in Section [78B-3-403](#);

575 (ii) a prescription drug as defined in Section [58-17b-102](#);

576 (iii) a prescription device as defined in Section [58-17b-102](#);

577 (iv) a nonprescription drug as defined in Section [58-17b-102](#); or

578 (v) any supply or treatment that is intended for use in the course of providing health
579 care as defined in Section [78B-3-403](#).

580 (b) (i) "Rationing criteria" means any requirement, guideline, process, or
581 recommendation regarding:

582 (A) the distribution of a scarce health care resource; or

583 (B) qualifications or criteria for a person to receive a scarce health care resource.

584 (ii) "Rationing criteria" includes crisis standards of care with respect to any health care
585 resource.

586 (c) "Scarce health care resource" means a health care resource:

587 (i) for which the need for the health care resource in the state or region significantly
588 exceeds the available supply of that health care resource in that state or region;

589 (ii) that, based on the circumstances described in Subsection (1)(c)(i), is distributed or
590 provided using written requirements, guidelines, processes, or recommendations as a factor in
591 the decision to distribute or provide the health care resource; and

592 (iii) that the federal government has allocated to the state to distribute.

593 (2) (a) On or before July 1, 2022, the department shall make rules in accordance with
594 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure that the
595 department will follow to adopt, modify, require, facilitate, or recommend rationing criteria.

596 (b) Beginning July 1, 2022, the department may not adopt, modify, require, facilitate,
597 or recommend rationing criteria unless the department follows the procedure established by the
598 department under Subsection (2)(a).

599 (3) The procedures developed by the department under Subsection (2) shall include, at
600 a minimum:

601 (a) a requirement that the department notify the following individuals in writing before
602 rationing criteria are issued, are recommended, or take effect:

603 (i) the ~~[Administrative]~~ Rules Review and General Oversight Committee created in
604 Section ~~[63G-3-501]~~ [36-35-102](#);

605 (ii) the governor or the governor's designee;

606 (iii) the president of the Senate or the president's designee;

607 (iv) the speaker of the House of Representatives or the speaker's designee;

608 (v) the executive director or the executive director's designee; and

609 (vi) if rationing criteria affect hospitals in the state, a representative of an association
610 representing hospitals throughout the state, as designated by the executive director; and

611 (b) procedures for an emergency circumstance which shall include, at a minimum:

612 (i) a description of the circumstances under which emergency procedures described in
613 this Subsection (3)(b) may be used; and

614 (ii) a requirement that the department notify the individuals described in Subsections
615 (3)(a)(i) through (vi) as soon as practicable, but no later than 48 hours after the rationing
616 criteria take effect.

617 (4) (a) Within 30 days after March 22, 2022, the department shall send to the
618 [Administrative] Rules Review and General Oversight Committee all rationing criteria that:

619 (i) were adopted, modified, required, facilitated, or recommended by the department
620 prior to March 22, 2022; and

621 (ii) on March 22, 2022, were in effect and in use to distribute or qualify a person to
622 receive scarce health care resources.

623 (b) During the 2022 interim, the [Administrative] Rules Review and General Oversight
624 Committee shall, under Subsection [~~63G-3-501(3)(d)(i)~~ 36-35-102(3)(c)], review each of the
625 rationing criteria submitted by the department under this Subsection (4)(a).

626 (5) The requirements described in this section and rules made under this section shall
627 apply regardless of whether rationing criteria:

628 (a) have the force and effect of law, or is solely advisory, informative, or descriptive;

629 (b) are carried out or implemented directly or indirectly by the department or by other
630 individuals or entities; or

631 (c) are developed solely by the department or in collaboration with other individuals or
632 entities.

633 (6) This section:

634 (a) may not be suspended under Section 53-2a-209 or any other provision of state law
635 relating to a state of emergency;

636 (b) does not limit a private entity from developing or implementing rationing criteria;
637 and

638 (c) does not require the department to adopt, modify, require, facilitate, or recommend
639 rationing criteria that the department does not determine to be necessary or appropriate.

640 (7) Subsection (2) does not apply to rationing criteria that are adopted, modified,
641 required, facilitated, or recommended by the department:

642 (a) through the regular, non-emergency rulemaking procedure described in Section
643 63G-3-301;

644 (b) if the modification is solely to correct a technical error in rationing criteria such as
645 correcting obvious errors and inconsistencies including those involving punctuation,
646 capitalization, cross references, numbering, and wording;

647 (c) to the extent that compliance with this section would result in a direct violation of

648 federal law;

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

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

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

654 Section 7. Section **26B-3-129** is amended to read:

655 **26B-3-129. Review of claims -- Audit and investigation procedures.**

656 (1) (a) The department shall adopt administrative rules in accordance with Title 63G,
657 Chapter 3, Utah Administrative Rulemaking Act, and in consultation with providers and health
658 care professionals subject to audit and investigation under the state Medicaid program, to
659 establish procedures for audits and investigations that are fair and consistent with the duties of
660 the department as the single state agency responsible for the administration of the Medicaid
661 program under Section [26B-3-108](#) and Title XIX of the Social Security Act.

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

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

667 (ii) request a review of the rule by the Legislature's [~~Administrative~~] Rules Review and
668 General Oversight Committee created in Section [~~63G-3-501~~] [36-35-102](#).

669 (2) The department shall:

670 (a) notify and educate providers and health care professionals subject to audit and
671 investigation under the Medicaid program of the providers' and health care professionals'
672 responsibilities and rights under the administrative rules adopted by the department under the
673 provisions of this section;

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

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

678 (ii) uses the services of the appropriate professional described in Subsection (3)(b)(i) if

679 the provider who is the subject of the audit disputes the findings of the audit;

680 (c) ensure that a finding of overpayment or underpayment to a provider is not based on
681 extrapolation, as defined in Section [63A-13-102](#), unless:

682 (i) there is a determination that the level of payment error involving the provider
683 exceeds a 10% error rate:

684 (A) for a sample of claims for a particular service code; and

685 (B) over a three year period of time;

686 (ii) documented education intervention has failed to correct the level of payment error;

687 and

688 (iii) the value of the claims for the provider, in aggregate, exceeds \$200,000 in
689 reimbursement for a particular service code on an annual basis; and

690 (d) require that any entity with which the office contracts, for the purpose of
691 conducting an audit of a service provider, shall be paid on a flat fee basis for identifying both
692 overpayments and underpayments.

693 (3) (a) If the department, or a contractor on behalf of the department:

694 (i) intends to implement the use of extrapolation as a method of auditing claims, the
695 department shall, prior to adopting the extrapolation method of auditing, report its intent to use
696 extrapolation to the Social Services Appropriations Subcommittee; and

697 (ii) determines Subsections (2)(c)(i) through (iii) are applicable to a provider, the
698 department or the contractor may use extrapolation only for the service code associated with
699 the findings under Subsections (2)(c)(i) through (iii).

700 (b) (i) If extrapolation is used under this section, a provider may, at the provider's
701 option, appeal the results of the audit based on:

702 (A) each individual claim; or

703 (B) the extrapolation sample.

704 (ii) Nothing in this section limits a provider's right to appeal the audit under Title 63G,
705 General Government, Title 63G, Chapter 4, Administrative Procedures Act, the Medicaid
706 program and its manual or rules, or other laws or rules that may provide remedies to providers.

707 Section 8. Section **36-12-24**, which is renumbered from Section 36-32-207 is
708 renumbered and amended to read:

709 ~~[36-32-207]~~. **36-12-24. Legislative counsel attendance at Supreme Court**

710 **advisory committees.**

711 ~~[The]~~ An attorney from the Office of Legislative Research and General Counsel shall,
712 when practicable, attend meetings of the advisory committees of the Supreme Court.

713 Section 9. Section **36-35-101** is enacted to read:

714 **36-35-101. Definitions.**

715 As used in this chapter:

716 (1) "Agency rule" means the same as the term "rule" is defined in Section [63G-3-101](#).

717 (2) "Committee" means the Rules Review and General Oversight Committee.

718 (3) "Court Rule" means any of the following, whether existing, new, or proposed:

719 (a) rules of procedure, evidence, or practice for use of the courts of this state;

720 (b) rules governing and managing the appellate process adopted by the Supreme Court;

721 or

722 (c) rules adopted by the Judicial Council for the administration of the courts of the
723 state.

724 (4) "Judicial advisory committee" means the committee that proposes to the Supreme
725 Court rules or changes in court rules related to:

726 (a) civil procedure;

727 (b) criminal procedure;

728 (c) juvenile procedure;

729 (d) appellate procedure;

730 (e) evidence;

731 (f) professional conduct; and

732 (g) the subject matter focus of any other committee that the Supreme Court establishes
733 to propose rules or changes in court rules to the Supreme Court.

734 (5) "Judicial council" means the administrative body of the courts, established in the
735 Utah Constitution, Article VIII, Section 12, and Section [78A-2-104](#).

736 (6) "Proposal for court rule" means the proposed language in a court rule that is
737 submitted to:

738 (a) the Judicial Council;

739 (b) the advisory committee; or

740 (c) the Supreme Court.

741 (7) "Rule" means an agency rule or a court rule.

742 Section 10. Section **36-35-102**, which is renumbered from Section 63G-3-501 is
743 renumbered and amended to read:

744 ~~[63G-3-501].~~ **36-35-102. Rules Review and General Oversight Committee.**

745 (1) (a) There is created ~~[an Administrative]~~ a Rules Review and General Oversight
746 Committee of the following 10 permanent members:

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

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

751 (b) Each permanent member shall serve:

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

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

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

756 (ii) When a vacancy exists:

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

759 (B) if the departing member is a member of the House of Representatives, the speaker
760 of the House of Representatives shall appoint a member of the House of Representatives to fill
761 the vacancy.

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

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

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

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

770 (f) (i) Subject to Subsection (1)(f)(ii), the committee shall meet at least once each
771 month to review new agency rules and court rules, amendments to existing agency rules and

772 court rules, and repeals of existing agency rules and court rules.

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

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

776 (3) (a) The committee shall exercise continuous oversight of the administrative
777 rulemaking process under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
778 shall, for each general session of the Legislature, request legislation that considers legislative
779 reauthorization of agency rules as provided under Section [63G-3-502](#).

780 (b) The committee shall examine each agency rule, including any agency rule made
781 according to the emergency rulemaking procedure described in Section [63G-3-304](#), submitted
782 by an agency to determine:

783 (i) whether the agency rule is authorized by statute;

784 (ii) whether the agency rule complies with legislative intent;

785 (iii) the agency rule's impact on the economy and the government operations of the
786 state and local political subdivisions;

787 (iv) the agency rule's impact on affected persons;

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

789 (vi) the agency rule's benefit to the citizens of the state; and

790 (vii) whether adoption of the agency rule requires legislative review or approval.

