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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

Utah Code Sections Affected:

AMENDS:

- 19-1-201**, as last amended by Laws of Utah 2023, Chapter 272
- 19-1-206**, as last amended by Laws of Utah 2023, Chapter 327

28 **19-1-207**, as last amended by Laws of Utah 2022, Chapter 443
29 **19-5-104.5**, as last amended by Laws of Utah 2022, Chapter 443
30 **26B-1-207**, as last amended by Laws of Utah 2023, Chapter 272
31 **26B-1-219**, as renumbered and amended by Laws of Utah 2023, Chapter 305
32 **26B-3-129**, as renumbered and amended by Laws of Utah 2023, Chapter 306
33 **40-6-22**, as last amended by Laws of Utah 2022, Chapter 443
34 **53B-27-303**, as last amended by Laws of Utah 2022, Chapter 443
35 **54-17-701**, as last amended by Laws of Utah 2022, Chapter 443
36 **63A-5b-607**, as last amended by Laws of Utah 2023, Chapter 329
37 **63A-13-202**, as last amended by Laws of Utah 2022, Chapter 443
38 **63A-13-305**, as last amended by Laws of Utah 2022, Chapter 443
39 **63C-9-403**, as last amended by Laws of Utah 2023, Chapter 329
40 **63G-3-301**, as last amended by Laws of Utah 2022, Chapter 443
41 **63G-3-304**, as last amended by Laws of Utah 2022, Chapter 443
42 **63G-3-402**, as last amended by Laws of Utah 2022, Chapter 443
43 **63G-3-403**, as last amended by Laws of Utah 2022, Chapter 443
44 **63G-3-502**, as last amended by Laws of Utah 2022, Chapter 443
45 **72-6-107.5**, as last amended by Laws of Utah 2023, Chapter 330
46 **79-2-404**, as last amended by Laws of Utah 2023, Chapter 330

47 ENACTS:

48 **36-35-101**, Utah Code Annotated 1953
49 **63G-3-503**, Utah Code Annotated 1953

50 RENUMBERS AND AMENDS:

51 **36-12-24**, (Renumbered from 36-32-207, as enacted by Laws of Utah 2020, Chapter
52 154)
53 **36-35-102**, (Renumbered from 63G-3-501, as last amended by Laws of Utah 2023,
54 Chapter 329)
55 **36-35-103**, (Renumbered from 36-32-202, as enacted by Laws of Utah 2020, Chapter
56 154)
57 **36-35-104**, (Renumbered from 36-32-203, as enacted by Laws of Utah 2020, Chapter
58 154)
59 **78A-2-203.5**, (Renumbered from 36-32-206, as enacted by Laws of Utah 2020, Chapter
60 154)

61 REPEALS:

- 62 **36-32-101**, as enacted by Laws of Utah 2020, Chapter 154
63 **36-32-102**, as enacted by Laws of Utah 2020, Chapter 154
64 **36-32-201**, as enacted by Laws of Utah 2020, Chapter 154
65 **36-32-204**, as enacted by Laws of Utah 2020, Chapter 154
66 **36-32-205**, as enacted by Laws of Utah 2020, Chapter 154
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67
68 *Be it enacted by the Legislature of the state of Utah:*

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

70 **19-1-201 . Powers and duties of department -- Rulemaking authority --**
71 **Committee -- Monitoring environmental impacts of inland port.**

72 (1) The department shall:

- 73 (a) enter into cooperative agreements with the Department of Health and Human
74 Services to delineate specific responsibilities to assure that assessment and
75 management of risk to human health from the environment are properly administered;
- 76 (b) consult with the Department of Health and Human Services and enter into
77 cooperative agreements, as needed, to ensure efficient use of resources and effective
78 response to potential health and safety threats from the environment, and to prevent
79 gaps in protection from potential risks from the environment to specific individuals
80 or population groups;
- 81 (c) coordinate implementation of environmental programs to maximize efficient use of
82 resources by developing, in consultation with local health departments, a
83 Comprehensive Environmental Service Delivery Plan that:
- 84 (i) recognizes that the department and local health departments are the foundation for
85 providing environmental health programs in the state;
- 86 (ii) delineates the responsibilities of the department and each local health department
87 for the efficient delivery of environmental programs using federal, state, and local
88 authorities, responsibilities, and resources;
- 89 (iii) provides for the delegation of authority and pass through of funding to local
90 health departments for environmental programs, to the extent allowed by
91 applicable law, identified in the plan, and requested by the local health
92 department; and
- 93 (iv) is reviewed and updated annually;
- 94 (d) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
95 Rulemaking Act, as follows:

- 96 (i) for a board created in Section 19-1-106, rules regarding:
97 (A) board meeting attendance; and
98 (B) conflicts of interest procedures; and
99 (ii) procedural rules that govern:
100 (A) an adjudicative proceeding, consistent with Section 19-1-301; and
101 (B) a special adjudicative proceeding, consistent with Section 19-1-301.5;
- 102 (e) ensure that training or certification required of a public official or public employee,
103 as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter
104 22, State Training and Certification Requirements, if the training or certification is
105 required:
106 (i) under this title;
107 (ii) by the department; or
108 (iii) by an agency or division within the department; and
- 109 (f) subject to Subsection (2), establish annual fees that conform with Title V of the Clean
110 Air Act for each regulated pollutant as defined in Section 19-2-109.1, applicable to a
111 source subject to the Title V program.
- 112 (2) (a) A fee established under Subsection (1)(f) is in addition to a fee assessed under
113 Subsection (6)(i) for issuance of an approval order.
- 114 (b) In establishing a fee under Subsection (1)(f), the department shall comply with
115 Section 63J-1-504 that requires a public hearing and requires the established fee to be
116 submitted to the Legislature for the Legislature's approval as part of the department's
117 annual appropriations request.
- 118 (c) A fee established under this section shall cover the reasonable direct and indirect
119 costs required to develop and administer the Title V program and the small business
120 assistance program established under Section 19-2-109.2.
- 121 (d) A fee established under Subsection (1)(f) shall be established for all sources subject
122 to the Title V program and for all regulated pollutants.
- 123 (e) An emission fee may not be assessed for a regulated pollutant if the emissions are
124 already accounted for within the emissions of another regulated pollutant.
- 125 (f) An emission fee may not be assessed for any amount of a regulated pollutant emitted
126 by any source in excess of 4,000 tons per year of that regulated pollutant.
- 127 (g) An emission fee shall be based on actual emissions for a regulated pollutant unless a
128 source elects, before the issuance or renewal of a permit, to base the fee during the
129 period of the permit on allowable emissions for that regulated pollutant.

- 130 (h) The fees collected by the department under Subsection (1)(f) and penalties collected
131 under Subsection 19-2-109.1(4) shall be deposited into the General Fund as the Air
132 Pollution Operating Permit Program dedicated credit to be used solely to pay for the
133 reasonable direct and indirect costs incurred by the department in developing and
134 administering the program and the small business assistance program under Section
135 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 local
140 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
144 were allocated 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
152 that affects a local health department before the department submits the
153 application.
- 154 (b) When evaluating a policy or rule that affects a local health department, the
155 committee shall:
- 156 (i) compute an estimate of the cost a local health department will bear to comply with
157 the policy or rule;
- 158 (ii) specify whether there is any funding provided to a local health department to
159 implement the policy or rule; and
- 160 (iii) advise whether the policy or rule is still needed.
- 161 (c) Before November 1 of each year, the department shall provide a report to the [
162 ~~Administrative~~]Rules Review and General Oversight Committee regarding the
163 determinations made under Subsection (4)(b).

- 164 (5) The committee shall create bylaws to govern the committee's operations.
- 165 (6) The department may:
- 166 (a) investigate matters affecting the environment;
- 167 (b) investigate and control matters affecting the public health when caused by
- 168 environmental hazards;
- 169 (c) prepare, publish, and disseminate information to inform the public concerning issues
- 170 involving environmental quality;
- 171 (d) establish and operate programs, as authorized by this title, necessary for protection of
- 172 the environment and public health from environmental hazards;
- 173 (e) use local health departments in the delivery of environmental health programs to the
- 174 extent provided by law;
- 175 (f) enter into contracts with local health departments or others to meet responsibilities
- 176 established under this title;
- 177 (g) acquire real and personal property by purchase, gift, devise, and other lawful 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
- 182 reflect the cost 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
- 185 addition to 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
- 190 and from 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
- 193 the 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
- 196 efficiently use department resources, protect department permitting processes,
- 197 address extraordinary or unanticipated stress on permitting processes, or make use of

198 specialized expertise.

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

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

202 (i) "Environmental impacts" means:

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

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

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

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

210 (iv) "Monitoring facilities" means:

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

215 (B) for monitoring water quality, facilities to collect groundwater samples,
216 including in existing conveyances and outfalls, to evaluate sediment, metals,
217 organics, and nutrients due to storm water.

218 (b) The department shall:

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

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

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

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

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

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

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

231 (A) the Utah Inland Port Authority board, established under Title 11, Chapter 58,

232 Part 3, Port Authority Board; and

233 (B) the Legislative Management Committee.

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

235 **19-1-206 . Contracting powers of department -- Health insurance coverage.**

236 (1) As used in this section:

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

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

240 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or
241 "operative" who:

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

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

246 (d) "Health benefit plan" means:

247 (i) the same as that term is defined in Section 31A-1-301; or

248 (ii) an employee welfare benefit plan:

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

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

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

255 (e) "Qualified health coverage" means the same as that term is defined in Section
256 26B-3-909.

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

258 (g) "Third party administrator" or "administrator" means the same as that term is defined
259 in Section 31A-1-301.

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

261 (a) a contractor of a design or construction contract entered into by, or delegated to, the
262 department, or a division or board of the department, on or after July 1, 2009, if the
263 prime contract is in an aggregate amount equal to or greater than \$2,000,000; and

264 (b) a subcontractor of a contractor of a design or construction contract entered into by, or
265 delegated to, the department, or a division or board of the department, on or after July

- 266 1, 2009, if the subcontract is in an aggregate amount equal to or greater than
267 \$1,000,000.
- 268 (3) This section does not apply to contracts entered into by the department or a division or
269 board of the department if:
- 270 (a) the application of this section jeopardizes the receipt of federal funds;
271 (b) the contract or agreement is between:
- 272 (i) the department or a division or board of the department; and
273 (ii) (A) another agency of the state;
274 (B) the federal government;
275 (C) another state;
276 (D) an interstate agency;
277 (E) a political subdivision of this state; or
278 (F) a political subdivision of another state;
- 279 (c) the executive director determines that applying the requirements of this section to a
280 particular contract interferes with the effective response to an immediate health and
281 safety threat from the environment; or
- 282 (d) the contract is:
- 283 (i) a sole source contract; or
284 (ii) an emergency procurement.
- 285 (4) A person that intentionally uses change orders, contract modifications, or multiple
286 contracts to circumvent the requirements of this section is guilty of an infraction.
- 287 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
288 executive director that the contractor has and will maintain an offer of qualified
289 health coverage for the contractor's employees and the employees' dependents during
290 the duration of the contract by submitting to the executive director a written
291 statement that:
- 292 (i) the contractor offers qualified health coverage that complies with Section
293 26B-3-909;
294 (ii) is from:
- 295 (A) an actuary selected by the contractor or the contractor's insurer;
296 (B) an underwriter who is responsible for developing the employer group's
297 premium rates; or
298 (C) if the contractor provides a health benefit plan described in Subsection
299 (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

- 300 (iii) was created within one year before the day on which the statement is submitted.
- 301 (b) (i) A contractor that provides a health benefit plan described in Subsection
302 (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as
303 described in Subsection (5)(a)(ii)(C), sufficient information to determine whether
304 the contractor's contribution to the health benefit plan and the actuarial value of
305 the health benefit plan meet the requirements of qualified health coverage.
- 306 (ii) A contractor may not make a change to the contractor's contribution to the health
307 benefit plan, unless the contractor provides notice to:
- 308 (A) the actuary or underwriter selected by an administrator, as described in
309 Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written
310 statement described in Subsection (5)(a) in compliance with this section; and
311 (B) the department.
- 312 (c) A contractor that is subject to the requirements of this section shall:
- 313 (i) place a requirement in each of the contractor's subcontracts that a subcontractor
314 that is subject to the requirements of this section shall obtain and maintain an offer
315 of qualified health coverage for the subcontractor's employees and the employees'
316 dependents during the duration of the subcontract; and
- 317 (ii) obtain from a subcontractor that is subject to the requirements of this section a
318 written statement that:
- 319 (A) the subcontractor offers qualified health coverage that complies with Section
320 26B-3-909;
- 321 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer,
322 an underwriter who is responsible for developing the employer group's
323 premium rates, or if the subcontractor provides a health benefit plan described
324 in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator;
325 and
- 326 (C) was created within one year before the day on which the contractor obtains the
327 statement.
- 328 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage
329 described in Subsection (5)(a) during the duration of the contract is subject to
330 penalties in accordance with administrative rules adopted by the department
331 under Subsection (6).
- 332 (B) A contractor is not subject to penalties for the failure of a subcontractor to
333 obtain and maintain an offer of qualified health coverage described in

- 334 Subsection (5)(c)(i).
- 335 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified
336 health coverage described in Subsection (5)(c) during the duration of the
337 subcontract is subject to penalties in accordance with administrative rules
338 adopted by the department under Subsection (6).
- 339 (B) A subcontractor is not subject to penalties for the failure of a contractor to
340 maintain an offer of qualified health coverage described in Subsection (5)(a).
- 341 (6) The department shall adopt administrative rules:
- 342 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 343 (b) in coordination with:
- 344 (i) a public transit district in accordance with Section 17B-2a-818.5;
- 345 (ii) the Department of Natural Resources in accordance with Section 79-2-404;
- 346 (iii) the Division of Facilities Construction and Management in accordance with
347 Section 63A-5b-607;
- 348 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;
- 349 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
- 350 (vi) the Legislature's [~~Administrative~~] Rules Review and General Oversight
351 Committee created in Section 36-35-102; and
- 352 (c) that establish:
- 353 (i) the requirements and procedures a contractor and a subcontractor shall follow to
354 demonstrate compliance with this section, including:
- 355 (A) that a contractor or subcontractor's compliance with this section is subject to
356 an audit by the department or the Office of the Legislative Auditor General;
- 357 (B) that a contractor that is subject to the requirements of this section shall obtain
358 a written statement described in Subsection (5)(a); and
- 359 (C) that a subcontractor that is subject to the requirements of this section shall
360 obtain a written statement described in Subsection (5)(c)(ii);
- 361 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
362 violates the provisions of this section, which may include:
- 363 (A) a three-month suspension of the contractor or subcontractor from entering into
364 future contracts with the state upon the first violation;
- 365 (B) a six-month suspension of the contractor or subcontractor from entering into
366 future contracts with the state upon the second violation;
- 367 (C) an action for debarment of the contractor or subcontractor in accordance with

- 368 Section 63G-6a-904 upon the third or subsequent violation; and
369 (D) notwithstanding Section 19-1-303, monetary penalties which may not exceed
370 50% of the amount necessary to purchase qualified health coverage for an
371 employee and the dependents of an employee of the contractor or subcontractor
372 who was not offered qualified health coverage during the duration of the
373 contract; and
- 374 (iii) a website on which the department shall post the commercially equivalent
375 benchmark, for the qualified health coverage identified in Subsection (1)(e), that
376 is provided by the Department of Health and Human Services, in accordance with
377 Subsection 26B-3-909(2).
- 378 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a
379 contractor or subcontractor who intentionally violates the provisions of this
380 section is liable to the employee for health care costs that would have been
381 covered by qualified health coverage.
- 382 (ii) An employer has an affirmative defense to a cause of action under Subsection
383 (7)(a)(i) if:
- 384 (A) the employer relied in good faith on a written statement described in
385 Subsection (5)(a) or (5)(c)(ii); or
- 386 (B) the department determines that compliance with this section is not required
387 under the provisions of Subsection (3).
- 388 (b) An employee has a private right of action only against the employee's employer to
389 enforce the provisions of this Subsection (7).
- 390 (8) Any penalties imposed and collected under this section shall be deposited into the
391 Medicaid Restricted Account created in Section 26B-1-309.
- 392 (9) The failure of a contractor or subcontractor to provide qualified health coverage as
393 required by this section:
- 394 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
395 or contractor under:
- 396 (i) Section 63G-6a-1602; or
397 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
- 398 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
399 contractor as a basis for any action or suit that would suspend, disrupt, or terminate
400 the design or construction.
- 401 (10) An administrator, including an administrator's actuary or underwriter, who provides a

- 402 written statement under Subsection (5)(a) or (c) regarding the qualified health coverage
403 of a contractor or subcontractor who provides a health benefit plan described in
404 Subsection (1)(d)(ii):
- 405 (a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless
406 the administrator commits gross negligence in preparing the written statement;
 - 407 (b) is not liable for any error in the written statement if the administrator relied in good
408 faith on information from the contractor or subcontractor; and
 - 409 (c) may require as a condition of providing the written statement that a contractor or
410 subcontractor hold the administrator harmless for an action arising under this section.

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

412 **19-1-207 . Regulatory certainty to support economic recovery.**

- 413 (1) On or before June 30, 2021, the Air Quality Board or the Water Quality Board may not
414 make, amend, or repeal a rule related to air or water quality pursuant to this title, if
415 formal rulemaking was not initiated on or before July 1, 2020, unless the rule constitutes:
 - 416 (a) a state rule related to a federally-delegated program;
 - 417 (b) a rule mandated by statute to be made, amended, or repealed on or before July 1,
418 2020; or
 - 419 (c) subject to Subsection (2), a rule that is necessary because failure to make, amend, or
420 repeal the rule will:
 - 421 (i) cause an imminent peril to the public health, safety, or welfare;
 - 422 (ii) cause an imminent budget reduction because of budget restraints or federal
423 requirements;
 - 424 (iii) place the agency in violation of federal or state law; or
 - 425 (iv) fail to provide regulatory relief.
- 426 (2) In addition to complying with Title 63G, Chapter 3, Utah Administrative Rulemaking
427 Act, the department shall report to the [~~Administrative~~]Rules Review and General
428 Oversight Committee as to whether the need to act meets the requirements of Subsection
429 (1)(c).
- 430 (3) On or after August 31, 2020, but on or before June 30, 2021, the Air Quality Board,
431 Division of Air Quality, Water Quality Board, or Division of Water Quality may not
432 impose a new fee or increase a fee related to air or water quality pursuant to this title or
433 rules made under this title.
- 434 (4) Only the Legislature may extend the time limitations of this section.
- 435 (5) Notwithstanding the other provisions of this section, this section does not apply to a

436 rule, fee, or fee increase to the extent that the rule, fee, or fee increase applies to an
437 activity in a county of the first or second class.

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

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

442 **19-5-104.5 . Legislative review and approval.**

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

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

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

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

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

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

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

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

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

461 (c) (i) If compliance with the rule or standard requires an expenditure in excess of
462 \$250,000, but less than \$10,000,000, the board shall submit the rule or standard
463 for review to the Natural Resources, Agriculture, and Environment Interim
464 Committee.

465 (ii) (A) Except as provided in Subsection (2)(c)(ii)(B), the Natural Resources,
466 Agriculture, and Environment Interim Committee shall review a rule or
467 standard the board submits under Subsection (2)(c)(i) during the Natural
468 Resources, Agriculture, and Environment Interim Committee's committee
469 meeting immediately following the day on which the board submits the rule or

- 470 standard.
- 471 (B) If the committee meeting described in Subsection (2)(c)(ii)(A) is within five
472 days after the day on which the board submits the rule or standard for review,
473 the Natural Resources, Agriculture, and Environment Interim Committee shall
474 review the rule or standard during the committee meeting described in
475 Subsection (2)(c)(ii)(A) or during the committee meeting immediately
476 following the committee meeting described in Subsection (2)(c)(ii)(A).
- 477 (d) If compliance with the rule or standard requires an expenditure of \$10,000,000 or
478 more, the board shall submit the rule or standard for approval to the Legislature.
- 479 (e) (i) A facility shall estimate the cost of compliance with a board-proposed rule or
480 standard described in Subsection (2)(b) using:
- 481 (A) an independent, licensed engineer; and
482 (B) industry-accepted project cost estimate methods.
- 483 (ii) The board may evaluate and report on a compliance estimate described in
484 Subsection (2)(e)(i).
- 485 (f) If there is a discrepancy in the estimated cost to comply with a rule or standard, the
486 Office of the Legislative Fiscal Analyst shall determine the estimated cost to comply
487 with the rule or standard.
- 488 (3) In reviewing a rule or standard, the Natural Resources, Agriculture, and Environment
489 Interim Committee may:
- 490 (a) consider the impact of the rule or standard on:
- 491 (i) economic costs and benefit;
492 (ii) public health; and
493 (iii) the environment;
- 494 (b) suggest additional areas of consideration; or
495 (c) recommend the rule or standard to the board for:
- 496 (i) adoption; or
497 (ii) re-evaluation followed by further review by the Natural Resources, Agriculture,
498 and Environment Interim Committee.
- 499 (4) When the Natural Resources, Agriculture, and Environment Interim Committee sets the
500 review of a rule or standard submitted under Subsection (2)(c)(i) as an agenda item, the
501 committee shall:
- 502 (a) before the review, directly inform the chairs of the [Administrative]Rules Review
503 and General Oversight Committee of the coming review, including the date, time,

504 and place of the review; and

505 (b) after the review, directly inform the chairs of the [~~Administrative~~]Rules Review and
 506 General Oversight Committee of the outcome of the review, including any
 507 recommendation.

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

509 **26B-1-207 . Policymaking responsibilities -- Regulations for local health**
 510 **departments prescribed by department -- Local standards not more stringent**
 511 **than federal or state standards -- Consultation with local health departments --**
 512 **Committee to evaluate health policies and to review federal grants.**

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

515 (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
 516 the department may prescribe by administrative rule made in accordance with Title
 517 63G, Chapter 3, Utah Administrative Rulemaking Act, reasonable requirements not
 518 inconsistent with law for a local health department as defined in Section 26A-1-102.

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

524 (c) Nothing in this Subsection (2), limits the ability of a local health department to make
 525 standards and regulations in accordance with Subsection 26A-1-121(1)(a) for:

526 (i) emergency rules made in accordance with Section 63G-3-304; or

527 (ii) items not regulated under federal law, state statute, or state administrative rule.

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

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

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

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

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

537 (v) "Reviewable application" means an application for a federal grant that is not an

- 538 exempt application.
- 539 (b) The department shall establish a committee consisting of:
- 540 (i) the executive director, or the executive director's designee;
- 541 (ii) two representatives of the department, appointed by the executive director; and
- 542 (iii) three representatives of local health departments, appointed by all local health
- 543 departments.
- 544 (c) The committee shall:
- 545 (i) evaluate the allocation of public health resources between the department and
- 546 local health departments, including whether funds allocated by contract were
- 547 allocated in accordance with the formula described in Section 26A-1-116;
- 548 (ii) evaluate policies and rules that affect local health departments in accordance with
- 549 Subsection (3)(g);
- 550 (iii) consider department policy and rule changes proposed by the department or local
- 551 health departments;
- 552 (iv) establish criteria by which an application for a federal grant may be judged to
- 553 determine whether it should be exempt from the requirements under Subsection
- 554 (3)(d); and
- 555 (v) establish criteria by which an application for a federal grant may be judged to
- 556 determine whether committee review under Subsection (3)(d)(i) should be delayed
- 557 until after the application is submitted because the application is required to be
- 558 submitted under a timetable that makes committee review before it is submitted
- 559 impracticable if the submission deadline is to be met.
- 560 (d) (i) The committee shall review the goals and budget for each reviewable
- 561 application:
- 562 (A) before the application is submitted, except for an expedited application; and
- 563 (B) for an expedited application, after the application is submitted but before
- 564 funds from the federal grant for which the application was submitted are
- 565 disbursed or encumbered.
- 566 (ii) Funds from a federal grant under a reviewable application may not be disbursed
- 567 or encumbered before the goals and budget for the federal grant are established by:
- 568 (A) a two-thirds vote of the committee, following the committee review under
- 569 Subsection (3)(d)(i); or
- 570 (B) if two-thirds of the committee cannot agree on the goals and budget, the chair
- 571 of the health advisory council, after consultation with the committee in a

- 572 manner that the committee determines.
- 573 (e) An exempt application is exempt from the requirements of Subsection (3)(d).
- 574 (f) The department may use money from a federal grant to pay administrative costs
575 incurred in implementing this Subsection (3).
- 576 (g) When evaluating a policy or rule that affects a local health department, the
577 committee shall determine:
- 578 (i) whether the department has the authority to promulgate the policy or rule;
- 579 (ii) an estimate of the cost a local health department will bear to comply with the
580 policy or rule;
- 581 (iii) whether there is any funding provided to a local health department to implement
582 the policy or rule; and
- 583 (iv) whether the policy or rule is still needed.
- 584 (h) Before November 1 of each year, the department shall provide a report to the [
585 ~~Administrative~~] Rules Review and General Oversight Committee regarding the
586 determinations made under Subsection (3)(g).

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

588 **26B-1-219 . Requirements for issuing, recommending, or facilitating rationing**
589 **criteria.**

- 590 (1) As used in this section:
- 591 (a) "Health care resource" means:
- 592 (i) health care as defined in Section 78B-3-403;
- 593 (ii) a prescription drug as defined in Section 58-17b-102;
- 594 (iii) a prescription device as defined in Section 58-17b-102;
- 595 (iv) a nonprescription drug as defined in Section 58-17b-102; or
- 596 (v) any supply or treatment that is intended for use in the course of providing health
597 care as defined in Section 78B-3-403.
- 598 (b) (i) "Rationing criteria" means any requirement, guideline, process, or
599 recommendation regarding:
- 600 (A) the distribution of a scarce health care resource; or
- 601 (B) qualifications or criteria for a person to receive a scarce health care resource.
- 602 (ii) "Rationing criteria" includes crisis standards of care with respect to any health
603 care resource.
- 604 (c) "Scarce health care resource" means a health care resource:
- 605 (i) for which the need for the health care resource in the state or region significantly

- 606 exceeds the available supply of that health care resource in that state or region;
- 607 (ii) that, based on the circumstances described in Subsection (1)(c)(i), is distributed
- 608 or provided using written requirements, guidelines, processes, or
- 609 recommendations as a factor in the decision to distribute or provide the health care
- 610 resource; and
- 611 (iii) that the federal government has allocated to the state to distribute.
- 612 (2) (a) On or before July 1, 2022, the department shall make rules in accordance with
- 613 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure
- 614 that the department will follow to adopt, modify, require, facilitate, or recommend
- 615 rationing criteria.
- 616 (b) Beginning July 1, 2022, the department may not adopt, modify, require, facilitate, or
- 617 recommend rationing criteria unless the department follows the procedure established
- 618 by the department under Subsection (2)(a).
- 619 (3) The procedures developed by the department under Subsection (2) shall include, at a
- 620 minimum:
- 621 (a) a requirement that the department notify the following individuals in writing before
- 622 rationing criteria are issued, are recommended, or take effect:
- 623 (i) the [~~Administrative~~]Rules Review and General Oversight Committee created in
- 624 Section [~~63G-3-501~~] 36-35-102;
- 625 (ii) the governor or the governor's designee;
- 626 (iii) the president of the Senate or the president's designee;
- 627 (iv) the speaker of the House of Representatives or the speaker's designee;
- 628 (v) the executive director or the executive director's designee; and
- 629 (vi) if rationing criteria affect hospitals in the state, a representative of an association
- 630 representing hospitals throughout the state, as designated by the executive
- 631 director; and
- 632 (b) procedures for an emergency circumstance which shall include, at a minimum:
- 633 (i) a description of the circumstances under which emergency procedures described
- 634 in this Subsection (3)(b) may be used; and
- 635 (ii) a requirement that the department notify the individuals described in Subsections
- 636 (3)(a)(i) through (vi) as soon as practicable, but no later than 48 hours after the
- 637 rationing criteria take effect.
- 638 (4) (a) Within 30 days after March 22, 2022, the department shall send to the [~~Administrative~~]
- 639 Rules Review and General Oversight Committee all rationing criteria

640 that:

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

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

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

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

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

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

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

655 (6) This section:

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

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

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

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

664 (a) through the regular, non-emergency rulemaking procedure described in Section
665 63G-3-301;

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

669 (c) to the extent that compliance with this section would result in a direct violation of
670 federal law;

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

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

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

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

677 **26B-3-129 . Review of claims -- Audit and investigation procedures.**

678 (1) (a) The department shall adopt administrative rules in accordance with Title 63G,
679 Chapter 3, Utah Administrative Rulemaking Act, and in consultation with providers
680 and health care professionals subject to audit and investigation under the state
681 Medicaid program, to establish procedures for audits and investigations that are fair
682 and consistent with the duties of the department as the single state agency responsible
683 for the administration of the Medicaid program under Section 26B-3-108 and Title
684 XIX of the Social Security Act.