791 (c) (i) The committee may examine and review:

792 [(i)] (A) any executive order issued pursuant to Title 53, Chapter 2a, Part 2, Disaster
793 Response and Recovery Act;

794 [(ii)] (B) any public health order issued during a public health emergency declared in
795 accordance with Title 26A, Local Health Authorities, or Title 26B, Utah Health and Human
796 Services Code; or

797 [(iii)] (C) ~~[an agency's policies]~~ any agency policy that:

798 ~~[(A)]~~ (I) ~~[affect]~~ affects a class of persons other than the agency; or

799 ~~[(B)]~~ (II) ~~[are]~~ is contrary to legislative intent.

800 ~~[(d) (i) To carry out these duties, the committee may examine any other issues that the~~
801 ~~committee considers necessary.]~~

802 ~~[(ii) Notwithstanding anything to the contrary in this section, the committee may not~~

803 ~~examine an agency's internal policies, procedures, or practices.]~~

804 ~~[(iii) The committee may also notify and refer rules to the chairs of the interim~~
 805 ~~committee that has jurisdiction over a particular agency when the committee determines that an~~
 806 ~~issue involved in an agency's rules may be more appropriately addressed by that committee].~~

807 (ii) If the committee chooses to examine or review an order or policy described in
 808 Subsection (3)(c)(i), the agency that issued the order or policy shall, upon request by the
 809 committee, provide to the committee:

810 (A) a copy of the order or policy; and

811 (B) information related to the order or policy.

812 (d) The committee shall review court rules as provided in Section [36-35-103](#) and
 813 Section [36-35-104](#).

814 ~~[(e) An agency shall respond to a request from the committee for:]~~

815 ~~[(i) an agency's policy described in Subsection (3)(c)(iii); or]~~

816 ~~[(ii) information related to an agency's policy described in Subsection (3)(c)(iii).]~~

817 (4) (a) To carry out the requirements of Subsection (3), the committee may examine
 818 any other issues that the committee considers necessary.

819 (b) Notwithstanding anything to the contrary in this section, the committee may not
 820 examine the internal policies, procedures, or practices of an agency or judicial branch entity.

821 ~~[(f)]~~ (c) In reviewing a rule, the committee shall follow generally accepted principles of
 822 statutory construction.

823 ~~[(4)]~~ (5) When the committee reviews an existing rule, the committee chairs:

824 (a) shall invite the Senate and House chairs of the standing committee and of the
 825 appropriation subcommittee that have jurisdiction over the agency or judicial branch entity
 826 whose existing rule is being reviewed to participate as nonvoting, ex officio members with the
 827 committee[-] during the review of the rule; and

828 (b) may notify and refer the rule to the chairs of the interim committee that has
 829 jurisdiction over a particular agency or judicial branch entity when the committee determines
 830 that an issue involved in the rule may be more appropriately addressed by that committee.

831 ~~[(5)]~~ (6) The committee may request that the Office of the Legislative Fiscal Analyst
 832 prepare a fiscal note on any rule or proposal for court rule.

833 ~~[(6)]~~ (7) In order to accomplish the committee's functions described in this chapter, the

834 committee has all the powers granted to legislative interim committees under Section 36-12-11.

835 ~~[(7)]~~ (8) (a) The committee may prepare written findings of the committee's review of a
836 rule, proposal for court rule, policy, practice, or procedure and may include any
837 recommendation, including:

838 (i) legislative action; ~~[or]~~

839 (ii) action by a standing committee or interim committee~~[-]~~;

840 (iii) agency rulemaking action;

841 (iv) Supreme Court rulemaking action; or

842 (v) Judicial Council rulemaking action.

843 (b) When the committee reviews a rule, the committee shall provide to the agency or
844 judicial branch entity that enacted the rule:

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

846 (ii) a request that the agency or judicial branch entity notify the committee of any
847 changes the agency or judicial branch entity makes to the rule.

848 (c) The committee shall provide a copy of the committee's findings described in
849 Subsection ~~[(7)(a)]~~ (8)(a), if any, to:

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

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

852 (iii) the president of the Senate;

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

854 (v) the Senate and House chairs of the standing committee that has jurisdiction over the
855 agency or judicial branch entity whose rule, policy, practice, or procedure is the subject of the
856 finding; ~~[and]~~

857 (vi) the Senate and House chairs of the appropriation subcommittee that has
858 jurisdiction over the agency or judicial branch entity that made the rule~~[-]~~;

859 (vii) the governor; and

860 (viii) if the findings involve a court rule or judicial branch entity:

861 (A) the Judiciary Interim Committee;

862 (B) the Supreme Court; and

863 (C) the Judicial Council.

864 ~~[(8)]~~ (9) (a) (i) The committee may submit a report on the committee's review under

865 this section to each member of the Legislature at each regular session.

866 (ii) The report shall include:

867 (A) any finding or recommendation the committee made under Subsection [(7)] (8);

868 (B) any action an agency, the Supreme Court, or the Judicial Council took in response
869 to a committee recommendation; and

870 (C) any recommendation by the committee for legislation.

871 (b) If the committee receives a recommendation not to reauthorize [a] an agency rule,
872 as described in Subsection 63G-3-301(13)(b), and the committee recommends to the
873 Legislature reauthorization of the agency rule, the committee shall submit a report to each
874 member of the Legislature detailing the committee's decision.

875 (c) If the committee recommends legislation, the committee may prepare legislation for
876 consideration by the Legislature at the next general session.

877 Section 11. Section **36-35-103**, which is renumbered from Section 36-32-202 is
878 renumbered and amended to read:

879 ~~[36-32-202]~~. **36-35-103. Submission of court rules or proposals for court**
880 **rules.**

881 (1) The Supreme Court or the Judicial Council shall submit to the committee and the
882 governor each [~~court rule, proposal for~~] proposed court rule and each new court rule, and any
883 additional information related to [~~a court rule or proposal for~~] the court rule that the Supreme
884 Court or Judicial Council considers relevant:

885 (a) when the court rule [~~or proposal for court rule~~] is submitted:

886 (i) to the Judicial Council for consideration or approval for public comment; or

887 (ii) to the Supreme Court by the advisory committee after the advisory committee's
888 consideration or approval; and

889 (b) when the [~~approved court rule or approved proposal for~~] court rule is made
890 available to members of the bar and the public for public comment.

891 (2) At the time of submission under Subsection (1), the Supreme Court or Judicial
892 Council shall provide the committee with the name and contact information of a Supreme
893 Court advisory committee or Judicial Council employee whom the committee may contact
894 about the submission.

895 Section 12. Section **36-35-104**, which is renumbered from Section 36-32-203 is

896 renumbered and amended to read:

897 ~~[36-32-203].~~ **36-35-104. Review of court rules -- Criteria.**

898 (1) As used in this section, "court rule" means a ~~[new court rule, a]~~ proposal for a court
899 rule, a new court rule, or an existing court rule.

900 (2) The committee may review and evaluate:

901 (a) ~~[shall review and evaluate]~~ a submission of:

902 (i) a new court rule; or

903 (ii) a proposal for a court rule; and

904 (b) ~~[may review]~~ an existing court rule.

905 (3) ~~[The]~~ If the committee [shall] chooses to conduct a review of a court rule
906 ~~[described in]~~ as provided under Subsection (2), the review shall be based on the following
907 criteria:

908 (a) whether the court rule is authorized by the state constitution or by statute;

909 (b) if authorized by statute, whether the court rule complies with legislative intent;

910 (c) whether the court rule is in conflict with existing statute or governs a policy
911 expressed in statute;

912 (d) whether the court rule is primarily substantive or procedural in nature;

913 (e) whether the court rule infringes on the powers of the executive or legislative branch
914 of government;

915 (f) the impact of the court rule on an affected person;

916 (g) the purpose for the court rule, and if applicable, the reason for a change to an
917 existing court rule;

918 (h) the anticipated cost or savings due to the court rule to:

919 (i) the state budget;

920 (ii) local governments; and

921 (iii) individuals; and

922 (i) the cost to an affected person of complying with the court rule.

923 Section 13. Section **40-6-22** is amended to read:

924 **40-6-22. Regulatory certainty to support economic recovery.**

925 (1) On or before June 30, 2021, the board or division may not make, amend, or repeal a
926 rule pursuant to this title, if formal rulemaking was not initiated on or before July 1, 2020,

927 unless the rule constitutes:

928 (a) a state rule related to a federally-delegated program;

929 (b) a rule mandated by statute to be made, amended, or repealed on or before July 1,
930 2020; or

931 (c) subject to Subsection (2), a rule that is necessary because failure to make, amend, or
932 repeal the rule will:

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

934 (ii) cause an imminent budget reduction because of budget restraints or federal
935 requirements;

936 (iii) place the agency in violation of federal or state law; or

937 (iv) fail to provide regulatory relief.

938 (2) In addition to complying with Title 63G, Chapter 3, Utah Administrative
939 Rulemaking Act, the board or division shall report to the [~~Administrative~~] Rules Review and
940 General Oversight Committee as to whether the need to act meets the requirements of
941 Subsection (1)(c).

942 (3) On or after August 31, 2020, but on or before June 30, 2021, the board or division
943 may not impose a new fee or increase a fee pursuant to this title or rules made under this title.

944 (4) Only the Legislature may extend the time limitations of this section.

945 (5) Notwithstanding the other provisions of this section, this section does not apply to a
946 rule, fee, or fee increase to the extent that the rule, fee, or fee increase applies to an activity in a
947 county of the first or second class.

948 (6) Notwithstanding the other provisions of this section, the agencies may engage with
949 stakeholders in the process of discussing, developing, and drafting a rule, fee, or fee increase
950 on or after July 1, 2020, but on or before June 30, 2021.

951 Section 14. Section **53B-27-303** is amended to read:

952 **53B-27-303. Complaint process -- Reporting.**

953 (1) Before August 1, 2019, the board shall make rules in accordance with Title 63G,
954 Chapter 3, Utah Administrative Rulemaking Act, establishing a procedure whereby a student
955 enrolled in an institution may submit a complaint to the board alleging a policy of the
956 institution directly affects one or more of the student's civil liberties.

957 (2) (a) When a student submits a complaint in accordance with the rules adopted under

958 Subsection (1), the board shall:

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

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

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

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

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

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

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

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

977 Section 15. Section **54-17-701** is amended to read:

978 **54-17-701. Rules for carbon capture and geological storage.**

979 (1) By January 1, 2011, the Division of Water Quality and the Division of Air Quality,
980 on behalf of the Board of Water Quality and the Board of Air Quality, respectively, in
981 collaboration with the commission and the Division of Oil, Gas, and Mining and the Utah
982 Geological Survey, shall present recommended rules to the Legislature's [~~Administrative~~]
983 Rules Review and General Oversight Committee for the following in connection with carbon
984 capture and accompanying geological sequestration of captured carbon:

985 (a) site characterization approval;

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

987 (c) risk assessment;

988 (d) mitigation and remediation protocols;

- 989 (e) issuance of permits for test, injection, and monitoring wells;
- 990 (f) specifications for the drilling, construction, and maintenance of wells;
- 991 (g) issues concerning ownership of subsurface rights and pore space;
- 992 (h) allowed composition of injected matter;
- 993 (i) testing, monitoring, measurement, and verification for the entirety of the carbon
- 994 capture and geologic sequestration chain of operations, from the point of capture of the carbon
- 995 dioxide to the sequestration site;
- 996 (j) closure and decommissioning procedure;
- 997 (k) short- and long-term liability and indemnification for sequestration sites;
- 998 (l) conversion of enhanced oil recovery operations to carbon dioxide geological
- 999 sequestration sites; and
- 1000 (m) other issues as identified.
- 1001 (2) The entities listed in Subsection (1) shall report to the Legislature's
- 1002 ~~Administrative~~ Rules Review and General Oversight Committee any proposals for additional
- 1003 statutory changes needed to implement rules contemplated under Subsection (1).
- 1004 (3) On or before July 1, 2009, the entities listed in Subsection (1) shall submit to the
- 1005 Legislature's Public Utilities, Energy, and Technology and Natural Resources, Agriculture, and
- 1006 Environment Interim Committees a progress report on the development of the recommended
- 1007 rules required by this part.
- 1008 (4) The recommended rules developed under this section apply to the injection of
- 1009 carbon dioxide and other associated injectants in allowable types of geological formations for
- 1010 the purpose of reducing emissions to the atmosphere through long-term geological
- 1011 sequestration as required by law or undertaken voluntarily or for subsequent beneficial reuse.
- 1012 (5) The recommended rules developed under this section do not apply to the injection
- 1013 of fluids through the use of Class II injection wells as defined in 40 C.F.R. 144.6(b) for the
- 1014 purpose of enhanced hydrocarbon recovery.
- 1015 (6) Rules recommended under this section shall:
- 1016 (a) ensure that adequate health and safety standards are met;
- 1017 (b) minimize the risk of unacceptable leakage from the injection well and injection
- 1018 zone for carbon capture and geologic sequestration; and
- 1019 (c) provide adequate regulatory oversight and public information concerning carbon

1020 capture and geologic sequestration.

1021 Section 16. Section **63A-5b-607** is amended to read:

1022 **63A-5b-607. Health insurance requirements -- Penalties.**

1023 (1) As used in this section:

1024 (a) "Aggregate amount" means the dollar sum of all contracts, change orders, and
1025 modifications for a single project.

1026 (b) "Change order" means the same as that term is defined in Section [63G-6a-103](#).

1027 (c) "Eligible employee" means an employee, as defined in Section [34A-2-104](#), who:

1028 (i) works at least 30 hours per calendar week; and

1029 (ii) meets the employer eligibility waiting period for qualified health insurance
1030 coverage provided by the employer.

1031 (d) "Health benefit plan" means:

1032 (i) the same as that term is defined in Section [31A-1-301](#); or

1033 (ii) an employee welfare benefit plan:

1034 (A) established under the Employee Retirement Income Security Act of 1974, 29
1035 U.S.C. Sec. 1001 et seq.;

1036 (B) for an employer with 100 or more employees; and

1037 (C) in which the employer establishes a self-funded or partially self-funded group
1038 health plan to provide medical care for the employer's employees and dependents of the
1039 employees.

1040 (e) "Qualified health insurance coverage" means the same as that term is defined in
1041 Section [26B-3-909](#).

1042 (f) "Subcontractor" means the same as that term is defined in Section [63A-5b-605](#).

1043 (g) "Third party administrator" or "administrator" means the same as that term is
1044 defined in Section [31A-1-301](#).

1045 (2) Except as provided in Subsection (3), the requirements of this section apply to:

1046 (a) a contractor of a design or construction contract with the division if the prime
1047 contract is in an aggregate amount of \$2,000,000 or more; and

1048 (b) a subcontractor of a contractor of a design or construction contract with the division
1049 if the subcontract is in an aggregate amount of \$1,000,000 or more.

1050 (3) The requirements of this section do not apply to a contractor or subcontractor if:

- 1051 (a) the application of this section jeopardizes the division's receipt of federal funds;
- 1052 (b) the contract is a sole source contract, as defined in Section 63G-6a-103; or
- 1053 (c) the contract is the result of an emergency procurement.
- 1054 (4) A person who intentionally uses a change order, contract modification, or multiple
- 1055 contracts to circumvent the requirements of this section is guilty of an infraction.
- 1056 (5) (a) A contractor that is subject to the requirements of this section shall:
- 1057 (i) make and maintain an offer of qualified health coverage for the contractor's eligible
- 1058 employees and the eligible employees' dependents; and
- 1059 (ii) submit to the director a written statement demonstrating that the contractor is in
- 1060 compliance with Subsection (5)(a)(i).
- 1061 (b) A statement under Subsection (5)(a)(ii):
- 1062 (i) shall be from:
- 1063 (A) an actuary selected by the contractor or the contractor's insurer;
- 1064 (B) an underwriter who is responsible for developing the employer group's premium
- 1065 rates; or
- 1066 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),
- 1067 an actuary or underwriter selected by a third party administrator; and
- 1068 (ii) may not be created more than one year before the day on which the contractor
- 1069 submits the statement to the director.
- 1070 (c) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)
- 1071 shall provide the actuary or underwriter selected by an administrator, as described in
- 1072 Subsection (5)(b)(i)(C), sufficient information to determine whether the contractor's
- 1073 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the
- 1074 requirements of qualified health coverage.
- 1075 (ii) A contractor may not make a change to the contractor's contribution to the health
- 1076 benefit plan, unless the contractor provides notice to:
- 1077 (A) the actuary or underwriter selected by an administrator, as described in Subsection
- 1078 (5)(b)(i)(C), for the actuary or underwriter to update the written statement described in
- 1079 Subsection (5)(a) in compliance with this section; and
- 1080 (B) the division.
- 1081 (6) (a) A contractor that is subject to the requirements of this section shall:

1082 (i) ensure that each contract the contractor enters with a subcontractor that is subject to
1083 the requirements of this section requires the subcontractor to obtain and maintain an offer of
1084 qualified health coverage for the subcontractor's eligible employees and the eligible employees'
1085 dependents during the duration of the subcontract; and

1086 (ii) obtain from a subcontractor referred to in Subsection (6)(a)(i) a written statement
1087 demonstrating that the subcontractor offers qualified health coverage to eligible employees and
1088 eligible employees' dependents.

1089 (b) A statement under Subsection (6)(a)(ii):

1090 (i) shall be from:

1091 (A) an actuary selected by the subcontractor or the subcontractor's insurer;

1092 (B) an underwriter who is responsible for developing the employer group's premium
1093 rates; or

1094 (C) if the subcontractor provides a health benefit plan described in Subsection
1095 (1)(d)(ii), an actuary or underwriter selected by an administrator; and

1096 (ii) may not be created more than one year before the day on which the contractor
1097 obtains the statement from the subcontractor.

1098 (7) (a) (i) A contractor that fails to maintain an offer of qualified health coverage
1099 during the duration of the contract as required in this section is subject to penalties in
1100 accordance with administrative rules made by the division under this section, in accordance
1101 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1102 (ii) A contractor is not subject to penalties for the failure of a subcontractor to obtain
1103 and maintain an offer of qualified health coverage as required in this section.

1104 (b) (i) A subcontractor that fails to obtain and maintain an offer of qualified health
1105 coverage during the duration of the subcontract as required in this section is subject to penalties
1106 in accordance with administrative rules made by the division under this section, in accordance
1107 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1108 (ii) A subcontractor is not subject to penalties for the failure of a contractor to maintain
1109 an offer of qualified health coverage as required in this section.

1110 (8) The division shall make rules:

1111 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1112 (b) in coordination with:

- 1113 (i) the Department of Environmental Quality in accordance with Section 19-1-206;
1114 (ii) the Department of Natural Resources in accordance with Section 79-2-404;
1115 (iii) a public transit district in accordance with Section 17B-2a-818.5;
1116 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;
1117 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
1118 (vi) the Legislature's [~~Administrative~~] Rules Review and General Oversight Committee
1119 created under Section 36-35-102; and
- 1120 (c) that establish:
- 1121 (i) the requirements and procedures for a contractor and a subcontractor to demonstrate
1122 compliance with this section, including:
- 1123 (A) a provision that a contractor or subcontractor's compliance with this section is
1124 subject to an audit by the division or the Office of the Legislative Auditor General;
- 1125 (B) a provision that a contractor that is subject to the requirements of this section
1126 obtain a written statement as provided in Subsection (5); and
- 1127 (C) a provision that a subcontractor that is subject to the requirements of this section
1128 obtain a written statement as provided in Subsection (6);
- 1129 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
1130 violates the provisions of this section, which may include:
- 1131 (A) a three-month suspension of the contractor or subcontractor from entering into a
1132 future contract with the state upon the first violation;
- 1133 (B) a six-month suspension of the contractor or subcontractor from entering into a
1134 future contract with the state upon the second violation;
- 1135 (C) an action for debarment of the contractor or subcontractor in accordance with
1136 Section 63G-6a-904 upon the third or subsequent violation; and
- 1137 (D) monetary penalties which may not exceed 50% of the amount necessary to
1138 purchase qualified health coverage for eligible employees and dependents of eligible
1139 employees of the contractor or subcontractor who were not offered qualified health coverage
1140 during the duration of the contract; and
- 1141 (iii) a website for the department to post the commercially equivalent benchmark for
1142 the qualified health coverage that is provided by the Department of Health and Human Services
1143 in accordance with Subsection 26B-3-909(2).

1144 (9) During the duration of a contract, the division may perform an audit to verify a
1145 contractor or subcontractor's compliance with this section.

1146 (10) (a) Upon the division's request, a contractor or subcontractor shall provide the
1147 division:

1148 (i) a signed actuarial certification that the coverage the contractor or subcontractor
1149 offers is qualified health coverage; or

1150 (ii) all relevant documents and information necessary for the division to determine
1151 compliance with this section.

1152 (b) If a contractor or subcontractor provides the documents and information described
1153 in Subsection (10)(a)(i), the Insurance Department shall assist the division in determining if the
1154 coverage the contractor or subcontractor offers is qualified health coverage.

1155 (11) (a) (i) In addition to the penalties imposed under Subsection (7), a contractor or
1156 subcontractor that intentionally violates the provisions of this section is liable to an eligible
1157 employee for health care costs that would have been covered by qualified health coverage.

1158 (ii) An employer has an affirmative defense to a cause of action under Subsection
1159 (11)(a)(i) if:

1160 (A) the employer relied in good faith on a written statement described in Subsection (5)
1161 or (6); or

1162 (B) the department determines that compliance with this section is not required under
1163 the provisions of Subsection (3).

1164 (b) An eligible employee has a private right of action against the employee's employer
1165 only as provided in this Subsection (11).