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

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

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

693 (2) The department shall:

694 (a) notify and educate providers and health care professionals subject to audit and
695 investigation under the Medicaid program of the providers' and health care
696 professionals' responsibilities and rights under the administrative rules adopted by the
697 department under the provisions of this section;

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

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

703 (ii) uses the services of the appropriate professional described in Subsection (3)(b)(i)
704 if the provider who is the subject of the audit disputes the findings of the audit;

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

707 (i) there is a determination that the level of payment error involving the provider

- 708 exceeds a 10% error rate:
- 709 (A) for a sample of claims for a particular service code; and
- 710 (B) over a three year period of time;
- 711 (ii) documented education intervention has failed to correct the level of payment
- 712 error; and
- 713 (iii) the value of the claims for the provider, in aggregate, exceeds \$200,000 in
- 714 reimbursement for a particular service code on an annual basis; and
- 715 (d) require that any entity with which the office contracts, for the purpose of conducting
- 716 an audit of a service provider, shall be paid on a flat fee basis for identifying both
- 717 overpayments and underpayments.
- 718 (3) (a) If the department, or a contractor on behalf of the department:
- 719 (i) intends to implement the use of extrapolation as a method of auditing claims, the
- 720 department shall, prior to adopting the extrapolation method of auditing, report its
- 721 intent to use extrapolation to the Social Services Appropriations Subcommittee;
- 722 and
- 723 (ii) determines Subsections (2)(c)(i) through (iii) are applicable to a provider, the
- 724 department or the contractor may use extrapolation only for the service code
- 725 associated with the findings under Subsections (2)(c)(i) through (iii).
- 726 (b) (i) If extrapolation is used under this section, a provider may, at the provider's
- 727 option, appeal the results of the audit based on:
- 728 (A) each individual claim; or
- 729 (B) the extrapolation sample.
- 730 (ii) Nothing in this section limits a provider's right to appeal the audit under Title
- 731 63G, General Government, Title 63G, Chapter 4, Administrative Procedures Act,
- 732 the Medicaid program and its manual or rules, or other laws or rules that may
- 733 provide remedies to providers.
- 734 Section 8. Section **36-12-24**, which is renumbered from Section 36-32-207 is renumbered
- 735 and amended to read:
- 736 **~~[36-32-207]~~ 36-12-24. . Legislative counsel attendance at Supreme Court advisory**
- 737 **committees.**
- 738 [The] An attorney from the Office of Legislative Research and General Counsel
- 739 shall, when practicable, attend meetings of the advisory committees of the
- 740 Supreme Court.
- 741 Section 9. Section **36-35-101** is enacted to read:

742 **36-35-101 . Definitions.**743 As used in this chapter:

- 744 (1) "Agency rule" means the same as the term "rule" is defined in Section 63G-3-101.
- 745 (2) "Committee" means the Rules Review and General Oversight Committee.
- 746 (3) "Court Rule" means any of the following, whether existing, new, or proposed:
- 747 (a) rules of procedure, evidence, or practice for use of the courts of this state;
- 748 (b) rules governing and managing the appellate process adopted by the Supreme Court;
- 749 or
- 750 (c) rules adopted by the Judicial Council for the administration of the courts of the state.
- 751 (4) "Judicial advisory committee" means the committee that proposes to the Supreme Court
- 752 rules or changes in court rules related to:
- 753 (a) civil procedure;
- 754 (b) criminal procedure;
- 755 (c) juvenile procedure;
- 756 (d) appellate procedure;
- 757 (e) evidence;
- 758 (f) professional conduct; and
- 759 (g) the subject matter focus of any other committee that the Supreme Court establishes
- 760 to propose rules or changes in court rules to the Supreme Court.
- 761 (5) "Judicial council" means the administrative body of the courts, established in Utah
- 762 Constitution, Article VIII, Section 12, and Section 78A-2-104.
- 763 (6) "Proposal for court rule" means the proposed language in a court rule that is submitted
- 764 to:
- 765 (a) the Judicial Council;
- 766 (b) the advisory committee; or
- 767 (c) the Supreme Court.
- 768 (7) "Rule" means an agency rule or a court rule.

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

771 ~~[63G-3-501]~~ **36-35-102. . Rules Review and General Oversight Committee.**

- 772 (1) (a) There is created [~~an Administrative~~] a Rules Review and General Oversight
773 Committee of the following 10 permanent members:
- 774 (i) five members of the Senate appointed by the president of the Senate, no more than
775 three of whom may be from the same political party; and

- 776 (ii) five members of the House of Representatives appointed by the speaker of the
777 House of Representatives, no more than three of whom may be from the same
778 political party.
- 779 (b) Each permanent member shall serve:
- 780 (i) for a two-year term; or
- 781 (ii) until the permanent member's successor is appointed.
- 782 (c) (i) A vacancy exists when a permanent member ceases to be a member of the
783 Legislature, or when a permanent member resigns from the committee.
- 784 (ii) When a vacancy exists:
- 785 (A) if the departing member is a member of the Senate, the president of the Senate
786 shall appoint a member of the Senate to fill the vacancy; or
- 787 (B) if the departing member is a member of the House of Representatives, the
788 speaker of the House of Representatives shall appoint a member of the House
789 of Representatives to fill the vacancy.
- 790 (iii) The newly appointed member shall serve the remainder of the departing
791 member's unexpired term.
- 792 (d) (i) The president of the Senate shall designate a member of the Senate appointed
793 under Subsection (1)(a)(i) as a cochair of the committee.
- 794 (ii) The speaker of the House of Representatives shall designate a member of the
795 House of Representatives appointed under Subsection (1)(a)(ii) as a cochair of the
796 committee.
- 797 (e) Three representatives and three senators from the permanent members are a quorum
798 for the transaction of business at any meeting.
- 799 (f) (i) Subject to Subsection (1)(f)(ii), the committee shall meet at least once each
800 month to review new agency rules and court rules, amendments to existing agency
801 rules and court rules, and repeals of existing agency rules and court rules.
- 802 (ii) The committee chairs may suspend the meeting requirement described in
803 Subsection (1)(f)(i) at the committee chairs' discretion.
- 804 (2) The office shall submit a copy of each issue of the bulletin to the committee.
- 805 (3) (a) The committee shall exercise continuous oversight of the administrative
806 rulemaking process under Title 63G, Chapter 3, Utah Administrative Rulemaking
807 Act, and shall, for each general session of the Legislature, request legislation that
808 considers legislative reauthorization of agency rules as provided under Section
809 63G-3-502.

- 810 (b) The committee shall examine each agency rule, including any agency rule made
 811 according to the emergency rulemaking procedure described in Section 63G-3-304,
 812 submitted by an agency to determine:
- 813 (i) whether the agency rule is authorized by statute;
 - 814 (ii) whether the agency rule complies with legislative intent;
 - 815 (iii) the agency rule's impact on the economy and the government operations of the
 816 state and local political subdivisions;
 - 817 (iv) the agency rule's impact on affected persons;
 - 818 (v) the agency rule's total cost to entities regulated by the state;
 - 819 (vi) the agency rule's benefit to the citizens of the state; and
 - 820 (vii) whether adoption of the agency rule requires legislative review or approval.
- 821 (c) (i) The committee may examine and review:
- 822 [(i)] (A) any executive order issued pursuant to Title 53, Chapter 2a, Part 2,
 823 Disaster Response and Recovery Act;
 - 824 [(ii)] (B) any public health order issued during a public health emergency declared
 825 in accordance with Title 26A, Local Health Authorities, or Title 26B, Utah
 826 Health and Human Services Code; or
 - 827 [(iii)] (C) ~~[an agency's policies]~~ any agency policy that:
 - 828 ~~[(A)] (I) [affect] affects~~ a class of persons other than the agency; or
 - 829 ~~[(B)] (II) [are] is~~ contrary to legislative intent.
 - 830 (ii) If the committee chooses to examine or review an order or policy described in
 831 Subsection (3)(c)(i), the agency that issued the order or policy shall, upon request
 832 by the committee, provide to the committee:
 - 833 (A) a copy of the order or policy; and
 - 834 (B) information related to the order or policy.
- 835 ~~[(d) (i) To carry out these duties, the committee may examine any other issues that the~~
 836 ~~committee considers necessary.]~~
- 837 [(ii) ~~Notwithstanding anything to the contrary in this section, the committee may not~~
 838 ~~examine an agency's internal policies, procedures, or practices. (iii) The committee may~~
 839 ~~also notify and refer rules to the chairs of the interim committee that has jurisdiction~~
 840 ~~over a particular agency when the committee determines that an issue involved in an~~
 841 ~~agency's rules may be more appropriately addressed by that committee].~~
- 842 (d) The committee shall review court rules as provided in Section 36-35-103 and Section
 843 36-35-104.

- 844 ~~[(e) An agency shall respond to a request from the committee for:]~~
 845 ~~[(i) an agency's policy described in Subsection (3)(c)(iii); or]~~
 846 ~~[(ii) information related to an agency's policy described in Subsection (3)(c)(iii).]~~
- 847 (4) (a) To carry out the requirements of Subsection (3), the committee may examine any
 848 other issues that the committee considers necessary.
- 849 (b) Notwithstanding anything to the contrary in this section, the committee may not
 850 examine the internal policies, procedures, or practices of an agency or judicial branch
 851 entity.
- 852 ~~[(f)]~~ (c) In reviewing a rule, the committee shall follow generally accepted principles of
 853 statutory construction.
- 854 ~~[(4)]~~ (5) When the committee reviews an existing rule, the committee chairs[-] :
- 855 (a) shall invite the Senate and House chairs of the standing committee and of the
 856 appropriation subcommittee that have jurisdiction over the agency or judicial branch
 857 entity whose existing rule is being reviewed to participate as nonvoting, ex officio
 858 members with the committee[-] during the review of the rule; and
- 859 (b) may notify and refer the rule to the chairs of the interim committee that has
 860 jurisdiction over a particular agency or judicial branch entity when the committee
 861 determines that an issue involved in the rule may be more appropriately addressed by
 862 that committee.
- 863 ~~[(5)]~~ (6) The committee may request that the Office of the Legislative Fiscal Analyst
 864 prepare a fiscal note on any rule or proposal for court rule.
- 865 ~~[(6)]~~ (7) In order to accomplish the committee's functions described in this chapter, the
 866 committee has all the powers granted to legislative interim committees under Section
 867 36-12-11.
- 868 ~~[(7)]~~ (8) (a) The committee may prepare written findings of the committee's review of a
 869 rule, proposal for court rule, policy, practice, or procedure and may include any
 870 recommendation, including:
- 871 (i) legislative action; ~~[or]~~
 872 (ii) action by a standing committee or interim committee[-] ;
 873 (iii) agency rulemaking action;
 874 (iv) Supreme Court rulemaking action; or
 875 (v) Judicial Council rulemaking action.
- 876 (b) When the committee reviews a rule, the committee shall provide to the agency or
 877 judicial branch entity that enacted the rule:

- 878 (i) the committee's findings, if any; and
- 879 (ii) a request that the agency or judicial branch entity notify the committee of any
- 880 changes the agency or judicial branch entity makes to the rule.
- 881 (c) The committee shall provide a copy of the committee's findings described in
- 882 Subsection [~~(7)~~(a)] (8)(a), if any, to:
- 883 (i) any member of the Legislature, upon request;
- 884 (ii) any person affected by the rule, upon request;
- 885 (iii) the president of the Senate;
- 886 (iv) the speaker of the House of Representatives;
- 887 (v) the Senate and House chairs of the standing committee that has jurisdiction over
- 888 the agency or judicial branch entity whose rule, policy, practice, or procedure is
- 889 the subject of the finding; [~~and~~]
- 890 (vi) the Senate and House chairs of the appropriation subcommittee that has
- 891 jurisdiction over the agency or judicial branch entity that made the rule[-] ;
- 892 (vii) the governor; and
- 893 (viii) if the findings involve a court rule or judicial branch entity:
- 894 (A) the Judiciary Interim Committee;
- 895 (B) the Supreme Court; and
- 896 (C) the Judicial Council.
- 897 [~~(8)~~] (9) (a) (i) The committee may submit a report on the committee's review under
- 898 this section to each member of the Legislature at each regular session.
- 899 (ii) The report shall include:
- 900 (A) any finding or recommendation the committee made under Subsection [~~(7)~~] (8);
- 901 (B) any action an agency, the Supreme Court, or the Judicial Council took in
- 902 response to a committee recommendation; and
- 903 (C) any recommendation by the committee for legislation.
- 904 (b) If the committee receives a recommendation not to reauthorize [a] an agency rule, as
- 905 described in Subsection 63G-3-301(13)(b), and the committee recommends to the
- 906 Legislature reauthorization of the agency rule, the committee shall submit a report to
- 907 each member of the Legislature detailing the committee's decision.
- 908 (c) If the committee recommends legislation, the committee may prepare legislation for
- 909 consideration by the Legislature at the next general session.
- 910 Section 11. Section **36-35-103**, which is renumbered from Section 36-32-202 is renumbered
- 911 and amended to read:

912 ~~[36-32-202]~~ **36-35-103. . Submission of court rules or proposals for court rules.**

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

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

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

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

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

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

927 Section 12. Section **36-35-104**, which is renumbered from Section 36-32-203 is renumbered
 928 and amended to read:

929 ~~[36-32-203]~~ **36-35-104. . Review of court rules -- Criteria.**

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

932 (2) The committee may review and evaluate:

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

934 (i) a new court rule; or

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

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

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

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

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

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

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

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

- 946 (f) the impact of the court rule on an affected person;
- 947 (g) the purpose for the court rule, and if applicable, the reason for a change to an
948 existing court rule;
- 949 (h) the anticipated cost or savings due to the court rule to:
- 950 (i) the state budget;
- 951 (ii) local governments; and
- 952 (iii) individuals; and
- 953 (i) the cost to an affected person of complying with the court rule.
- 954 Section 13. Section **40-6-22** is amended to read:
- 955 **40-6-22 . Regulatory certainty to support economic recovery.**
- 956 (1) On or before June 30, 2021, the board or division may not make, amend, or repeal a rule
957 pursuant to this title, if formal rulemaking was not initiated on or before July 1, 2020,
958 unless the rule constitutes:
- 959 (a) a state rule related to a federally-delegated program;
- 960 (b) a rule mandated by statute to be made, amended, or repealed on or before July 1,
961 2020; or
- 962 (c) subject to Subsection (2), a rule that is necessary because failure to make, amend, or
963 repeal the rule will:
- 964 (i) cause an imminent peril to the public health, safety, or welfare;
- 965 (ii) cause an imminent budget reduction because of budget restraints or federal
966 requirements;
- 967 (iii) place the agency in violation of federal or state law; or
- 968 (iv) fail to provide regulatory relief.
- 969 (2) In addition to complying with Title 63G, Chapter 3, Utah Administrative Rulemaking
970 Act, the board or division shall report to the [~~Administrative~~]Rules Review and General
971 Oversight Committee as to whether the need to act meets the requirements of Subsection
972 (1)(c).
- 973 (3) On or after August 31, 2020, but on or before June 30, 2021, the board or division may
974 not impose a new fee or increase a fee pursuant to this title or rules made under this title.
- 975 (4) Only the Legislature may extend the time limitations of this section.
- 976 (5) Notwithstanding the other provisions of this section, this section does not apply to a
977 rule, fee, or fee increase to the extent that the rule, fee, or fee increase applies to an
978 activity in a county of the first or second class.
- 979 (6) Notwithstanding the other provisions of this section, the agencies may engage with

980 stakeholders in the process of discussing, developing, and drafting a rule, fee, or fee
 981 increase on or after July 1, 2020, but on or before June 30, 2021.

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

983 **53B-27-303 . Complaint process -- Reporting.**

- 984 (1) Before August 1, 2019, the board shall make rules in accordance with Title 63G,
 985 Chapter 3, Utah Administrative Rulemaking Act, establishing a procedure whereby a
 986 student enrolled in an institution may submit a complaint to the board alleging a policy
 987 of the institution directly affects one or more of the student's civil liberties.
- 988 (2) (a) When a student submits a complaint in accordance with the rules adopted under
 989 Subsection (1), the board shall:
- 990 (i) examine the complaint and, within 30 days after the day on which the board
 991 receives the complaint, determine whether the complaint is made in good faith; and
 - 992 (ii) (A) if the board determines that the complaint is made in good faith, direct the
 993 institution against which the complaint is made to initiate rulemaking
 994 proceedings for the challenged policy; or
 - 995 (B) if the board determines that the complaint is made in bad faith, dismiss the
 996 complaint.
- 997 (b) Before November 30 of each year, the board shall submit a report to the [
 998 ~~Administrative~~]Rules Review and General Oversight Committee detailing:
- 999 (i) the number of complaints the board received during the preceding year;
 - 1000 (ii) the number of complaints the board found to be made in good faith during the
 1001 preceding year; and
 - 1002 (iii) each policy that is the subject of a good-faith complaint that the board received
 1003 during the preceding year.
- 1004 (3) If the board directs an institution to initiate rulemaking proceedings for a challenged
 1005 policy in accordance with this section, the institution shall initiate rulemaking
 1006 proceedings for the policy within 60 days after the day on which the board directs the
 1007 institution.
- 1008 Section 15. Section **54-17-701** is amended to read:
- 1009 **54-17-701 . Rules for carbon capture and geological storage.**
- 1010 (1) By January 1, 2011, the Division of Water Quality and the Division of Air Quality, on
 1011 behalf of the Board of Water Quality and the Board of Air Quality, respectively, in
 1012 collaboration with the commission and the Division of Oil, Gas, and Mining and the
 1013 Utah Geological Survey, shall present recommended rules to the Legislature's [

- 1014 ~~Administrative]~~ Rules Review and General Oversight Committee for the following in
1015 connection with carbon capture and accompanying geological sequestration of captured
1016 carbon:
- 1017 (a) site characterization approval;
 - 1018 (b) geomechanical, geochemical, and hydrogeological simulation;
 - 1019 (c) risk assessment;
 - 1020 (d) mitigation and remediation protocols;
 - 1021 (e) issuance of permits for test, injection, and monitoring wells;
 - 1022 (f) specifications for the drilling, construction, and maintenance of wells;
 - 1023 (g) issues concerning ownership of subsurface rights and pore space;
 - 1024 (h) allowed composition of injected matter;
 - 1025 (i) testing, monitoring, measurement, and verification for the entirety of the carbon
1026 capture and geologic sequestration chain of operations, from the point of capture of
1027 the carbon dioxide to the sequestration site;
 - 1028 (j) closure and decommissioning procedure;
 - 1029 (k) short- and long-term liability and indemnification for sequestration sites;
 - 1030 (l) conversion of enhanced oil recovery operations to carbon dioxide geological
1031 sequestration sites; and
 - 1032 (m) other issues as identified.
- 1033 (2) The entities listed in Subsection (1) shall report to the Legislature's [~~Administrative]~~
1034 Rules Review and General Oversight Committee any proposals for additional statutory
1035 changes needed to implement rules contemplated under Subsection (1).
- 1036 (3) On or before July 1, 2009, the entities listed in Subsection (1) shall submit to the
1037 Legislature's Public Utilities, Energy, and Technology and Natural Resources,
1038 Agriculture, and Environment Interim Committees a progress report on the development
1039 of the recommended rules required by this part.
- 1040 (4) The recommended rules developed under this section apply to the injection of carbon
1041 dioxide and other associated injectants in allowable types of geological formations for
1042 the purpose of reducing emissions to the atmosphere through long-term geological
1043 sequestration as required by law or undertaken voluntarily or for subsequent beneficial
1044 reuse.
- 1045 (5) The recommended rules developed under this section do not apply to the injection of
1046 fluids through the use of Class II injection wells as defined in 40 C.F.R. 144.6(b) for the
1047 purpose of enhanced hydrocarbon recovery.

- 1048 (6) Rules recommended under this section shall:
- 1049 (a) ensure that adequate health and safety standards are met;
- 1050 (b) minimize the risk of unacceptable leakage from the injection well and injection zone
- 1051 for carbon capture and geologic sequestration; and
- 1052 (c) provide adequate regulatory oversight and public information concerning carbon
- 1053 capture and geologic sequestration.
- 1054 Section 16. Section **63A-5b-607** is amended to read:
- 1055 **63A-5b-607 . Health insurance requirements -- Penalties.**
- 1056 (1) As used in this section:
- 1057 (a) "Aggregate amount" means the dollar sum of all contracts, change orders, and
- 1058 modifications for a single project.
- 1059 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.
- 1060 (c) "Eligible employee" means an employee, as defined in Section 34A-2-104, who:
- 1061 (i) works at least 30 hours per calendar week; and
- 1062 (ii) meets the employer eligibility waiting period for qualified health insurance
- 1063 coverage provided by the employer.
- 1064 (d) "Health benefit plan" means:
- 1065 (i) the same as that term is defined in Section 31A-1-301; or
- 1066 (ii) an employee welfare benefit plan:
- 1067 (A) established under the Employee Retirement Income Security Act of 1974, 29
- 1068 U.S.C. Sec. 1001 et seq.;
- 1069 (B) for an employer with 100 or more employees; and
- 1070 (C) in which the employer establishes a self-funded or partially self-funded group
- 1071 health plan to provide medical care for the employer's employees and
- 1072 dependents of the employees.
- 1073 (e) "Qualified health insurance coverage" means the same as that term is defined in
- 1074 Section 26B-3-909.
- 1075 (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.
- 1076 (g) "Third party administrator" or "administrator" means the same as that term is defined
- 1077 in Section 31A-1-301.
- 1078 (2) Except as provided in Subsection (3), the requirements of this section apply to:
- 1079 (a) a contractor of a design or construction contract with the division if the prime
- 1080 contract is in an aggregate amount of \$2,000,000 or more; and
- 1081 (b) a subcontractor of a contractor of a design or construction contract with the division

- 1082 if the subcontract is in an aggregate amount of \$1,000,000 or more.
- 1083 (3) The requirements of this section do not apply to a contractor or subcontractor if:
- 1084 (a) the application of this section jeopardizes the division's receipt of federal funds;
- 1085 (b) the contract is a sole source contract, as defined in Section 63G-6a-103; or
- 1086 (c) the contract is the result of an emergency procurement.
- 1087 (4) A person who intentionally uses a change order, contract modification, or multiple
- 1088 contracts to circumvent the requirements of this section is guilty of an infraction.
- 1089 (5) (a) A contractor that is subject to the requirements of this section shall:
- 1090 (i) make and maintain an offer of qualified health coverage for the contractor's
- 1091 eligible employees and the eligible employees' dependents; and
- 1092 (ii) submit to the director a written statement demonstrating that the contractor is in
- 1093 compliance with Subsection (5)(a)(i).
- 1094 (b) A statement under Subsection (5)(a)(ii):
- 1095 (i) shall be from:
- 1096 (A) an actuary selected by the contractor or the contractor's insurer;
- 1097 (B) an underwriter who is responsible for developing the employer group's
- 1098 premium rates; or
- 1099 (C) if the contractor provides a health benefit plan described in Subsection
- 1100 (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and
- 1101 (ii) may not be created more than one year before the day on which the contractor
- 1102 submits the statement to the director.
- 1103 (c) (i) A contractor that provides a health benefit plan described in Subsection
- 1104 (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as
- 1105 described in Subsection (5)(b)(i)(C), sufficient information to determine whether
- 1106 the contractor's contribution to the health benefit plan and the actuarial value of
- 1107 the health benefit plan meet the requirements of qualified health coverage.
- 1108 (ii) A contractor may not make a change to the contractor's contribution to the health
- 1109 benefit plan, unless the contractor provides notice to:
- 1110 (A) the actuary or underwriter selected by an administrator, as described in
- 1111 Subsection (5)(b)(i)(C), for the actuary or underwriter to update the written
- 1112 statement described in Subsection (5)(a) in compliance with this section; and
- 1113 (B) the division.
- 1114 (6) (a) A contractor that is subject to the requirements of this section shall:
- 1115 (i) ensure that each contract the contractor enters with a subcontractor that is subject

- 1116 to the requirements of this section requires the subcontractor to obtain and
1117 maintain an offer of qualified health coverage for the subcontractor's eligible
1118 employees and the eligible employees' dependents during the duration of the
1119 subcontract; and
- 1120 (ii) obtain from a subcontractor referred to in Subsection (6)(a)(i) a written statement
1121 demonstrating that the subcontractor offers qualified health coverage to eligible
1122 employees and eligible employees' dependents.
- 1123 (b) A statement under Subsection (6)(a)(ii):
- 1124 (i) shall be from:
- 1125 (A) an actuary selected by the subcontractor or the subcontractor's insurer;
- 1126 (B) an underwriter who is responsible for developing the employer group's
1127 premium rates; or
- 1128 (C) if the subcontractor provides a health benefit plan described in Subsection
1129 (1)(d)(ii), an actuary or underwriter selected by an administrator; and
- 1130 (ii) may not be created more than one year before the day on which the contractor
1131 obtains the statement from the subcontractor.
- 1132 (7) (a) (i) A contractor that fails to maintain an offer of qualified health coverage
1133 during the duration of the contract as required in this section is subject to penalties
1134 in accordance with administrative rules made by the division under this section, in
1135 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1136 (ii) A contractor is not subject to penalties for the failure of a subcontractor to obtain
1137 and maintain an offer of qualified health coverage as required in this section.
- 1138 (b) (i) A subcontractor that fails to obtain and maintain an offer of qualified health
1139 coverage during the duration of the subcontract as required in this section is
1140 subject to penalties in accordance with administrative rules made by the division
1141 under this section, in accordance with Title 63G, Chapter 3, Utah Administrative
1142 Rulemaking Act.
- 1143 (ii) A subcontractor is not subject to penalties for the failure of a contractor to
1144 maintain an offer of qualified health coverage as required in this section.
- 1145 (8) The division shall make rules:
- 1146 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 1147 (b) in coordination with:
- 1148 (i) the Department of Environmental Quality in accordance with Section 19-1-206;
- 1149 (ii) the Department of Natural Resources in accordance with Section 79-2-404;

- 1150 (iii) a public transit district in accordance with Section 17B-2a-818.5;
- 1151 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;
- 1152 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
- 1153 (vi) the Legislature's [~~Administrative~~]Rules Review and General Oversight
- 1154 Committee created under Section 36-35-102; and
- 1155 (c) that establish:
- 1156 (i) the requirements and procedures for a contractor and a subcontractor to
- 1157 demonstrate compliance with this section, including:
- 1158 (A) a provision that a contractor or subcontractor's compliance with this section is
- 1159 subject to an audit by the division or the Office of the Legislative Auditor
- 1160 General;
- 1161 (B) a provision that a contractor that is subject to the requirements of this section
- 1162 obtain a written statement as provided in Subsection (5); and
- 1163 (C) a provision that a subcontractor that is subject to the requirements of this
- 1164 section obtain a written statement as provided in Subsection (6);
- 1165 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
- 1166 violates the provisions of this section, which may include:
- 1167 (A) a three-month suspension of the contractor or subcontractor from entering into
- 1168 a future contract with the state upon the first violation;
- 1169 (B) a six-month suspension of the contractor or subcontractor from entering into a
- 1170 future contract with the state upon the second violation;
- 1171 (C) an action for debarment of the contractor or subcontractor in accordance with
- 1172 Section 63G-6a-904 upon the third or subsequent violation; and
- 1173 (D) monetary penalties which may not exceed 50% of the amount necessary to
- 1174 purchase qualified health coverage for eligible employees and dependents of
- 1175 eligible employees of the contractor or subcontractor who were not offered
- 1176 qualified health coverage during the duration of the contract; and
- 1177 (iii) a website for the department to post the commercially equivalent benchmark for
- 1178 the qualified health coverage that is provided by the Department of Health and
- 1179 Human Services in accordance with Subsection 26B-3-909(2).
- 1180 (9) During the duration of a contract, the division may perform an audit to verify a
- 1181 contractor or subcontractor's compliance with this section.
- 1182 (10) (a) Upon the division's request, a contractor or subcontractor shall provide the
- 1183 division:

- 1184 (i) a signed actuarial certification that the coverage the contractor or subcontractor
1185 offers is qualified health coverage; or
- 1186 (ii) all relevant documents and information necessary for the division to determine
1187 compliance with this section.
- 1188 (b) If a contractor or subcontractor provides the documents and information described in
1189 Subsection (10)(a)(i), the Insurance Department shall assist the division in
1190 determining if the coverage the contractor or subcontractor offers is qualified health
1191 coverage.
- 1192 (11) (a) (i) In addition to the penalties imposed under Subsection (7), a contractor or
1193 subcontractor that intentionally violates the provisions of this section is liable to
1194 an eligible employee for health care costs that would have been covered by
1195 qualified health coverage.
- 1196 (ii) An employer has an affirmative defense to a cause of action under Subsection
1197 (11)(a)(i) if:
- 1198 (A) the employer relied in good faith on a written statement described in
1199 Subsection (5) or (6); or
- 1200 (B) the department determines that compliance with this section is not required
1201 under the provisions of Subsection (3).
- 1202 (b) An eligible employee has a private right of action against the employee's employer
1203 only as provided in this Subsection (11).
- 1204 (12) The director shall cause money collected from the imposition and collection of a
1205 penalty under this section to be deposited into the Medicaid Restricted Account created
1206 by Section 26B-1-309.
- 1207 (13) The failure of a contractor or subcontractor to provide qualified health coverage as
1208 required by this section:
- 1209 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
1210 or contractor under:
- 1211 (i) Section 63G-6a-1602; or
- 1212 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
- 1213 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
1214 contractor as a basis for any action or suit that would suspend, disrupt, or terminate
1215 the design or construction.
- 1216 (14) An employer's waiting period for an employee to become eligible for qualified health
1217 coverage may not extend beyond the first day of the calendar month following 60 days

- 1218 after the day on which the employee is hired.
- 1219 (15) An administrator, including an administrator's actuary or underwriter, who provides a
1220 written statement under Subsection (5)(a) or (c) regarding the qualified health coverage
1221 of a contractor or subcontractor who provides a health benefit plan described in
1222 Subsection (1)(d)(ii):
- 1223 (a) subject to Subsection (11)(b), is not liable for an error in the written statement, unless
1224 the administrator commits gross negligence in preparing the written statement;
 - 1225 (b) is not liable for any error in the written statement if the administrator relied in good
1226 faith on information from the contractor or subcontractor; and
 - 1227 (c) may require as a condition of providing the written statement that a contractor or
1228 subcontractor hold the administrator harmless for an action arising under this section.

1229 Section 17. Section **63A-13-202** is amended to read:

1230 **63A-13-202 . Duties and powers of inspector general and office.**

- 1231 (1) The inspector general of Medicaid services shall:
- 1232 (a) administer, direct, and manage the office;
 - 1233 (b) inspect and monitor the following in relation to the state Medicaid program:
 - 1234 (i) the use and expenditure of federal and state funds;
 - 1235 (ii) the provision of health benefits and other services;
 - 1236 (iii) implementation of, and compliance with, state and federal requirements; and
 - 1237 (iv) records and recordkeeping procedures;
 - 1238 (c) receive reports of potential fraud, waste, or abuse in the state Medicaid program;
 - 1239 (d) investigate and identify potential or actual fraud, waste, or abuse in the state
1240 Medicaid program;
 - 1241 (e) consult with the Centers for Medicaid and Medicare Services and other states to
1242 determine and implement best practices for:
 - 1243 (i) educating and communicating with health care professionals and providers about
1244 program and audit policies and procedures;
 - 1245 (ii) discovering and eliminating fraud, waste, and abuse of Medicaid funds; and
 - 1246 (iii) differentiating between honest mistakes and intentional errors, or fraud, waste,
1247 and abuse, if the office enters into settlement negotiations with the provider or
1248 health care professional;
 - 1249 (f) obtain, develop, and utilize computer algorithms to identify fraud, waste, or abuse in
1250 the state Medicaid program;
 - 1251 (g) work closely with the fraud unit to identify and recover improperly or fraudulently

- 1252 expended Medicaid funds;
- 1253 (h) audit, inspect, and evaluate the functioning of the division for the purpose of making
1254 recommendations to the Legislature and the department to ensure that the state
1255 Medicaid program is managed:
- 1256 (i) in the most efficient and cost-effective manner possible; and
1257 (ii) in a manner that promotes adequate provider and health care professional
1258 participation and the provision of appropriate health benefits and services;
- 1259 (i) regularly advise the department and the division of an action that could be taken to
1260 ensure that the state Medicaid program is managed in the most efficient and
1261 cost-effective manner possible;
- 1262 (j) refer potential criminal conduct, relating to Medicaid funds or the state Medicaid
1263 program, to the fraud unit;
- 1264 (k) refer potential criminal conduct, including relevant data from the controlled
1265 substance database, relating to Medicaid fraud, to law enforcement in accordance
1266 with Title 58, Chapter 37f, Controlled Substance Database Act;
- 1267 (l) determine ways to:
- 1268 (i) identify, prevent, and reduce fraud, waste, and abuse in the state Medicaid
1269 program; and
1270 (ii) balance efforts to reduce costs and avoid or minimize increased costs of the state
1271 Medicaid program with the need to encourage robust health care professional and
1272 provider participation in the state Medicaid program;
- 1273 (m) recover improperly paid Medicaid funds;
- 1274 (n) track recovery of Medicaid funds by the state;
- 1275 (o) in accordance with Section 63A-13-502:
- 1276 (i) report on the actions and findings of the inspector general; and
1277 (ii) make recommendations to the Legislature and the governor;
- 1278 (p) provide training to:
- 1279 (i) agencies and employees on identifying potential fraud, waste, or abuse of
1280 Medicaid funds; and
1281 (ii) health care professionals and providers on program and audit policies and
1282 compliance; and
- 1283 (q) develop and implement principles and standards for the fulfillment of the duties of
1284 the inspector general, based on principles and standards used by:
- 1285 (i) the Federal Offices of Inspector General;

- 1286 (ii) the Association of Inspectors General; and
1287 (iii) the United States Government Accountability Office.
- 1288 (2) (a) The office may, in fulfilling the duties under Subsection (1), conduct a
1289 performance or financial audit of:
- 1290 (i) a state executive branch entity or a local government entity, including an entity
1291 described in Section 63A-13-301, that:
- 1292 (A) manages or oversees a state Medicaid program; or
1293 (B) manages or oversees the use or expenditure of state or federal Medicaid funds;
1294 or
- 1295 (ii) Medicaid funds received by a person by a grant from, or under contract with, a
1296 state executive branch entity or a local government entity.
- 1297 (b) (i) The office may not, in fulfilling the duties under Subsection (1), amend the
1298 state Medicaid program or change the policies and procedures of the state
1299 Medicaid program.
- 1300 (ii) The office shall identify conflicts between the state Medicaid plan, department
1301 administrative rules, Medicaid provider manuals, and Medicaid information
1302 bulletins and recommend that the department reconcile inconsistencies. If the
1303 department does not reconcile the inconsistencies, the office shall report the
1304 inconsistencies to the Legislature's [~~Administrative~~]Rules Review and General
1305 Oversight Committee created in Section [~~63G-3-501~~] 36-35-102.
- 1306 (iii) Beginning July 1, 2013, the office shall review a Medicaid provider manual and
1307 a Medicaid information bulletin in accordance with Subsection (2)(b)(ii), prior to
1308 the department making the provider manual or Medicaid information bulletin
1309 available to the public.
- 1310 (c) Beginning July 1, 2013, the Department of Health and Human Services shall submit
1311 a Medicaid provider manual and a Medicaid information bulletin to the office for the
1312 review required by Subsection (2)(b)(ii) prior to releasing the document to the public.
1313 The department and the Office of Inspector General of Medicaid Services shall enter
1314 into a memorandum of understanding regarding the timing of the review process
1315 under Subsection (2)(b)(iii).
- 1316 (3) (a) The office shall, in fulfilling the duties under this section to investigate, discover,
1317 and recover fraud, waste, and abuse in the Medicaid program, apply the state
1318 Medicaid plan, department administrative rules, Medicaid provider manuals, and
1319 Medicaid information bulletins in effect at the time the medical services were

- 1320 provided.
- 1321 (b) A health care provider may rely on the policy interpretation included in a current
 1322 Medicaid provider manual or a current Medicaid information bulletin that is available
 1323 to the public.
- 1324 (4) The inspector general of Medicaid services, or a designee of the inspector general of
 1325 Medicaid services within the office, may take a sworn statement or administer an oath.
 1326 Section 18. Section **63A-13-305** is amended to read:
 1327 **63A-13-305 . Audit and investigation procedures.**
- 1328 (1) (a) The office shall, in accordance with Section 63A-13-602, adopt administrative
 1329 rules in consultation with providers and health care professionals subject to audit and
 1330 investigation under this chapter to establish procedures for audits and investigations
 1331 that are fair and consistent with the duties of the office under this chapter.
- 1332 (b) If the providers and health care professionals do not agree with the rules proposed or
 1333 adopted by the office under Subsection (1)(a) or Section 63A-13-602, the providers
 1334 or health care professionals may:
- 1335 (i) request a hearing for the proposed administrative rule or seek any other remedies
 1336 under the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking
 1337 Act; and
- 1338 (ii) request a review of the rule by the Legislature's [~~Administrative~~]Rules Review
 1339 and General Oversight Committee created in Section [~~63G-3-501~~] 36-35-102.
- 1340 (2) The office shall notify and educate providers and health care professionals subject to
 1341 audit and investigation under this chapter of the providers' and health care professionals'
 1342 responsibilities and rights under the administrative rules adopted by the office under the
 1343 provisions of this section and Section 63A-13-602.
- 1344 Section 19. Section **63C-9-403** is amended to read:
 1345 **63C-9-403 . Contracting power of executive director -- Health insurance**
 1346 **coverage.**
- 1347 (1) As used in this section:
- 1348 (a) "Aggregate" means the sum of all contracts, change orders, and modifications related
 1349 to a single project.
- 1350 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.
- 1351 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or
 1352 "operative" who:
- 1353 (i) works at least 30 hours per calendar week; and

- 1354 (ii) meets employer eligibility waiting requirements for health care insurance, which
1355 may not exceed the first of the calendar month following 60 days after the day on
1356 which the individual is hired.
- 1357 (d) "Health benefit plan" means:
- 1358 (i) the same as that term is defined in Section 31A-1-301; or
- 1359 (ii) an employee welfare benefit plan:
- 1360 (A) established under the Employee Retirement Income Security Act of 1974, 29
1361 U.S.C. Sec. 1001 et seq.;
- 1362 (B) for an employer with 100 or more employees; and
- 1363 (C) in which the employer establishes a self-funded or partially self-funded group
1364 health plan to provide medical care for the employer's employees and
1365 dependents of the employees.
- 1366 (e) "Qualified health coverage" means the same as that term is defined in Section
1367 26B-3-909.
- 1368 (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.
- 1369 (g) "Third party administrator" or "administrator" means the same as that term is defined
1370 in Section 31A-1-301.
- 1371 (2) Except as provided in Subsection (3), the requirements of this section apply to:
- 1372 (a) a contractor of a design or construction contract entered into by the board, or on
1373 behalf of the board, on or after July 1, 2009, if the prime contract is in an aggregate
1374 amount equal to or greater than \$2,000,000; and
- 1375 (b) a subcontractor of a contractor of a design or construction contract entered into by
1376 the board, or on behalf of the board, on or after July 1, 2009, if the subcontract is in
1377 an aggregate amount equal to or greater than \$1,000,000.
- 1378 (3) The requirements of this section do not apply to a contractor or subcontractor described
1379 in Subsection (2) if:
- 1380 (a) the application of this section jeopardizes the receipt of federal funds;
- 1381 (b) the contract is a sole source contract; or
- 1382 (c) the contract is an emergency procurement.
- 1383 (4) A person that intentionally uses change orders, contract modifications, or multiple
1384 contracts to circumvent the requirements of this section is guilty of an infraction.
- 1385 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
1386 executive director that the contractor has and will maintain an offer of qualified
1387 health coverage for the contractor's employees and the employees' dependents during