1166 (12) The director shall cause money collected from the imposition and collection of a
1167 penalty under this section to be deposited into the Medicaid Restricted Account created by
1168 Section [26B-1-309](#).

1169 (13) The failure of a contractor or subcontractor to provide qualified health coverage as
1170 required by this section:

1171 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
1172 or contractor under:

1173 (i) Section [63G-6a-1602](#); or

1174 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

1175 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
1176 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
1177 or construction.

1178 (14) An employer's waiting period for an employee to become eligible for qualified
1179 health coverage may not extend beyond the first day of the calendar month following 60 days
1180 after the day on which the employee is hired.

1181 (15) An administrator, including an administrator's actuary or underwriter, who
1182 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health
1183 coverage of a contractor or subcontractor who provides a health benefit plan described in
1184 Subsection (1)(d)(ii):

1185 (a) subject to Subsection (11)(b), is not liable for an error in the written statement,
1186 unless the administrator commits gross negligence in preparing the written statement;

1187 (b) is not liable for any error in the written statement if the administrator relied in good
1188 faith on information from the contractor or subcontractor; and

1189 (c) may require as a condition of providing the written statement that a contractor or
1190 subcontractor hold the administrator harmless for an action arising under this section.

1191 Section 17. Section **63A-13-202** is amended to read:

1192 **63A-13-202. Duties and powers of inspector general and office.**

1193 (1) The inspector general of Medicaid services shall:

1194 (a) administer, direct, and manage the office;

1195 (b) inspect and monitor the following in relation to the state Medicaid program:

1196 (i) the use and expenditure of federal and state funds;

1197 (ii) the provision of health benefits and other services;

1198 (iii) implementation of, and compliance with, state and federal requirements; and

1199 (iv) records and recordkeeping procedures;

1200 (c) receive reports of potential fraud, waste, or abuse in the state Medicaid program;

1201 (d) investigate and identify potential or actual fraud, waste, or abuse in the state
1202 Medicaid program;

1203 (e) consult with the Centers for Medicaid and Medicare Services and other states to
1204 determine and implement best practices for:

1205 (i) educating and communicating with health care professionals and providers about

1206 program and audit policies and procedures;

1207 (ii) discovering and eliminating fraud, waste, and abuse of Medicaid funds; and

1208 (iii) differentiating between honest mistakes and intentional errors, or fraud, waste, and

1209 abuse, if the office enters into settlement negotiations with the provider or health care

1210 professional;

1211 (f) obtain, develop, and utilize computer algorithms to identify fraud, waste, or abuse

1212 in the state Medicaid program;

1213 (g) work closely with the fraud unit to identify and recover improperly or fraudulently

1214 expended Medicaid funds;

1215 (h) audit, inspect, and evaluate the functioning of the division for the purpose of

1216 making recommendations to the Legislature and the department to ensure that the state

1217 Medicaid program is managed:

1218 (i) in the most efficient and cost-effective manner possible; and

1219 (ii) in a manner that promotes adequate provider and health care professional

1220 participation and the provision of appropriate health benefits and services;

1221 (i) regularly advise the department and the division of an action that could be taken to

1222 ensure that the state Medicaid program is managed in the most efficient and cost-effective

1223 manner possible;

1224 (j) refer potential criminal conduct, relating to Medicaid funds or the state Medicaid

1225 program, to the fraud unit;

1226 (k) refer potential criminal conduct, including relevant data from the controlled

1227 substance database, relating to Medicaid fraud, to law enforcement in accordance with Title 58,

1228 Chapter 37f, Controlled Substance Database Act;

1229 (l) determine ways to:

1230 (i) identify, prevent, and reduce fraud, waste, and abuse in the state Medicaid program;

1231 and

1232 (ii) balance efforts to reduce costs and avoid or minimize increased costs of the state

1233 Medicaid program with the need to encourage robust health care professional and provider

1234 participation in the state Medicaid program;

1235 (m) recover improperly paid Medicaid funds;

1236 (n) track recovery of Medicaid funds by the state;

- 1237 (o) in accordance with Section [63A-13-502](#):
- 1238 (i) report on the actions and findings of the inspector general; and
- 1239 (ii) make recommendations to the Legislature and the governor;
- 1240 (p) provide training to:
- 1241 (i) agencies and employees on identifying potential fraud, waste, or abuse of Medicaid
- 1242 funds; and
- 1243 (ii) health care professionals and providers on program and audit policies and
- 1244 compliance; and
- 1245 (q) develop and implement principles and standards for the fulfillment of the duties of
- 1246 the inspector general, based on principles and standards used by:
- 1247 (i) the Federal Offices of Inspector General;
- 1248 (ii) the Association of Inspectors General; and
- 1249 (iii) the United States Government Accountability Office.
- 1250 (2) (a) The office may, in fulfilling the duties under Subsection (1), conduct a
- 1251 performance or financial audit of:
- 1252 (i) a state executive branch entity or a local government entity, including an entity
- 1253 described in Section [63A-13-301](#), that:
- 1254 (A) manages or oversees a state Medicaid program; or
- 1255 (B) manages or oversees the use or expenditure of state or federal Medicaid funds; or
- 1256 (ii) Medicaid funds received by a person by a grant from, or under contract with, a state
- 1257 executive branch entity or a local government entity.
- 1258 (b) (i) The office may not, in fulfilling the duties under Subsection (1), amend the state
- 1259 Medicaid program or change the policies and procedures of the state Medicaid program.
- 1260 (ii) The office shall identify conflicts between the state Medicaid plan, department
- 1261 administrative rules, Medicaid provider manuals, and Medicaid information bulletins and
- 1262 recommend that the department reconcile inconsistencies. If the department does not reconcile
- 1263 the inconsistencies, the office shall report the inconsistencies to the Legislature's
- 1264 ~~Administrative~~ Rules Review and General Oversight Committee created in Section
- 1265 ~~[63G-3-501]~~ [36-35-102](#).
- 1266 (iii) Beginning July 1, 2013, the office shall review a Medicaid provider manual and a
- 1267 Medicaid information bulletin in accordance with Subsection (2)(b)(ii), prior to the department

1268 making the provider manual or Medicaid information bulletin available to the public.

1269 (c) Beginning July 1, 2013, the Department of Health and Human Services shall submit
1270 a Medicaid provider manual and a Medicaid information bulletin to the office for the review
1271 required by Subsection (2)(b)(ii) prior to releasing the document to the public. The department
1272 and the Office of Inspector General of Medicaid Services shall enter into a memorandum of
1273 understanding regarding the timing of the review process under Subsection (2)(b)(iii).

1274 (3) (a) The office shall, in fulfilling the duties under this section to investigate,
1275 discover, and recover fraud, waste, and abuse in the Medicaid program, apply the state
1276 Medicaid plan, department administrative rules, Medicaid provider manuals, and Medicaid
1277 information bulletins in effect at the time the medical services were provided.

1278 (b) A health care provider may rely on the policy interpretation included in a current
1279 Medicaid provider manual or a current Medicaid information bulletin that is available to the
1280 public.

1281 (4) The inspector general of Medicaid services, or a designee of the inspector general
1282 of Medicaid services within the office, may take a sworn statement or administer an oath.

1283 Section 18. Section **63A-13-305** is amended to read:

1284 **63A-13-305. Audit and investigation procedures.**

1285 (1) (a) The office shall, in accordance with Section **63A-13-602**, adopt administrative
1286 rules in consultation with providers and health care professionals subject to audit and
1287 investigation under this chapter to establish procedures for audits and investigations that are
1288 fair and consistent with the duties of the office under this chapter.

1289 (b) If the providers and health care professionals do not agree with the rules proposed
1290 or adopted by the office under Subsection (1)(a) or Section **63A-13-602**, the providers or health
1291 care professionals may:

1292 (i) request a hearing for the proposed administrative rule or seek any other remedies
1293 under the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

1294 (ii) request a review of the rule by the Legislature's [~~Administrative~~] Rules Review and
1295 General Oversight Committee created in Section [~~63G-3-501~~] 36-35-102.

1296 (2) The office shall notify and educate providers and health care professionals subject
1297 to audit and investigation under this chapter of the providers' and health care professionals'
1298 responsibilities and rights under the administrative rules adopted by the office under the

1299 provisions of this section and Section [63A-13-602](#).

1300 Section 19. Section **63C-9-403** is amended to read:

1301 **63C-9-403. Contracting power of executive director -- Health insurance coverage.**

1302 (1) As used in this section:

1303 (a) "Aggregate" means the sum of all contracts, change orders, and modifications
1304 related to a single project.

1305 (b) "Change order" means the same as that term is defined in Section [63G-6a-103](#).

1306 (c) "Employee" means, as defined in Section [34A-2-104](#), an "employee," "worker," or
1307 "operative" who:

1308 (i) works at least 30 hours per calendar week; and

1309 (ii) meets employer eligibility waiting requirements for health care insurance, which
1310 may not exceed the first of the calendar month following 60 days after the day on which the
1311 individual is hired.

1312 (d) "Health benefit plan" means:

1313 (i) the same as that term is defined in Section [31A-1-301](#); or

1314 (ii) an employee welfare benefit plan:

1315 (A) established under the Employee Retirement Income Security Act of 1974, 29
1316 U.S.C. Sec. 1001 et seq.;

1317 (B) for an employer with 100 or more employees; and

1318 (C) in which the employer establishes a self-funded or partially self-funded group
1319 health plan to provide medical care for the employer's employees and dependents of the
1320 employees.

1321 (e) "Qualified health coverage" means the same as that term is defined in Section
1322 [26B-3-909](#).

1323 (f) "Subcontractor" means the same as that term is defined in Section [63A-5b-605](#).

1324 (g) "Third party administrator" or "administrator" means the same as that term is
1325 defined in Section [31A-1-301](#).

1326 (2) Except as provided in Subsection (3), the requirements of this section apply to:

1327 (a) a contractor of a design or construction contract entered into by the board, or on
1328 behalf of the board, on or after July 1, 2009, if the prime contract is in an aggregate amount
1329 equal to or greater than \$2,000,000; and

1330 (b) a subcontractor of a contractor of a design or construction contract entered into by
1331 the board, or on behalf of the board, on or after July 1, 2009, if the subcontract is in an
1332 aggregate amount equal to or greater than \$1,000,000.

1333 (3) The requirements of this section do not apply to a contractor or subcontractor
1334 described in Subsection (2) if:

1335 (a) the application of this section jeopardizes the receipt of federal funds;

1336 (b) the contract is a sole source contract; or

1337 (c) the contract is an emergency procurement.

1338 (4) A person that intentionally uses change orders, contract modifications, or multiple
1339 contracts to circumvent the requirements of this section is guilty of an infraction.