- 1388 the duration of the contract by submitting to the executive director a written
1389 statement that:
- 1390 (i) the contractor offers qualified health coverage that complies with Section
1391 26B-3-909;
 - 1392 (ii) is from:
 - 1393 (A) an actuary selected by the contractor or the contractor's insurer;
 - 1394 (B) an underwriter who is responsible for developing the employer group's
1395 premium rates; or
 - 1396 (C) if the contractor provides a health benefit plan described in Subsection
1397 (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and
 - 1398 (iii) was created within one year before the day on which the statement is submitted.
- 1399 (b) (i) A contractor that provides a health benefit plan described in Subsection
1400 (1)(d)(ii) shall provide the actuary or underwriter selected by the administrator, as
1401 described in Subsection (5)(a)(ii)(C), sufficient information to determine whether
1402 the contractor's contribution to the health benefit plan and the health benefit plan's
1403 actuarial value meets the requirements of qualified health coverage.
- 1404 (ii) A contractor may not make a change to the contractor's contribution to the health
1405 benefit plan, unless the contractor provides notice to:
 - 1406 (A) the actuary or underwriter selected by the administrator, as described in
1407 Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written
1408 statement described in Subsection (5)(a) in compliance with this section; and
 - 1409 (B) the executive director.
- 1410 (c) A contractor that is subject to the requirements of this section shall:
- 1411 (i) place a requirement in each of the contractor's subcontracts that a subcontractor
1412 that is subject to the requirements of this section shall obtain and maintain an offer
1413 of qualified health coverage for the subcontractor's employees and the employees'
1414 dependents during the duration of the subcontract; and
 - 1415 (ii) obtain from a subcontractor that is subject to the requirements of this section a
1416 written statement that:
 - 1417 (A) the subcontractor offers qualified health coverage that complies with Section
1418 26B-3-909;
 - 1419 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer,
1420 an underwriter who is responsible for developing the employer group's
1421 premium rates, or if the subcontractor provides a health benefit plan described

- 1422 in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator;
1423 and
1424 (C) was created within one year before the day on which the contractor obtains the
1425 statement.
- 1426 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage
1427 as described in Subsection (5)(a) during the duration of the contract is subject
1428 to penalties in accordance with administrative rules adopted by the division
1429 under Subsection (6).
- 1430 (B) A contractor is not subject to penalties for the failure of a subcontractor to
1431 obtain and maintain an offer of qualified health coverage described in
1432 Subsection (5)(c)(i).
- 1433 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified
1434 health coverage described in Subsection (5)(c)(i) during the duration of the
1435 subcontract is subject to penalties in accordance with administrative rules
1436 adopted by the department under Subsection (6).
- 1437 (B) A subcontractor is not subject to penalties for the failure of a contractor to
1438 maintain an offer of qualified health coverage described in Subsection (5)(a).
- 1439 (6) The department shall adopt administrative rules:
- 1440 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
1441 (b) in coordination with:
- 1442 (i) the Department of Environmental Quality in accordance with Section 19-1-206;
1443 (ii) the Department of Natural Resources in accordance with Section 79-2-404;
1444 (iii) the Division of Facilities Construction and Management in accordance with
1445 Section 63A-5b-607;
1446 (iv) a public transit district in accordance with Section 17B-2a-818.5;
1447 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
1448 (vi) the Legislature's [~~Administrative~~]Rules Review and General Oversight
1449 Committee created in Section 36-35-102; and
- 1450 (c) that establish:
- 1451 (i) the requirements and procedures a contractor and a subcontractor shall follow to
1452 demonstrate compliance with this section, including:
- 1453 (A) that a contractor or subcontractor's compliance with this section is subject to
1454 an audit by the department or the Office of the Legislative Auditor General;
1455 (B) that a contractor that is subject to the requirements of this section shall obtain

- 1456 a written statement described in Subsection (5)(a); and
- 1457 (C) that a subcontractor that is subject to the requirements of this section shall
- 1458 obtain a written statement described in Subsection (5)(c)(ii);
- 1459 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
- 1460 violates the provisions of this section, which may include:
- 1461 (A) a three-month suspension of the contractor or subcontractor from entering into
- 1462 future contracts with the state upon the first violation;
- 1463 (B) a six-month suspension of the contractor or subcontractor from entering into
- 1464 future contracts with the state upon the second violation;
- 1465 (C) an action for debarment of the contractor or subcontractor in accordance with
- 1466 Section 63G-6a-904 upon the third or subsequent violation; and
- 1467 (D) monetary penalties which may not exceed 50% of the amount necessary to
- 1468 purchase qualified health coverage for employees and dependents of
- 1469 employees of the contractor or subcontractor who were not offered qualified
- 1470 health coverage during the duration of the contract; and
- 1471 (iii) a website on which the department shall post the commercially equivalent
- 1472 benchmark, for the qualified health coverage identified in Subsection (1)(e), that
- 1473 is provided by the Department of Health and Human Services, in accordance with
- 1474 Subsection 26B-3-909(2).
- 1475 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a
- 1476 contractor or subcontractor who intentionally violates the provisions of this
- 1477 section is liable to the employee for health care costs that would have been
- 1478 covered by qualified health coverage.
- 1479 (ii) An employer has an affirmative defense to a cause of action under Subsection
- 1480 (7)(a)(i) if:
- 1481 (A) the employer relied in good faith on a written statement described in
- 1482 Subsection (5)(a) or (5)(c)(ii); or
- 1483 (B) the department determines that compliance with this section is not required
- 1484 under the provisions of Subsection (3).
- 1485 (b) An employee has a private right of action only against the employee's employer to
- 1486 enforce the provisions of this Subsection (7).
- 1487 (8) Any penalties imposed and collected under this section shall be deposited into the
- 1488 Medicaid Restricted Account created in Section 26B-1-309.
- 1489 (9) The failure of a contractor or subcontractor to provide qualified health coverage as

- 1490 required by this section:
- 1491 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
1492 or contractor under:
- 1493 (i) Section 63G-6a-1602; or
1494 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
- 1495 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
1496 contractor as a basis for any action or suit that would suspend, disrupt, or terminate
1497 the design or construction.
- 1498 (10) An administrator, including the administrator's actuary or underwriter, who provides a
1499 written statement under Subsection (5)(a) or (c) regarding the qualified health coverage
1500 of a contractor or subcontractor who provides a health benefit plan described in
1501 Subsection (1)(d)(ii):
- 1502 (a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless
1503 the administrator commits gross negligence in preparing the written statement;
1504 (b) is not liable for any error in the written statement if the administrator relied in good
1505 faith on information from the contractor or subcontractor; and
1506 (c) may require as a condition of providing the written statement that a contractor or
1507 subcontractor hold the administrator harmless for an action arising under this section.
- 1508 Section 20. Section **63G-3-301** is amended to read:
- 1509 **63G-3-301 . Rulemaking procedure.**
- 1510 (1) An agency authorized to make rules is also authorized to amend or repeal those rules.
- 1511 (2) Except as provided in Sections 63G-3-303 and 63G-3-304, when making, amending, or
1512 repealing a rule agencies shall comply with:
- 1513 (a) the requirements of this section;
1514 (b) consistent procedures required by other statutes;
1515 (c) applicable federal mandates; and
1516 (d) rules made by the office to implement this chapter.
- 1517 (3) Subject to the requirements of this chapter, each agency shall develop and use flexible
1518 approaches in drafting rules that meet the needs of the agency and that involve persons
1519 affected by the agency's rules.
- 1520 (4) (a) Each agency shall file the agency's proposed rule and rule analysis with the office.
1521 (b) Rule amendments shall be marked with new language underlined and deleted
1522 language struck out.
1523 (c) (i) The office shall publish the information required under Subsection (8) on the

- 1524 rule analysis and the text of the proposed rule in the next issue of the bulletin.
- 1525 (ii) For rule amendments, only the section or subsection of the rule being amended
1526 need be printed.
- 1527 (iii) If the director determines that the rule is too long to publish, the office shall
1528 publish the rule analysis and shall publish the rule by reference to a copy on file
1529 with the office.
- 1530 (5) Before filing a rule with the office, the agency shall conduct a thorough analysis,
1531 consistent with the criteria established by the Governor's Office of Planning and Budget,
1532 of the fiscal impact a rule may have on businesses, which criteria may include:
- 1533 (a) the type of industries that will be impacted by the rule, and for each identified
1534 industry, an estimate of the total number of businesses within the industry, and an
1535 estimate of the number of those businesses that are small businesses;
- 1536 (b) the individual fiscal impact that would incur to a typical business for a one-year
1537 period;
- 1538 (c) the aggregated total fiscal impact that would incur to all businesses within the state
1539 for a one-year period;
- 1540 (d) the total cost that would incur to all impacted entities over a five-year period; and
1541 (e) the department head's comments on the analysis.
- 1542 (6) If the agency reasonably expects that a proposed rule will have a measurable negative
1543 fiscal impact on small businesses, the agency shall consider, as allowed by federal law,
1544 each of the following methods of reducing the impact of the rule on small businesses:
- 1545 (a) establishing less stringent compliance or reporting requirements for small businesses;
- 1546 (b) establishing less stringent schedules or deadlines for compliance or reporting
1547 requirements for small businesses;
- 1548 (c) consolidating or simplifying compliance or reporting requirements for small
1549 businesses;
- 1550 (d) establishing performance standards for small businesses to replace design or
1551 operational standards required in the proposed rule; and
- 1552 (e) exempting small businesses from all or any part of the requirements contained in the
1553 proposed rule.
- 1554 (7) If during the public comment period an agency receives comment that the proposed rule
1555 will cost small business more than one day's annual average gross receipts, and the
1556 agency had not previously performed the analysis in Subsection (6), the agency shall
1557 perform the analysis described in Subsection (6).

- 1558 (8) The rule analysis shall contain:
- 1559 (a) a summary of the rule or change;
- 1560 (b) the purpose of the rule or reason for the change;
- 1561 (c) the statutory authority or federal requirement for the rule;
- 1562 (d) the anticipated cost or savings to:
- 1563 (i) the state budget;
- 1564 (ii) local governments;
- 1565 (iii) small businesses; and
- 1566 (iv) persons other than small businesses, businesses, or local governmental entities;
- 1567 (e) the compliance cost for affected persons;
- 1568 (f) how interested persons may review the full text of the rule;
- 1569 (g) how interested persons may present their views on the rule;
- 1570 (h) the time and place of any scheduled public hearing;
- 1571 (i) the name and telephone number of an agency employee who may be contacted about
- 1572 the rule;
- 1573 (j) the name of the agency head or designee who authorized the rule;
- 1574 (k) the date on which the rule may become effective following the public comment
- 1575 period;
- 1576 (l) the agency's analysis on the fiscal impact of the rule as required under Subsection (5);
- 1577 (m) any additional comments the department head may choose to submit regarding the
- 1578 fiscal impact the rule may have on businesses; and
- 1579 (n) if applicable, a summary of the agency's efforts to comply with the requirements of
- 1580 Subsection (6).
- 1581 (9) (a) For a rule being repealed and reenacted, the rule analysis shall contain a summary
- 1582 that generally includes the following:
- 1583 (i) a summary of substantive provisions in the repealed rule which are eliminated
- 1584 from the enacted rule; and
- 1585 (ii) a summary of new substantive provisions appearing only in the enacted rule.
- 1586 (b) The summary required under this Subsection (9) is to aid in review and may not be
- 1587 used to contest any rule on the ground of noncompliance with the procedural
- 1588 requirements of this chapter.
- 1589 (10) A copy of the rule analysis shall be mailed to all persons who have made timely
- 1590 request of the agency for advance notice of the agency's rulemaking proceedings and to
- 1591 any other person who, by statutory or federal mandate or in the judgment of the agency,

- 1592 should also receive notice.
- 1593 (11) (a) Following the publication date, the agency shall allow at least 30 days for public
1594 comment on the rule.
- 1595 (b) The agency shall review and evaluate all public comments submitted in writing
1596 within the time period under Subsection (11)(a) or presented at public hearings
1597 conducted by the agency within the time period under Subsection (11)(a).
- 1598 (12) (a) Except as provided in Sections 63G-3-303 and 63G-3-304, a proposed rule
1599 becomes effective on any date specified by the agency that is:
- 1600 (i) no fewer than seven calendar days after the day on which the public comment
1601 period closes under Subsection (11); and
- 1602 (ii) no more than 120 days after the day on which the rule is published.
- 1603 (b) The agency shall provide notice of the rule's effective date to the office in the form
1604 required by the office.
- 1605 (c) The notice of effective date may not provide for an effective date before the day on
1606 which the office receives the notice.
- 1607 (d) The office shall publish notice of the effective date of the rule in the next issue of the
1608 bulletin.
- 1609 (e) A proposed rule lapses if a notice of effective date or a change to a proposed rule is
1610 not filed with the office within 120 days after the day on which the rule is published.
- 1611 (13) (a) Except as provided in Subsection (13)(d), before an agency enacts a rule, the
1612 agency shall submit to the appropriations subcommittee and interim committee with
1613 jurisdiction over the agency the agency's proposed rule for review, if the proposed
1614 rule, over a three-year period, has a fiscal impact of more than:
- 1615 (i) \$250,000 to a single person; or
- 1616 (ii) \$7,500,000 to a group of persons.
- 1617 (b) An appropriations subcommittee or interim committee that reviews a rule submitted
1618 under Subsection (13)(a) shall:
- 1619 (i) before the review, directly inform the chairs of the [~~Administrative~~]Rules Review
1620 and General Oversight Committee of the coming review, including the date, time,
1621 and place of the review; and
- 1622 (ii) after the review, directly inform the chairs of the [~~Administrative~~]Rules Review
1623 and General Oversight Committee of the outcome of the review, including any
1624 recommendation.
- 1625 (c) An appropriations subcommittee or interim committee that reviews a rule submitted

1626 under Subsection (13)(a) may recommend to the [~~Administrative~~]Rules Review and
1627 General Oversight Committee that the [~~Administrative~~]Rules Review and General
1628 Oversight Committee not recommend reauthorization of the rule in the [~~omnibus~~]
1629 legislation described in Section 63G-3-502.

1630 (d) The requirement described in Subsection (13)(a) does not apply to:

1631 (i) the State Tax Commission; or

1632 (ii) the State Board of Education.

1633 (14) (a) As used in this Subsection (14), "initiate rulemaking proceedings" means the
1634 filing, for the purposes of publication in accordance with Subsection (4), of an
1635 agency's proposed rule that is required by state statute.

1636 (b) A state agency shall initiate rulemaking proceedings no later than 180 days after the
1637 day on which the statutory provision that specifically requires the rulemaking takes
1638 effect, except under Subsection (14)(c).

1639 (c) When a statute is enacted that requires agency rulemaking and the affected agency
1640 already has rules in place that meet the statutory requirement, the agency shall submit
1641 the rules to the [~~Administrative~~]Rules Review and General Oversight Committee for
1642 review within 60 days after the day on which the statute requiring the rulemaking
1643 takes effect.

1644 (d) If a state agency does not initiate rulemaking proceedings in accordance with the
1645 time requirements in Subsection (14)(b), the state agency shall appear before the
1646 legislative [~~Administrative~~]Rules Review and General Oversight Committee and
1647 provide the reasons for the delay.

1648 Section 21. Section **63G-3-304** is amended to read:

1649 **63G-3-304 . Emergency rulemaking procedure.**

1650 (1) All agencies shall comply with the rulemaking procedures of Section 63G-3-301 unless
1651 an agency finds that these procedures would:

1652 (a) cause an imminent peril to the public health, safety, or welfare;

1653 (b) cause an imminent budget reduction because of budget restraints or federal
1654 requirements; or

1655 (c) place the agency in violation of federal or state law.

1656 (2) (a) When finding that its rule is excepted from regular rulemaking procedures by this
1657 section, the agency shall file with the office and the members of the [~~Administrative~~]
1658 Rules Review and General Oversight Committee:

1659 (i) the text of the rule; and

- 1660 (ii) a rule analysis that includes the specific reasons and justifications for its findings.
 1661 (b) The office shall publish the rule in the bulletin as provided in Subsection 63G-3-301
 1662 (4).
 1663 (c) The agency shall notify interested persons as provided in Subsection 63G-3-301(10).
 1664 (d) Subject to Subsection 63G-3-502(4), the rule becomes effective for a period not
 1665 exceeding 120 days on the date of filing or any later date designated in the rule.
 1666 (3) If the agency intends the rule to be effective beyond 120 days, the agency shall also
 1667 comply with the procedures of Section 63G-3-301.

1668 Section 22. Section **63G-3-402** is amended to read:

1669 **63G-3-402 . Office of Administrative Rules -- Duties generally.**

- 1670 (1) The office shall:
- 1671 (a) record in a register the receipt of all agency rules, rule analysis forms, and notices of
 1672 effective dates;
- 1673 (b) make the register, copies of all proposed rules, and rulemaking documents available
 1674 for public inspection;
- 1675 (c) publish all proposed rules, rule analyses, notices of effective dates, and review
 1676 notices in the bulletin at least monthly, except that the office may publish the
 1677 complete text of any proposed rule that the director determines is too long to print or
 1678 too expensive to publish by reference to the text maintained by the office;
- 1679 (d) compile, format, number, and index all effective rules in an administrative code, and
 1680 periodically publish that code and supplements or revisions to it;
- 1681 (e) publish a digest of all rules and notices contained in the most recent bulletin;
- 1682 (f) publish at least annually an index of all changes to the administrative code and the
 1683 effective date of each change;
- 1684 (g) print, or contract to print, all rulemaking publications the director determines
 1685 necessary to implement this chapter;
- 1686 (h) distribute without charge the bulletin and administrative code to state-designated
 1687 repositories, the ~~[Administrative-]~~Rules Review and General Oversight Committee,
 1688 the Office of Legislative Research and General Counsel, and the two houses of the
 1689 Legislature;
- 1690 (i) distribute without charge the digest and index to state legislators, agencies, political
 1691 subdivisions on request, and the Office of Legislative Research and General Counsel;
- 1692 (j) distribute, at prices covering publication costs, all paper rulemaking publications to
 1693 all other requesting persons and agencies;

- 1694 (k) provide agencies assistance in rulemaking;
- 1695 (l) if the department operates the office as an internal service fund agency in accordance
1696 with Section 63A-1-109.5, submit to the Rate Committee established in Section
1697 63A-1-114:
- 1698 (i) the proposed rate and fee schedule as required by Section 63A-1-114; and
1699 (ii) other information or analysis requested by the Rate Committee;
- 1700 (m) administer this chapter and require state agencies to comply with filing, publication,
1701 and hearing procedures; and
- 1702 (n) make technological improvements to the rulemaking process, including
1703 improvements to automation and digital accessibility.
- 1704 (2) The office shall establish by rule in accordance with Title 63G, Chapter 3, Utah
1705 Administrative Rulemaking Act, all filing, publication, and hearing procedures
1706 necessary to make rules under this chapter.
- 1707 (3) The office may after notifying the agency make nonsubstantive changes to rules filed
1708 with the office or published in the bulletin or code by:
- 1709 (a) implementing a uniform system of formatting, punctuation, capitalization,
1710 organization, numbering, and wording;
- 1711 (b) correcting obvious errors and inconsistencies in punctuation, capitalization,
1712 numbering, referencing, and wording;
- 1713 (c) changing a catchline to more accurately reflect the substance of each section, part,
1714 rule, or title;
- 1715 (d) updating or correcting annotations associated with a section, part, rule, or title; and
1716 (e) merging or determining priority of any amendment, enactment, or repeal to the same
1717 rule or section made effective by an agency.
- 1718 (4) In addition, the office may make the following nonsubstantive changes with the
1719 concurrence of the agency:
- 1720 (a) eliminate duplication within rules;
- 1721 (b) eliminate obsolete and redundant words; and
- 1722 (c) correct defective or inconsistent section and paragraph structure in arrangement of
1723 the subject matter of rules.
- 1724 (5) For nonsubstantive changes made in accordance with Subsection (3) or (4) after
1725 publication of the rule in the bulletin, the office shall publish a list of nonsubstantive
1726 changes in the bulletin. For each nonsubstantive change, the list shall include:
- 1727 (a) the affected code citation;

- 1728 (b) a brief description of the change; and
1729 (c) the date the change was made.
- 1730 (6) All funds appropriated or collected for publishing the office's publications shall be
1731 nonlapsing.
- 1732 Section 23. Section **63G-3-403** is amended to read:
- 1733 **63G-3-403 . Repeal and reenactment of Utah Administrative Code.**
- 1734 (1) When the director determines that the Utah Administrative Code requires extensive
1735 revision and reorganization, the office may repeal the code and reenact a new code
1736 according to the requirements of this section.
- 1737 (2) The office may:
- 1738 (a) reorganize, reformat, and renumber the code;
1739 (b) require each agency to review its rules and make any organizational or substantive
1740 changes according to the requirements of Section 63G-3-303; and
1741 (c) require each agency to prepare a brief summary of all substantive changes made by
1742 the agency.
- 1743 (3) The office may make nonsubstantive changes in the code by:
- 1744 (a) adopting a uniform system of punctuation, capitalization, numbering, and wording;
1745 (b) eliminating duplication;
1746 (c) correcting defective or inconsistent section and paragraph structure in arrangement of
1747 the subject matter of rules;
1748 (d) eliminating all obsolete or redundant words;
1749 (e) correcting obvious errors and inconsistencies in punctuation, capitalization,
1750 numbering, referencing, and wording;
1751 (f) changing a catchline to more accurately reflect the substance of each section, part,
1752 rule, or title;
1753 (g) updating or correcting annotations associated with a section, part, rule, or title; and
1754 (h) merging or determining priority of any amendment, enactment, or repeal to the same
1755 rule or section made effective by an agency.
- 1756 (4) (a) To inform the public about the proposed code reenactment, the office shall
1757 publish in the bulletin:
- 1758 (i) notice of the code reenactment;
1759 (ii) the date, time, and place of a public hearing where members of the public may
1760 comment on the proposed reenactment of the code;
1761 (iii) locations where the proposed reenactment of the code may be reviewed; and

- 1762 (iv) agency summaries of substantive changes in the reenacted code.
- 1763 (b) To inform the public about substantive changes in agency rules contained in the
- 1764 proposed reenactment, each agency shall:
- 1765 (i) make the text of their reenacted rules available:
- 1766 (A) for public review during regular business hours; and
- 1767 (B) in an electronic version; and
- 1768 (ii) comply with the requirements of Subsection 63G-3-301(10).
- 1769 (5) The office shall hold a public hearing on the proposed code reenactment no fewer than
- 1770 30 days nor more than 45 days after the publication required by Subsection (4)(a).
- 1771 (6) The office shall distribute complete text of the proposed code reenactment without
- 1772 charge to:
- 1773 (a) state-designated repositories in Utah;
- 1774 (b) the ~~[Administrative-]~~Rules Review and General Oversight Committee; and
- 1775 (c) the Office of Legislative Research and General Counsel.
- 1776 (7) The former code is repealed and the reenacted code is effective at noon on a date
- 1777 designated by the office that is not fewer than 45 days nor more than 90 days after the
- 1778 publication date required by this section.
- 1779 (8) Repeal and reenactment of the code meets the requirements of Section 63G-3-305 for a
- 1780 review of all agency rules.
- 1781 Section 24. Section **63G-3-502** is amended to read:
- 1782 **63G-3-502 . Legislative reauthorization of agency rules -- Extension of rules by**
- 1783 **governor.**
- 1784 (1) All grants of rulemaking power from the Legislature to a state agency in any statute are
- 1785 made subject to the provisions of this section.
- 1786 (2) (a) Except as provided in Subsection (2)(b), every agency rule that is in effect on
- 1787 February 28 of any calendar year expires on May 1 of that year unless it has been
- 1788 reauthorized by the Legislature.
- 1789 (b) Notwithstanding the provisions of Subsection (2)(a), an agency's rules do not expire
- 1790 if:
- 1791 (i) the rule is explicitly mandated by a federal law or regulation; or
- 1792 (ii) a provision of Utah's constitution vests the agency with specific constitutional
- 1793 authority to regulate.
- 1794 (3) (a) The ~~[Administrative-]~~Rules Review and General Oversight Committee shall have [
- 1795 omnibus legislation prepared for consideration by the Legislature during its]

- 1796 legislation prepared for the Legislature to consider the reauthorization of rules during
 1797 its annual general session.
- 1798 (b) The [~~omnibus~~]legislation shall be substantially in the following form: "All rules of
 1799 Utah state agencies are reauthorized except for the following:".
- 1800 (c) Before sending the legislation to the governor for the governor's action, the [
 1801 ~~Administrative~~]Rules Review and General Oversight Committee may send a letter to
 1802 the governor and to the agency explaining specifically why the committee believes [
 1803 ~~any~~] a rule should not be reauthorized.
- 1804 (d) For the purpose of this section, the entire rule, a single section, or any complete
 1805 paragraph of a rule may be excepted for reauthorization in the [~~omnibus~~]legislation
 1806 considered by the Legislature.
- 1807 (4) The [~~Administrative~~]Rules Review and General Oversight Committee may have
 1808 legislation prepared for consideration by the Legislature in the annual general session or
 1809 a special session regarding any rule made according to emergency rulemaking
 1810 procedures described in Section 63G-3-304.
- 1811 (5) The Legislature's reauthorization of a rule by legislation does not constitute legislative
 1812 approval of the rule, nor is it admissible in any proceeding as evidence of legislative
 1813 intent.
- 1814 (6) (a) If an agency believes that a rule that has not been reauthorized by the Legislature
 1815 or that will be allowed to expire should continue in full force and effect and is a rule
 1816 within their authorized rulemaking power, the agency may seek the governor's
 1817 declaration extending the rule beyond the expiration date.
- 1818 (b) In seeking the extension, the agency shall submit a petition to the governor that
 1819 affirmatively states:
- 1820 (i) that the rule is necessary; and
 1821 (ii) a citation to the source of its authority to make the rule.
- 1822 (c) (i) If the governor finds that the necessity does exist, and that the agency has the
 1823 authority to make the rule, the governor may declare the rule to be extended by
 1824 publishing that declaration in the Administrative Rules Bulletin on or before April
 1825 15 of that year.
- 1826 (ii) The declaration shall set forth the rule to be extended, the reasons the extension is
 1827 necessary, and a citation to the source of the agency's authority to make the rule.
- 1828 (d) If the [~~omnibus bill~~] legislation required by Subsection (3) fails to pass both houses of
 1829 the Legislature or is found to have a technical legal defect preventing reauthorization

1830 of administrative rules intended to be reauthorized by the Legislature, the governor
1831 may declare all rules to be extended by publishing a single declaration in the
1832 Administrative Rules Bulletin on or before June 15 without meeting requirements of
1833 Subsections (6)(b) and (c).

1834 Section 25. Section **63G-3-503** is enacted to read:

1835 **63G-3-503 . Agency rules oversight.**

1836 Oversight of the rulemaking process is conducted by the Rules Review and
1837 General Oversight Committee created in Section 36-35-502.

1838 Section 26. Section **72-6-107.5** is amended to read:

1839 **72-6-107.5 . Construction of improvements of highway -- Contracts -- Health**
1840 **insurance coverage.**

1841 (1) As used in this section:

1842 (a) "Aggregate" means the sum of all contracts, change orders, and modifications related
1843 to a single project.

1844 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.

1845 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or
1846 "operative" who:

1847 (i) works at least 30 hours per calendar week; and

1848 (ii) meets employer eligibility waiting requirements for health care insurance, which
1849 may not exceed the first day of the calendar month following 60 days after the day
1850 on which the individual is hired.

1851 (d) "Health benefit plan" means:

1852 (i) the same as that term is defined in Section 31A-1-301; or

1853 (ii) an employee welfare benefit plan:

1854 (A) established under the Employee Retirement Income Security Act of 1974, 29
1855 U.S.C. Sec. 1001 et seq.;

1856 (B) for an employer with 100 or more employees; and

1857 (C) in which the employer establishes a self-funded or partially self-funded group
1858 health plan to provide medical care for the employer's employees and
1859 dependents of the employees.