1340 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
1341 executive director that the contractor has and will maintain an offer of qualified health
1342 coverage for the contractor's employees and the employees' dependents during the duration of
1343 the contract by submitting to the executive director a written statement that:

1344 (i) the contractor offers qualified health coverage that complies with Section
1345 [26B-3-909](#);

1346 (ii) is from:

1347 (A) an actuary selected by the contractor or the contractor's insurer;

1348 (B) an underwriter who is responsible for developing the employer group's premium
1349 rates; or

1350 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),
1351 an actuary or underwriter selected by a third party administrator; and

1352 (iii) was created within one year before the day on which the statement is submitted.

1353 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)
1354 shall provide the actuary or underwriter selected by the administrator, as described in
1355 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's
1356 contribution to the health benefit plan and the health benefit plan's actuarial value meets the
1357 requirements of qualified health coverage.

1358 (ii) A contractor may not make a change to the contractor's contribution to the health
1359 benefit plan, unless the contractor provides notice to:

1360 (A) the actuary or underwriter selected by the administrator, as described in Subsection

1361 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in
1362 Subsection (5)(a) in compliance with this section; and
1363 (B) the executive director.
1364 (c) A contractor that is subject to the requirements of this section shall:
1365 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that
1366 is subject to the requirements of this section shall obtain and maintain an offer of qualified
1367 health coverage for the subcontractor's employees and the employees' dependents during the
1368 duration of the subcontract; and
1369 (ii) obtain from a subcontractor that is subject to the requirements of this section a
1370 written statement that:
1371 (A) the subcontractor offers qualified health coverage that complies with Section
1372 [26B-3-909](#);
1373 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an
1374 underwriter who is responsible for developing the employer group's premium rates, or if the
1375 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or
1376 underwriter selected by an administrator; and
1377 (C) was created within one year before the day on which the contractor obtains the
1378 statement.
1379 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage as
1380 described in Subsection (5)(a) during the duration of the contract is subject to penalties in
1381 accordance with administrative rules adopted by the division under Subsection (6).
1382 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain
1383 and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).
1384 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health
1385 coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to
1386 penalties in accordance with administrative rules adopted by the department under Subsection
1387 (6).
1388 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain
1389 an offer of qualified health coverage described in Subsection (5)(a).
1390 (6) The department shall adopt administrative rules:
1391 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

- 1392 (b) in coordination with:
- 1393 (i) the Department of Environmental Quality in accordance with Section 19-1-206;
- 1394 (ii) the Department of Natural Resources in accordance with Section 79-2-404;
- 1395 (iii) the Division of Facilities Construction and Management in accordance with
- 1396 Section 63A-5b-607;
- 1397 (iv) a public transit district in accordance with Section 17B-2a-818.5;
- 1398 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
- 1399 (vi) the Legislature's [~~Administrative~~] Rules Review and General Oversight Committee
- 1400 created in Section 36-35-102; and
- 1401 (c) that establish:
- 1402 (i) the requirements and procedures a contractor and a subcontractor shall follow to
- 1403 demonstrate compliance with this section, including:
- 1404 (A) that a contractor or subcontractor's compliance with this section is subject to an
- 1405 audit by the department or the Office of the Legislative Auditor General;
- 1406 (B) that a contractor that is subject to the requirements of this section shall obtain a
- 1407 written statement described in Subsection (5)(a); and
- 1408 (C) that a subcontractor that is subject to the requirements of this section shall obtain a
- 1409 written statement described in Subsection (5)(c)(ii);
- 1410 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
- 1411 violates the provisions of this section, which may include:
- 1412 (A) a three-month suspension of the contractor or subcontractor from entering into
- 1413 future contracts with the state upon the first violation;
- 1414 (B) a six-month suspension of the contractor or subcontractor from entering into future
- 1415 contracts with the state upon the second violation;
- 1416 (C) an action for debarment of the contractor or subcontractor in accordance with
- 1417 Section 63G-6a-904 upon the third or subsequent violation; and
- 1418 (D) monetary penalties which may not exceed 50% of the amount necessary to
- 1419 purchase qualified health coverage for employees and dependents of employees of the
- 1420 contractor or subcontractor who were not offered qualified health coverage during the duration
- 1421 of the contract; and
- 1422 (iii) a website on which the department shall post the commercially equivalent

1423 benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by
1424 the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

1425 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor
1426 or subcontractor who intentionally violates the provisions of this section is liable to the
1427 employee for health care costs that would have been covered by qualified health coverage.

1428 (ii) An employer has an affirmative defense to a cause of action under Subsection
1429 (7)(a)(i) if:

1430 (A) the employer relied in good faith on a written statement described in Subsection
1431 (5)(a) or (5)(c)(ii); or

1432 (B) the department determines that compliance with this section is not required under
1433 the provisions of Subsection (3).

1434 (b) An employee has a private right of action only against the employee's employer to
1435 enforce the provisions of this Subsection (7).

1436 (8) Any penalties imposed and collected under this section shall be deposited into the
1437 Medicaid Restricted Account created in Section 26B-1-309.

1438 (9) The failure of a contractor or subcontractor to provide qualified health coverage as
1439 required by this section:

1440 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
1441 or contractor under:

1442 (i) Section 63G-6a-1602; or

1443 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

1444 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
1445 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
1446 or construction.

1447 (10) An administrator, including the administrator's actuary or underwriter, who
1448 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health
1449 coverage of a contractor or subcontractor who provides a health benefit plan described in
1450 Subsection (1)(d)(ii):

1451 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,
1452 unless the administrator commits gross negligence in preparing the written statement;

1453 (b) is not liable for any error in the written statement if the administrator relied in good

1454 faith on information from the contractor or subcontractor; and

1455 (c) may require as a condition of providing the written statement that a contractor or
1456 subcontractor hold the administrator harmless for an action arising under this section.

1457 Section 20. Section **63G-3-301** is amended to read:

1458 **63G-3-301. Rulemaking procedure.**

1459 (1) An agency authorized to make rules is also authorized to amend or repeal those
1460 rules.

1461 (2) Except as provided in Sections **63G-3-303** and **63G-3-304**, when making,
1462 amending, or repealing a rule agencies shall comply with:

1463 (a) the requirements of this section;

1464 (b) consistent procedures required by other statutes;

1465 (c) applicable federal mandates; and

1466 (d) rules made by the office to implement this chapter.

1467 (3) Subject to the requirements of this chapter, each agency shall develop and use
1468 flexible approaches in drafting rules that meet the needs of the agency and that involve persons
1469 affected by the agency's rules.

1470 (4) (a) Each agency shall file the agency's proposed rule and rule analysis with the
1471 office.

1472 (b) Rule amendments shall be marked with new language underlined and deleted
1473 language struck out.

1474 (c) (i) The office shall publish the information required under Subsection (8) on the
1475 rule analysis and the text of the proposed rule in the next issue of the bulletin.

1476 (ii) For rule amendments, only the section or subsection of the rule being amended
1477 need be printed.

1478 (iii) If the director determines that the rule is too long to publish, the office shall
1479 publish the rule analysis and shall publish the rule by reference to a copy on file with the office.

1480 (5) Before filing a rule with the office, the agency shall conduct a thorough analysis,
1481 consistent with the criteria established by the Governor's Office of Planning and Budget, of the
1482 fiscal impact a rule may have on businesses, which criteria may include:

1483 (a) the type of industries that will be impacted by the rule, and for each identified
1484 industry, an estimate of the total number of businesses within the industry, and an estimate of

- 1485 the number of those businesses that are small businesses;
- 1486 (b) the individual fiscal impact that would incur to a typical business for a one-year
1487 period;
- 1488 (c) the aggregated total fiscal impact that would incur to all businesses within the state
1489 for a one-year period;
- 1490 (d) the total cost that would incur to all impacted entities over a five-year period; and
- 1491 (e) the department head's comments on the analysis.
- 1492 (6) If the agency reasonably expects that a proposed rule will have a measurable
1493 negative fiscal impact on small businesses, the agency shall consider, as allowed by federal
1494 law, each of the following methods of reducing the impact of the rule on small businesses:
- 1495 (a) establishing less stringent compliance or reporting requirements for small
1496 businesses;
- 1497 (b) establishing less stringent schedules or deadlines for compliance or reporting
1498 requirements for small businesses;
- 1499 (c) consolidating or simplifying compliance or reporting requirements for small
1500 businesses;
- 1501 (d) establishing performance standards for small businesses to replace design or
1502 operational standards required in the proposed rule; and
- 1503 (e) exempting small businesses from all or any part of the requirements contained in
1504 the proposed rule.
- 1505 (7) If during the public comment period an agency receives comment that the proposed
1506 rule will cost small business more than one day's annual average gross receipts, and the agency
1507 had not previously performed the analysis in Subsection (6), the agency shall perform the
1508 analysis described in Subsection (6).
- 1509 (8) The rule analysis shall contain:
- 1510 (a) a summary of the rule or change;
- 1511 (b) the purpose of the rule or reason for the change;
- 1512 (c) the statutory authority or federal requirement for the rule;
- 1513 (d) the anticipated cost or savings to:
- 1514 (i) the state budget;
- 1515 (ii) local governments;

- 1516 (iii) small businesses; and
- 1517 (iv) persons other than small businesses, businesses, or local governmental entities;
- 1518 (e) the compliance cost for affected persons;
- 1519 (f) how interested persons may review the full text of the rule;
- 1520 (g) how interested persons may present their views on the rule;
- 1521 (h) the time and place of any scheduled public hearing;
- 1522 (i) the name and telephone number of an agency employee who may be contacted
- 1523 about the rule;
- 1524 (j) the name of the agency head or designee who authorized the rule;
- 1525 (k) the date on which the rule may become effective following the public comment
- 1526 period;
- 1527 (l) the agency's analysis on the fiscal impact of the rule as required under Subsection
- 1528 (5);
- 1529 (m) any additional comments the department head may choose to submit regarding the
- 1530 fiscal impact the rule may have on businesses; and
- 1531 (n) if applicable, a summary of the agency's efforts to comply with the requirements of
- 1532 Subsection (6).
- 1533 (9) (a) For a rule being repealed and reenacted, the rule analysis shall contain a
- 1534 summary that generally includes the following:
- 1535 (i) a summary of substantive provisions in the repealed rule which are eliminated from
- 1536 the enacted rule; and
- 1537 (ii) a summary of new substantive provisions appearing only in the enacted rule.
- 1538 (b) The summary required under this Subsection (9) is to aid in review and may not be
- 1539 used to contest any rule on the ground of noncompliance with the procedural requirements of
- 1540 this chapter.
- 1541 (10) A copy of the rule analysis shall be mailed to all persons who have made timely
- 1542 request of the agency for advance notice of the agency's rulemaking proceedings and to any
- 1543 other person who, by statutory or federal mandate or in the judgment of the agency, should also
- 1544 receive notice.
- 1545 (11) (a) Following the publication date, the agency shall allow at least 30 days for
- 1546 public comment on the rule.

1547 (b) The agency shall review and evaluate all public comments submitted in writing
1548 within the time period under Subsection (11)(a) or presented at public hearings conducted by
1549 the agency within the time period under Subsection (11)(a).

1550 (12) (a) Except as provided in Sections 63G-3-303 and 63G-3-304, a proposed rule
1551 becomes effective on any date specified by the agency that is:

1552 (i) no fewer than seven calendar days after the day on which the public comment
1553 period closes under Subsection (11); and

1554 (ii) no more than 120 days after the day on which the rule is published.

1555 (b) The agency shall provide notice of the rule's effective date to the office in the form
1556 required by the office.

1557 (c) The notice of effective date may not provide for an effective date before the day on
1558 which the office receives the notice.

1559 (d) The office shall publish notice of the effective date of the rule in the next issue of
1560 the bulletin.

1561 (e) A proposed rule lapses if a notice of effective date or a change to a proposed rule is
1562 not filed with the office within 120 days after the day on which the rule is published.

1563 (13) (a) Except as provided in Subsection (13)(d), before an agency enacts a rule, the
1564 agency shall submit to the appropriations subcommittee and interim committee with
1565 jurisdiction over the agency the agency's proposed rule for review, if the proposed rule, over a
1566 three-year period, has a fiscal impact of more than:

1567 (i) \$250,000 to a single person; or

1568 (ii) \$7,500,000 to a group of persons.

1569 (b) An appropriations subcommittee or interim committee that reviews a rule
1570 submitted under Subsection (13)(a) shall:

1571 (i) before the review, directly inform the chairs of the [Administrative] Rules Review
1572 and General Oversight Committee of the coming review, including the date, time, and place of
1573 the review; and

1574 (ii) after the review, directly inform the chairs of the [Administrative] Rules Review
1575 and General Oversight Committee of the outcome of the review, including any
1576 recommendation.

1577 (c) An appropriations subcommittee or interim committee that reviews a rule submitted

1578 under Subsection (13)(a) may recommend to the [Administrative] Rules Review and General
1579 Oversight Committee that the [Administrative] Rules Review and General Oversight
1580 Committee not recommend reauthorization of the rule in the [omnibus] legislation described in
1581 Section 63G-3-502.

1582 (d) The requirement described in Subsection (13)(a) does not apply to:

1583 (i) the State Tax Commission; or

1584 (ii) the State Board of Education.

1585 (14) (a) As used in this Subsection (14), "initiate rulemaking proceedings" means the
1586 filing, for the purposes of publication in accordance with Subsection (4), of an agency's
1587 proposed rule that is required by state statute.

1588 (b) A state agency shall initiate rulemaking proceedings no later than 180 days after the
1589 day on which the statutory provision that specifically requires the rulemaking takes effect,
1590 except under Subsection (14)(c).

1591 (c) When a statute is enacted that requires agency rulemaking and the affected agency
1592 already has rules in place that meet the statutory requirement, the agency shall submit the rules
1593 to the [Administrative] Rules Review and General Oversight Committee for review within 60
1594 days after the day on which the statute requiring the rulemaking takes effect.

1595 (d) If a state agency does not initiate rulemaking proceedings in accordance with the
1596 time requirements in Subsection (14)(b), the state agency shall appear before the legislative
1597 [Administrative] Rules Review and General Oversight Committee and provide the reasons for
1598 the delay.

1599 Section 21. Section 63G-3-304 is amended to read:

1600 **63G-3-304. Emergency rulemaking procedure.**

1601 (1) All agencies shall comply with the rulemaking procedures of Section 63G-3-301
1602 unless an agency finds that these procedures would:

1603 (a) cause an imminent peril to the public health, safety, or welfare;

1604 (b) cause an imminent budget reduction because of budget restraints or federal
1605 requirements; or

1606 (c) place the agency in violation of federal or state law.

1607 (2) (a) When finding that its rule is excepted from regular rulemaking procedures by
1608 this section, the agency shall file with the office and the members of the [Administrative] Rules

1609 Review and General Oversight Committee:

1610 (i) the text of the rule; and

1611 (ii) a rule analysis that includes the specific reasons and justifications for its findings.

1612 (b) The office shall publish the rule in the bulletin as provided in Subsection

1613 [63G-3-301](#)(4).

1614 (c) The agency shall notify interested persons as provided in Subsection

1615 [63G-3-301](#)(10).

1616 (d) Subject to Subsection [63G-3-502](#)(4), the rule becomes effective for a period not

1617 exceeding 120 days on the date of filing or any later date designated in the rule.

1618 (3) If the agency intends the rule to be effective beyond 120 days, the agency shall also

1619 comply with the procedures of Section [63G-3-301](#).

1620 Section 22. Section [63G-3-402](#) is amended to read:

1621 **[63G-3-402](#). Office of Administrative Rules -- Duties generally.**

1622 (1) The office shall:

1623 (a) record in a register the receipt of all agency rules, rule analysis forms, and notices

1624 of effective dates;

1625 (b) make the register, copies of all proposed rules, and rulemaking documents available

1626 for public inspection;

1627 (c) publish all proposed rules, rule analyses, notices of effective dates, and review

1628 notices in the bulletin at least monthly, except that the office may publish the complete text of

1629 any proposed rule that the director determines is too long to print or too expensive to publish

1630 by reference to the text maintained by the office;

1631 (d) compile, format, number, and index all effective rules in an administrative code,

1632 and periodically publish that code and supplements or revisions to it;

1633 (e) publish a digest of all rules and notices contained in the most recent bulletin;

1634 (f) publish at least annually an index of all changes to the administrative code and the

1635 effective date of each change;

1636 (g) print, or contract to print, all rulemaking publications the director determines

1637 necessary to implement this chapter;

1638 (h) distribute without charge the bulletin and administrative code to state-designated

1639 repositories, the ~~[Administrative]~~ Rules Review and General Oversight Committee, the Office

1640 of Legislative Research and General Counsel, and the two houses of the Legislature;

1641 (i) distribute without charge the digest and index to state legislators, agencies, political

1642 subdivisions on request, and the Office of Legislative Research and General Counsel;

1643 (j) distribute, at prices covering publication costs, all paper rulemaking publications to

1644 all other requesting persons and agencies;

1645 (k) provide agencies assistance in rulemaking;

1646 (l) if the department operates the office as an internal service fund agency in

1647 accordance with Section [63A-1-109.5](#), submit to the Rate Committee established in Section

1648 [63A-1-114](#):

1649 (i) the proposed rate and fee schedule as required by Section [63A-1-114](#); and

1650 (ii) other information or analysis requested by the Rate Committee;

1651 (m) administer this chapter and require state agencies to comply with filing,

1652 publication, and hearing procedures; and

1653 (n) make technological improvements to the rulemaking process, including

1654 improvements to automation and digital accessibility.

1655 (2) The office shall establish by rule in accordance with Title 63G, Chapter 3, Utah

1656 Administrative Rulemaking Act, all filing, publication, and hearing procedures necessary to

1657 make rules under this chapter.

1658 (3) The office may after notifying the agency make nonsubstantive changes to rules

1659 filed with the office or published in the bulletin or code by:

1660 (a) implementing a uniform system of formatting, punctuation, capitalization,

1661 organization, numbering, and wording;

1662 (b) correcting obvious errors and inconsistencies in punctuation, capitalization,

1663 numbering, referencing, and wording;

1664 (c) changing a catchline to more accurately reflect the substance of each section, part,

1665 rule, or title;

1666 (d) updating or correcting annotations associated with a section, part, rule, or title; and

1667 (e) merging or determining priority of any amendment, enactment, or repeal to the

1668 same rule or section made effective by an agency.

1669 (4) In addition, the office may make the following nonsubstantive changes with the

1670 concurrence of the agency:

1671 (a) eliminate duplication within rules;
1672 (b) eliminate obsolete and redundant words; and
1673 (c) correct defective or inconsistent section and paragraph structure in arrangement of
1674 the subject matter of rules.

1675 (5) For nonsubstantive changes made in accordance with Subsection (3) or (4) after
1676 publication of the rule in the bulletin, the office shall publish a list of nonsubstantive changes
1677 in the bulletin. For each nonsubstantive change, the list shall include:

1678 (a) the affected code citation;
1679 (b) a brief description of the change; and
1680 (c) the date the change was made.
1681 (6) All funds appropriated or collected for publishing the office's publications shall be
1682 nonlapsing.

1683 Section 23. Section **63G-3-403** is amended to read:

1684 **63G-3-403. Repeal and reenactment of Utah Administrative Code.**

1685 (1) When the director determines that the Utah Administrative Code requires extensive
1686 revision and reorganization, the office may repeal the code and reenact a new code according to
1687 the requirements of this section.

1688 (2) The office may:
1689 (a) reorganize, reformat, and renumber the code;
1690 (b) require each agency to review its rules and make any organizational or substantive
1691 changes according to the requirements of Section **63G-3-303**; and
1692 (c) require each agency to prepare a brief summary of all substantive changes made by
1693 the agency.

1694 (3) The office may make nonsubstantive changes in the code by:
1695 (a) adopting a uniform system of punctuation, capitalization, numbering, and wording;
1696 (b) eliminating duplication;
1697 (c) correcting defective or inconsistent section and paragraph structure in arrangement
1698 of the subject matter of rules;
1699 (d) eliminating all obsolete or redundant words;
1700 (e) correcting obvious errors and inconsistencies in punctuation, capitalization,
1701 numbering, referencing, and wording;

1702 (f) changing a catchline to more accurately reflect the substance of each section, part,
1703 rule, or title;

1704 (g) updating or correcting annotations associated with a section, part, rule, or title; and

1705 (h) merging or determining priority of any amendment, enactment, or repeal to the
1706 same rule or section made effective by an agency.

1707 (4) (a) To inform the public about the proposed code reenactment, the office shall
1708 publish in the bulletin:

1709 (i) notice of the code reenactment;

1710 (ii) the date, time, and place of a public hearing where members of the public may
1711 comment on the proposed reenactment of the code;

1712 (iii) locations where the proposed reenactment of the code may be reviewed; and

1713 (iv) agency summaries of substantive changes in the reenacted code.

1714 (b) To inform the public about substantive changes in agency rules contained in the
1715 proposed reenactment, each agency shall:

1716 (i) make the text of their reenacted rules available:

1717 (A) for public review during regular business hours; and

1718 (B) in an electronic version; and

1719 (ii) comply with the requirements of Subsection [63G-3-301\(10\)](#).

1720 (5) The office shall hold a public hearing on the proposed code reenactment no fewer
1721 than 30 days nor more than 45 days after the publication required by Subsection (4)(a).

1722 (6) The office shall distribute complete text of the proposed code reenactment without
1723 charge to:

1724 (a) state-designated repositories in Utah;

1725 (b) the ~~[Administrative]~~ Rules Review and General Oversight Committee; and

1726 (c) the Office of Legislative Research and General Counsel.

1727 (7) The former code is repealed and the reenacted code is effective at noon on a date
1728 designated by the office that is not fewer than 45 days nor more than 90 days after the
1729 publication date required by this section.

1730 (8) Repeal and reenactment of the code meets the requirements of Section [63G-3-305](#)
1731 for a review of all agency rules.

1732 Section 24. Section [63G-3-502](#) is amended to read:

1733 **63G-3-502. Legislative reauthorization of agency rules -- Extension of rules by**
1734 **governor.**

1735 (1) All grants of rulemaking power from the Legislature to a state agency in any statute
1736 are made subject to the provisions of this section.

1737 (2) (a) Except as provided in Subsection (2)(b), every agency rule that is in effect on
1738 February 28 of any calendar year expires on May 1 of that year unless it has been reauthorized
1739 by the Legislature.

1740 (b) Notwithstanding the provisions of Subsection (2)(a), an agency's rules do not expire
1741 if:

1742 (i) the rule is explicitly mandated by a federal law or regulation; or

1743 (ii) a provision of Utah's constitution vests the agency with specific constitutional
1744 authority to regulate.

1745 (3) (a) The ~~[Administrative]~~ Rules Review and General Oversight Committee shall
1746 have ~~[omnibus legislation prepared for consideration by the Legislature during its]~~ legislation
1747 prepared for the Legislature to consider the reauthorization of rules during its annual general
1748 session.

1749 (b) The ~~[omnibus]~~ legislation shall be substantially in the following form: "All rules of
1750 Utah state agencies are reauthorized except for the following:".

1751 (c) Before sending the legislation to the governor for the governor's action, the
1752 ~~[Administrative]~~ Rules Review and General Oversight Committee may send a letter to the
1753 governor and to the agency explaining specifically why the committee believes ~~[any]~~ a rule
1754 should not be reauthorized.

1755 (d) For the purpose of this section, the entire rule, a single section, or any complete
1756 paragraph of a rule may be excepted for reauthorization in the ~~[omnibus]~~ legislation considered
1757 by the Legislature.

1758 (4) The ~~[Administrative]~~ Rules Review and General Oversight Committee may have
1759 legislation prepared for consideration by the Legislature in the annual general session or a
1760 special session regarding any rule made according to emergency rulemaking procedures
1761 described in Section [63G-3-304](#).

1762 (5) The Legislature's reauthorization of a rule by legislation does not constitute
1763 legislative approval of the rule, nor is it admissible in any proceeding as evidence of legislative

1764 intent.

1765 (6) (a) If an agency believes that a rule that has not been reauthorized by the
1766 Legislature or that will be allowed to expire should continue in full force and effect and is a
1767 rule within their authorized rulemaking power, the agency may seek the governor's declaration
1768 extending the rule beyond the expiration date.

1769 (b) In seeking the extension, the agency shall submit a petition to the governor that
1770 affirmatively states:

1771 (i) that the rule is necessary; and

1772 (ii) a citation to the source of its authority to make the rule.

1773 (c) (i) If the governor finds that the necessity does exist, and that the agency has the
1774 authority to make the rule, the governor may declare the rule to be extended by publishing that
1775 declaration in the Administrative Rules Bulletin on or before April 15 of that year.

1776 (ii) The declaration shall set forth the rule to be extended, the reasons the extension is
1777 necessary, and a citation to the source of the agency's authority to make the rule.

1778 (d) If the [~~omnibus bill~~] legislation required by Subsection (3) fails to pass both houses
1779 of the Legislature or is found to have a technical legal defect preventing reauthorization of
1780 administrative rules intended to be reauthorized by the Legislature, the governor may declare
1781 all rules to be extended by publishing a single declaration in the Administrative Rules Bulletin
1782 on or before June 15 without meeting requirements of Subsections (6)(b) and (c).

1783 Section 25. Section **63G-3-503** is enacted to read:

1784 **63G-3-503. Agency rules oversight.**

1785 Oversight of the rulemaking process is conducted by the Rules Review and General
1786 Oversight Committee created in Section [36-35-502](#).

1787 Section 26. Section **72-6-107.5** is amended to read:

1788 **72-6-107.5. Construction of improvements of highway -- Contracts -- Health**
1789 **insurance coverage.**

1790 (1) As used in this section:

1791 (a) "Aggregate" means the sum of all contracts, change orders, and modifications
1792 related to a single project.

1793 (b) "Change order" means the same as that term is defined in Section [63G-6a-103](#).

1794 (c) "Employee" means, as defined in Section [34A-2-104](#), an "employee," "worker," or

- 1795 "operative" who:
- 1796 (i) works at least 30 hours per calendar week; and
- 1797 (ii) meets employer eligibility waiting requirements for health care insurance, which
- 1798 may not exceed the first day of the calendar month following 60 days after the day on which
- 1799 the individual is hired.
- 1800 (d) "Health benefit plan" means:
- 1801 (i) the same as that term is defined in Section [31A-1-301](#); or
- 1802 (ii) an employee welfare benefit plan:
- 1803 (A) established under the Employee Retirement Income Security Act of 1974, 29
- 1804 U.S.C. Sec. 1001 et seq.;
- 1805 (B) for an employer with 100 or more employees; and
- 1806 (C) in which the employer establishes a self-funded or partially self-funded group
- 1807 health plan to provide medical care for the employer's employees and dependents of the
- 1808 employees.
- 1809 (e) "Qualified health coverage" means the same as that term is defined in Section
- 1810 [26B-3-909](#).
- 1811 (f) "Subcontractor" means the same as that term is defined in Section [63A-5b-605](#).
- 1812 (g) "Third party administrator" or "administrator" means the same as that term is
- 1813 defined in Section [31A-1-301](#).
- 1814 (2) Except as provided in Subsection (3), the requirements of this section apply to:
- 1815 (a) a contractor of a design or construction contract entered into by the department on
- 1816 or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than
- 1817 \$2,000,000; and
- 1818 (b) a subcontractor of a contractor of a design or construction contract entered into by
- 1819 the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or
- 1820 greater than \$1,000,000.
- 1821 (3) The requirements of this section do not apply to a contractor or subcontractor
- 1822 described in Subsection (2) if:
- 1823 (a) the application of this section jeopardizes the receipt of federal funds;
- 1824 (b) the contract is a sole source contract; or
- 1825 (c) the contract is an emergency procurement.

1826 (4) A person that intentionally uses change orders, contract modifications, or multiple
1827 contracts to circumvent the requirements of this section is guilty of an infraction.

1828 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
1829 department that the contractor has and will maintain an offer of qualified health coverage for
1830 the contractor's employees and the employees' dependents during the duration of the contract
1831 by submitting to the department a written statement that:

1832 (i) the contractor offers qualified health coverage that complies with Section
1833 [26B-3-909](#);

1834 (ii) is from:

1835 (A) an actuary selected by the contractor or the contractor's insurer;

1836 (B) an underwriter who is responsible for developing the employer group's premium
1837 rates; or

1838 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),
1839 an actuary or underwriter selected by a third party administrator; and

1840 (iii) was created within one year before the day on which the statement is submitted.

1841 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)
1842 shall provide the actuary or underwriter selected by an administrator, as described in
1843 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's
1844 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the
1845 requirements of qualified health coverage.

1846 (ii) A contractor may not make a change to the contractor's contribution to the health
1847 benefit plan, unless the contractor provides notice to:

1848 (A) the actuary or underwriter selected by an administrator, as described in Subsection
1849 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in
1850 Subsection (5)(a) in compliance with this section; and

1851 (B) the department.

1852 (c) A contractor that is subject to the requirements of this section shall:

1853 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that
1854 is subject to the requirements of this section shall obtain and maintain an offer of qualified
1855 health coverage for the subcontractor's employees and the employees' dependents during the
1856 duration of the subcontract; and

1857 (ii) obtain from a subcontractor that is subject to the requirements of this section a
1858 written statement that:

1859 (A) the subcontractor offers qualified health coverage that complies with Section
1860 [26B-3-909](#);

1861 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an
1862 underwriter who is responsible for developing the employer group's premium rates, or if the
1863 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or
1864 underwriter selected by an administrator; and

1865 (C) was created within one year before the day on which the contractor obtains the
1866 statement.

1867 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage
1868 described in Subsection (5)(a) during the duration of the contract is subject to penalties in
1869 accordance with administrative rules adopted by the department under Subsection (6).

1870 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain
1871 and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

1872 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health
1873 coverage described in Subsection (5)(c) during the duration of the subcontract is subject to
1874 penalties in accordance with administrative rules adopted by the department under Subsection
1875 (6).

1876 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain
1877 an offer of qualified health coverage described in Subsection (5)(a).

1878 (6) The department shall adopt administrative rules:

1879 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1880 (b) in coordination with:

1881 (i) the Department of Environmental Quality in accordance with Section [19-1-206](#);

1882 (ii) the Department of Natural Resources in accordance with Section [79-2-404](#);

1883 (iii) the Division of Facilities Construction and Management in accordance with
1884 Section [63A-5b-607](#);

1885 (iv) the State Capitol Preservation Board in accordance with Section [63C-9-403](#);

1886 (v) a public transit district in accordance with Section [17B-2a-818.5](#); and

1887 (vi) the Legislature's ~~Administrative~~ Rules Review and General Oversight Committee

1888 created in Section 36-35-102; and

1889 (c) that establish:

1890 (i) the requirements and procedures a contractor and a subcontractor shall follow to
1891 demonstrate compliance with this section, including:

1892 (A) that a contractor or subcontractor's compliance with this section is subject to an
1893 audit by the department or the Office of the Legislative Auditor General;

1894 (B) that a contractor that is subject to the requirements of this section shall obtain a
1895 written statement described in Subsection (5)(a); and

1896 (C) that a subcontractor that is subject to the requirements of this section shall obtain a
1897 written statement described in Subsection (5)(c)(ii);

1898 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
1899 violates the provisions of this section, which may include:

1900 (A) a three-month suspension of the contractor or subcontractor from entering into
1901 future contracts with the state upon the first violation;

1902 (B) a six-month suspension of the contractor or subcontractor from entering into future
1903 contracts with the state upon the second violation;

1904 (C) an action for debarment of the contractor or subcontractor in accordance with
1905 Section 63G-6a-904 upon the third or subsequent violation; and

1906 (D) monetary penalties which may not exceed 50% of the amount necessary to
1907 purchase qualified health coverage for an employee and a dependent of the employee of the
1908 contractor or subcontractor who was not offered qualified health coverage during the duration
1909 of the contract; and

1910 (iii) a website on which the department shall post the commercially equivalent
1911 benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by
1912 the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

1913 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor
1914 or subcontractor who intentionally violates the provisions of this section is liable to the
1915 employee for health care costs that would have been covered by qualified health coverage.

1916 (ii) An employer has an affirmative defense to a cause of action under Subsection
1917 (7)(a)(i) if:

1918 (A) the employer relied in good faith on a written statement described in Subsection

1919 (5)(a) or (5)(c)(ii); or

1920 (B) the department determines that compliance with this section is not required under
1921 the provisions of Subsection (3).

1922 (b) An employee has a private right of action only against the employee's employer to
1923 enforce the provisions of this Subsection (7).

1924 (8) Any penalties imposed and collected under this section shall be deposited into the
1925 Medicaid Restricted Account created in Section [26B-1-309](#).

1926 (9) The failure of a contractor or subcontractor to provide qualified health coverage as
1927 required by this section:

1928 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
1929 or contractor under:

1930 (i) Section [63G-6a-1602](#); or

1931 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

1932 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
1933 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
1934 or construction.

1935 (10) An administrator, including an administrator's actuary or underwriter, who
1936 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health
1937 coverage of a contractor or subcontractor who provides a health benefit plan described in
1938 Subsection (1)(d)(ii):

1939 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,
1940 unless the administrator commits gross negligence in preparing the written statement;

1941 (b) is not liable for any error in the written statement if the administrator relied in good
1942 faith on information from the contractor or subcontractor; and

1943 (c) may require as a condition of providing the written statement that a contractor or
1944 subcontractor hold the administrator harmless for an action arising under this section.

1945 Section 27. Section [78A-2-203.5](#), which is renumbered from Section 36-32-206 is
1946 renumbered and amended to read:

1947 ~~[36-32-206]~~. [78A-2-203.5](#). **Submission of court rules or proposed court**
1948 **rules.**

1949 When the Supreme Court or Judicial Council submits a court rule or proposal for court

1950 rule for public comment, the Supreme Court or Judicial Council shall submit the court rule or
1951 proposal for court rule to publication houses that publish court rules, proposals to court rules,
1952 case law, or other relevant information for individuals engaged in the legal profession.

1953 Section 28. Section **79-2-404** is amended to read:

1954 **79-2-404. Contracting powers of department -- Health insurance coverage.**

1955 (1) As used in this section:

1956 (a) "Aggregate" means the sum of all contracts, change orders, and modifications
1957 related to a single project.

1958 (b) "Change order" means the same as that term is defined in Section [63G-6a-103](#).

1959 (c) "Employee" means, as defined in Section [34A-2-104](#), an "employee," "worker," or
1960 "operative" who:

1961 (i) works at least 30 hours per calendar week; and

1962 (ii) meets employer eligibility waiting requirements for health care insurance, which
1963 may not exceed the first day of the calendar month following 60 days after the day on which
1964 the individual is hired.

1965 (d) "Health benefit plan" means:

1966 (i) the same as that term is defined in Section [31A-1-301](#); or

1967 (ii) an employee welfare benefit plan:

1968 (A) established under the Employee Retirement Income Security Act of 1974, 29
1969 U.S.C. Sec. 1001 et seq.;

1970 (B) for an employer with 100 or more employees; and

1971 (C) in which the employer establishes a self-funded or partially self-funded group
1972 health plan to provide medical care for the employer's employees and dependents of the
1973 employees.

1974 (e) "Qualified health coverage" means the same as that term is defined in Section
1975 [26B-3-909](#).

1976 (f) "Subcontractor" means the same as that term is defined in Section [63A-5b-605](#).

1977 (g) "Third party administrator" or "administrator" means the same as that term is
1978 defined in Section [31A-1-301](#).

1979 (2) Except as provided in Subsection (3), the requirements of this section apply to:

1980 (a) a contractor of a design or construction contract entered into by, or delegated to, the

- 1981 department or a division, board, or council of the department on or after July 1, 2009, if the
1982 prime contract is in an aggregate amount equal to or greater than \$2,000,000; and
- 1983 (b) a subcontractor of a contractor of a design or construction contract entered into by,
1984 or delegated to, the department or a division, board, or council of the department on or after
1985 July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.
- 1986 (3) This section does not apply to contracts entered into by the department or a
1987 division, board, or council of the department if:
- 1988 (a) the application of this section jeopardizes the receipt of federal funds;
- 1989 (b) the contract or agreement is between:
- 1990 (i) the department or a division, board, or council of the department; and
- 1991 (ii) (A) another agency of the state;
- 1992 (B) the federal government;
- 1993 (C) another state;
- 1994 (D) an interstate agency;
- 1995 (E) a political subdivision of this state; or
- 1996 (F) a political subdivision of another state; or
- 1997 (c) the contract or agreement is:
- 1998 (i) for the purpose of disbursing grants or loans authorized by statute;
- 1999 (ii) a sole source contract; or
- 2000 (iii) an emergency procurement.
- 2001 (4) A person that intentionally uses change orders, contract modifications, or multiple
2002 contracts to circumvent the requirements of this section is guilty of an infraction.
- 2003 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
2004 department that the contractor has and will maintain an offer of qualified health coverage for
2005 the contractor's employees and the employees' dependents during the duration of the contract
2006 by submitting to the department a written statement that:
- 2007 (i) the contractor offers qualified health coverage that complies with Section
2008 [26B-3-909](#);
- 2009 (ii) is from:
- 2010 (A) an actuary selected by the contractor or the contractor's insurer;
- 2011 (B) an underwriter who is responsible for developing the employer group's premium

2012 rates; or

2013 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),
2014 an actuary or underwriter selected by a third party administrator; and

2015 (iii) was created within one year before the day on which the statement is submitted.

2016 (b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)
2017 shall provide the actuary or underwriter selected by an administrator, as described in
2018 Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's
2019 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the
2020 requirements of qualified health coverage.

2021 (ii) A contractor may not make a change to the contractor's contribution to the health
2022 benefit plan, unless the contractor provides notice to:

2023 (A) the actuary or underwriter selected by an administrator, as described in Subsection
2024 (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in
2025 Subsection (5)(a) in compliance with this section; and

2026 (B) the department.

2027 (c) A contractor that is subject to the requirements of this section shall:

2028 (i) place a requirement in each of the contractor's subcontracts that a subcontractor that
2029 is subject to the requirements of this section shall obtain and maintain an offer of qualified
2030 health coverage for the subcontractor's employees and the employees' dependents during the
2031 duration of the subcontract; and

2032 (ii) obtain from a subcontractor that is subject to the requirements of this section a
2033 written statement that:

2034 (A) the subcontractor offers qualified health coverage that complies with Section
2035 [26B-3-909](#);

2036 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an
2037 underwriter who is responsible for developing the employer group's premium rates, or if the
2038 subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or
2039 underwriter selected by an administrator; and

2040 (C) was created within one year before the day on which the contractor obtains the
2041 statement.

2042 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage

2043 described in Subsection (5)(a) during the duration of the contract is subject to penalties in
2044 accordance with administrative rules adopted by the department under Subsection (6).

2045 (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain
2046 and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

2047 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health
2048 coverage described in Subsection (5)(c) during the duration of the subcontract is subject to
2049 penalties in accordance with administrative rules adopted by the department under Subsection
2050 (6).

2051 (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain
2052 an offer of qualified health coverage described in Subsection (5)(a).

2053 (6) The department shall adopt administrative rules:

2054 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2055 (b) in coordination with:

2056 (i) the Department of Environmental Quality in accordance with Section 19-1-206;

2057 (ii) a public transit district in accordance with Section 17B-2a-818.5;

2058 (iii) the Division of Facilities Construction and Management in accordance with
2059 Section 63A-5b-607;

2060 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

2061 (v) the Department of Transportation in accordance with Section 72-6-107.5; and

2062 (vi) the Legislature's [Administrative] Rules Review and General Oversight Committee
2063 created in Section 36-35-102; and

2064 (c) that establish:

2065 (i) the requirements and procedures a contractor and a subcontractor shall follow to
2066 demonstrate compliance with this section, including:

2067 (A) that a contractor or subcontractor's compliance with this section is subject to an
2068 audit by the department or the Office of the Legislative Auditor General;

2069 (B) that a contractor that is subject to the requirements of this section shall obtain a
2070 written statement described in Subsection (5)(a); and

2071 (C) that a subcontractor that is subject to the requirements of this section shall obtain a
2072 written statement described in Subsection (5)(c)(ii);

2073 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally

2074 violates the provisions of this section, which may include:

2075 (A) a three-month suspension of the contractor or subcontractor from entering into
2076 future contracts with the state upon the first violation;

2077 (B) a six-month suspension of the contractor or subcontractor from entering into future
2078 contracts with the state upon the second violation;

2079 (C) an action for debarment of the contractor or subcontractor in accordance with
2080 Section [63G-6a-904](#) upon the third or subsequent violation; and

2081 (D) monetary penalties which may not exceed 50% of the amount necessary to
2082 purchase qualified health coverage for an employee and a dependent of an employee of the
2083 contractor or subcontractor who was not offered qualified health coverage during the duration
2084 of the contract; and

2085 (iii) a website on which the department shall post the commercially equivalent
2086 benchmark, for the qualified health coverage identified in Subsection (1)(e), provided by the
2087 Department of Health and Human Services, in accordance with Subsection [26B-3-909\(2\)](#).

2088 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor
2089 or subcontractor who intentionally violates the provisions of this section is liable to the
2090 employee for health care costs that would have been covered by qualified health coverage.

2091 (ii) An employer has an affirmative defense to a cause of action under Subsection
2092 (7)(a)(i) if:

2093 (A) the employer relied in good faith on a written statement described in Subsection
2094 (5)(a) or (5)(c)(ii); or

2095 (B) the department determines that compliance with this section is not required under
2096 the provisions of Subsection (3).

2097 (b) An employee has a private right of action only against the employee's employer to
2098 enforce the provisions of this Subsection (7).

2099 (8) Any penalties imposed and collected under this section shall be deposited into the
2100 Medicaid Restricted Account created in Section [26B-1-309](#).

2101 (9) The failure of a contractor or subcontractor to provide qualified health coverage as
2102 required by this section:

2103 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
2104 or contractor under:

2105 (i) Section 63G-6a-1602; or
2106 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
2107 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
2108 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
2109 or construction.

2110 (10) An administrator, including an administrator's actuary or underwriter, who
2111 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health
2112 coverage of a contractor or subcontractor who provides a health benefit plan described in
2113 Subsection (1)(d)(ii):

2114 (a) subject to Subsection (10)(b), is not liable for an error in the written statement,
2115 unless the administrator commits gross negligence in preparing the written statement;

2116 (b) is not liable for any error in the written statement if the administrator relied in good
2117 faith on information from the contractor or subcontractor; and

2118 (c) may require as a condition of providing the written statement that a contractor or
2119 subcontractor hold the administrator harmless for an action arising under this section.

2120 Section 29. **Repealer.**

2121 This bill repeals:

2122 Section 36-32-101, Title.

2123 Section 36-32-102, Definitions.

2124 Section 36-32-201, Establishment of committee -- Membership -- Duties.

2125 Section 36-32-204, Committee review -- Fiscal analyst -- Powers of committee.

2126 Section 36-32-205, Findings -- Report -- Distribution of report.

2127 Section 30. **Effective date.**

2128 This bill takes effect on May 1, 2024.