1860 (e) "Qualified health coverage" means the same as that term is defined in Section
1861 26B-3-909.

1862 (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

1863 (g) "Third party administrator" or "administrator" means the same as that term is defined

1864 in Section 31A-1-301.

1865 (2) Except as provided in Subsection (3), the requirements of this section apply to:

1866 (a) a contractor of a design or construction contract entered into by the department on or
1867 after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater
1868 than \$2,000,000; and

1869 (b) a subcontractor of a contractor of a design or construction contract entered into by
1870 the department on or after July 1, 2009, if the subcontract is in an aggregate amount
1871 equal to or greater than \$1,000,000.

1872 (3) The requirements of this section do not apply to a contractor or subcontractor described
1873 in Subsection (2) if:

1874 (a) the application of this section jeopardizes the receipt of federal funds;

1875 (b) the contract is a sole source contract; or

1876 (c) the contract is an emergency procurement.

1877 (4) A person that intentionally uses change orders, contract modifications, or multiple
1878 contracts to circumvent the requirements of this section is guilty of an infraction.

1879 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
1880 department that the contractor has and will maintain an offer of qualified health
1881 coverage for the contractor's employees and the employees' dependents during the
1882 duration of the contract by submitting to the department a written statement that:

1883 (i) the contractor offers qualified health coverage that complies with Section
1884 26B-3-909;

1885 (ii) is from:

1886 (A) an actuary selected by the contractor or the contractor's insurer;

1887 (B) an underwriter who is responsible for developing the employer group's
1888 premium rates; or

1889 (C) if the contractor provides a health benefit plan described in Subsection

1890 (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

1891 (iii) was created within one year before the day on which the statement is submitted.

1892 (b) (i) A contractor that provides a health benefit plan described in Subsection

1893 (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as
1894 described in Subsection (5)(a)(ii)(C), sufficient information to determine whether
1895 the contractor's contribution to the health benefit plan and the actuarial value of
1896 the health benefit plan meet the requirements of qualified health coverage.

1897 (ii) A contractor may not make a change to the contractor's contribution to the health

- 1898 benefit plan, unless the contractor provides notice to:
- 1899 (A) the actuary or underwriter selected by an administrator, as described in
- 1900 Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written
- 1901 statement described in Subsection (5)(a) in compliance with this section; and
- 1902 (B) the department.
- 1903 (c) A contractor that is subject to the requirements of this section shall:
- 1904 (i) place a requirement in each of the contractor's subcontracts that a subcontractor
- 1905 that is subject to the requirements of this section shall obtain and maintain an offer
- 1906 of qualified health coverage for the subcontractor's employees and the employees'
- 1907 dependents during the duration of the subcontract; and
- 1908 (ii) obtain from a subcontractor that is subject to the requirements of this section a
- 1909 written statement that:
- 1910 (A) the subcontractor offers qualified health coverage that complies with Section
- 1911 26B-3-909;
- 1912 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer,
- 1913 an underwriter who is responsible for developing the employer group's
- 1914 premium rates, or if the subcontractor provides a health benefit plan described
- 1915 in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator;
- 1916 and
- 1917 (C) was created within one year before the day on which the contractor obtains the
- 1918 statement.
- 1919 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage
- 1920 described in Subsection (5)(a) during the duration of the contract is subject to
- 1921 penalties in accordance with administrative rules adopted by the department
- 1922 under Subsection (6).
- 1923 (B) A contractor is not subject to penalties for the failure of a subcontractor to
- 1924 obtain and maintain an offer of qualified health coverage described in
- 1925 Subsection (5)(c)(i).
- 1926 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified
- 1927 health coverage described in Subsection (5)(c) during the duration of the
- 1928 subcontract is subject to penalties in accordance with administrative rules
- 1929 adopted by the department under Subsection (6).
- 1930 (B) A subcontractor is not subject to penalties for the failure of a contractor to
- 1931 maintain an offer of qualified health coverage described in Subsection (5)(a).

- 1932 (6) The department shall adopt administrative rules:
- 1933 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 1934 (b) in coordination with:
- 1935 (i) the Department of Environmental Quality in accordance with Section 19-1-206;
- 1936 (ii) the Department of Natural Resources in accordance with Section 79-2-404;
- 1937 (iii) the Division of Facilities Construction and Management in accordance with
- 1938 Section 63A-5b-607;
- 1939 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;
- 1940 (v) a public transit district in accordance with Section 17B-2a-818.5; and
- 1941 (vi) the Legislature's [~~Administrative~~] Rules Review and General Oversight
- 1942 Committee created in Section 36-35-102; and
- 1943 (c) that establish:
- 1944 (i) the requirements and procedures a contractor and a subcontractor shall follow to
- 1945 demonstrate compliance with this section, including:
- 1946 (A) that a contractor or subcontractor's compliance with this section is subject to
- 1947 an audit by the department or the Office of the Legislative Auditor General;
- 1948 (B) that a contractor that is subject to the requirements of this section shall obtain
- 1949 a written statement described in Subsection (5)(a); and
- 1950 (C) that a subcontractor that is subject to the requirements of this section shall
- 1951 obtain a written statement described in Subsection (5)(c)(ii);
- 1952 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
- 1953 violates the provisions of this section, which may include:
- 1954 (A) a three-month suspension of the contractor or subcontractor from entering into
- 1955 future contracts with the state upon the first violation;
- 1956 (B) a six-month suspension of the contractor or subcontractor from entering into
- 1957 future contracts with the state upon the second violation;
- 1958 (C) an action for debarment of the contractor or subcontractor in accordance with
- 1959 Section 63G-6a-904 upon the third or subsequent violation; and
- 1960 (D) monetary penalties which may not exceed 50% of the amount necessary to
- 1961 purchase qualified health coverage for an employee and a dependent of the
- 1962 employee of the contractor or subcontractor who was not offered qualified
- 1963 health coverage during the duration of the contract; and
- 1964 (iii) a website on which the department shall post the commercially equivalent
- 1965 benchmark, for the qualified health coverage identified in Subsection (1)(e), that

- 1966 is provided by the Department of Health and Human Services, in accordance with
1967 Subsection 26B-3-909(2).
- 1968 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a
1969 contractor or subcontractor who intentionally violates the provisions of this
1970 section is liable to the employee for health care costs that would have been
1971 covered by qualified health coverage.
- 1972 (ii) An employer has an affirmative defense to a cause of action under Subsection
1973 (7)(a)(i) if:
- 1974 (A) the employer relied in good faith on a written statement described in
1975 Subsection (5)(a) or (5)(c)(ii); or
- 1976 (B) the department determines that compliance with this section is not required
1977 under the provisions of Subsection (3).
- 1978 (b) An employee has a private right of action only against the employee's employer to
1979 enforce the provisions of this Subsection (7).
- 1980 (8) Any penalties imposed and collected under this section shall be deposited into the
1981 Medicaid Restricted Account created in Section 26B-1-309.
- 1982 (9) The failure of a contractor or subcontractor to provide qualified health coverage as
1983 required by this section:
- 1984 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
1985 or contractor under:
- 1986 (i) Section 63G-6a-1602; or
- 1987 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
- 1988 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
1989 contractor as a basis for any action or suit that would suspend, disrupt, or terminate
1990 the design or construction.
- 1991 (10) An administrator, including an administrator's actuary or underwriter, who provides a
1992 written statement under Subsection (5)(a) or (c) regarding the qualified health coverage
1993 of a contractor or subcontractor who provides a health benefit plan described in
1994 Subsection (1)(d)(ii):
- 1995 (a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless
1996 the administrator commits gross negligence in preparing the written statement;
- 1997 (b) is not liable for any error in the written statement if the administrator relied in good
1998 faith on information from the contractor or subcontractor; and
- 1999 (c) may require as a condition of providing the written statement that a contractor or

2000 subcontractor hold the administrator harmless for an action arising under this section.

2001 Section 27. Section **78A-2-203.5**, which is renumbered from Section 36-32-206 is renumbered

2002 and amended to read:

2003 ~~[36-32-206]~~ **78A-2-203.5. . Submission of court rules or proposed court rules.**

2004 When the Supreme Court or Judicial Council submits a court rule or proposal for
 2005 court rule for public comment, the Supreme Court or Judicial Council shall submit
 2006 the court rule or proposal for court rule to publication houses that publish court rules,
 2007 proposals to court rules, case law, or other relevant information for individuals
 2008 engaged in the legal profession.

2009 Section 28. Section **79-2-404** is amended to read:

2010 **79-2-404 . Contracting powers of department -- Health insurance coverage.**

2011 (1) As used in this section:

2012 (a) "Aggregate" means the sum of all contracts, change orders, and modifications related
 2013 to a single project.

2014 (b) "Change order" means the same as that term is defined in Section 63G-6a-103.

2015 (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or
 2016 "operative" who:

2017 (i) works at least 30 hours per calendar week; and

2018 (ii) meets employer eligibility waiting requirements for health care insurance, which
 2019 may not exceed the first day of the calendar month following 60 days after the day
 2020 on which the individual is hired.

2021 (d) "Health benefit plan" means:

2022 (i) the same as that term is defined in Section 31A-1-301; or

2023 (ii) an employee welfare benefit plan:

2024 (A) established under the Employee Retirement Income Security Act of 1974, 29
 2025 U.S.C. Sec. 1001 et seq.;

2026 (B) for an employer with 100 or more employees; and

2027 (C) in which the employer establishes a self-funded or partially self-funded group
 2028 health plan to provide medical care for the employer's employees and
 2029 dependents of the employees.

2030 (e) "Qualified health coverage" means the same as that term is defined in Section
 2031 26B-3-909.

2032 (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

2033 (g) "Third party administrator" or "administrator" means the same as that term is defined

- 2034 in Section 31A-1-301.
- 2035 (2) Except as provided in Subsection (3), the requirements of this section apply to:
- 2036 (a) a contractor of a design or construction contract entered into by, or delegated to, the
- 2037 department or a division, board, or council of the department on or after July 1, 2009,
- 2038 if the prime contract is in an aggregate amount equal to or greater than \$2,000,000;
- 2039 and
- 2040 (b) a subcontractor of a contractor of a design or construction contract entered into by, or
- 2041 delegated to, the department or a division, board, or council of the department on or
- 2042 after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater
- 2043 than \$1,000,000.
- 2044 (3) This section does not apply to contracts entered into by the department or a division,
- 2045 board, or council of the department if:
- 2046 (a) the application of this section jeopardizes the receipt of federal funds;
- 2047 (b) the contract or agreement is between:
- 2048 (i) the department or a division, board, or council of the department; and
- 2049 (ii) (A) another agency of the state;
- 2050 (B) the federal government;
- 2051 (C) another state;
- 2052 (D) an interstate agency;
- 2053 (E) a political subdivision of this state; or
- 2054 (F) a political subdivision of another state; or
- 2055 (c) the contract or agreement is:
- 2056 (i) for the purpose of disbursing grants or loans authorized by statute;
- 2057 (ii) a sole source contract; or
- 2058 (iii) an emergency procurement.
- 2059 (4) A person that intentionally uses change orders, contract modifications, or multiple
- 2060 contracts to circumvent the requirements of this section is guilty of an infraction.
- 2061 (5) (a) A contractor subject to the requirements of this section shall demonstrate to the
- 2062 department that the contractor has and will maintain an offer of qualified health
- 2063 coverage for the contractor's employees and the employees' dependents during the
- 2064 duration of the contract by submitting to the department a written statement that:
- 2065 (i) the contractor offers qualified health coverage that complies with Section
- 2066 26B-3-909;
- 2067 (ii) is from:

- 2068 (A) an actuary selected by the contractor or the contractor's insurer;
- 2069 (B) an underwriter who is responsible for developing the employer group's
- 2070 premium rates; or
- 2071 (C) if the contractor provides a health benefit plan described in Subsection
- 2072 (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and
- 2073 (iii) was created within one year before the day on which the statement is submitted.
- 2074 (b) (i) A contractor that provides a health benefit plan described in Subsection
- 2075 (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as
- 2076 described in Subsection (5)(a)(ii)(C), sufficient information to determine whether
- 2077 the contractor's contribution to the health benefit plan and the actuarial value of
- 2078 the health benefit plan meet the requirements of qualified health coverage.
- 2079 (ii) A contractor may not make a change to the contractor's contribution to the health
- 2080 benefit plan, unless the contractor provides notice to:
- 2081 (A) the actuary or underwriter selected by an administrator, as described in
- 2082 Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written
- 2083 statement described in Subsection (5)(a) in compliance with this section; and
- 2084 (B) the department.
- 2085 (c) A contractor that is subject to the requirements of this section shall:
- 2086 (i) place a requirement in each of the contractor's subcontracts that a subcontractor
- 2087 that is subject to the requirements of this section shall obtain and maintain an offer
- 2088 of qualified health coverage for the subcontractor's employees and the employees'
- 2089 dependents during the duration of the subcontract; and
- 2090 (ii) obtain from a subcontractor that is subject to the requirements of this section a
- 2091 written statement that:
- 2092 (A) the subcontractor offers qualified health coverage that complies with Section
- 2093 26B-3-909;
- 2094 (B) is from an actuary selected by the subcontractor or the subcontractor's insurer,
- 2095 an underwriter who is responsible for developing the employer group's
- 2096 premium rates, or if the subcontractor provides a health benefit plan described
- 2097 in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator;
- 2098 and
- 2099 (C) was created within one year before the day on which the contractor obtains the
- 2100 statement.
- 2101 (d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage

- 2102 described in Subsection (5)(a) during the duration of the contract is subject to
2103 penalties in accordance with administrative rules adopted by the department
2104 under Subsection (6).
- 2105 (B) A contractor is not subject to penalties for the failure of a subcontractor to
2106 obtain and maintain an offer of qualified health coverage described in
2107 Subsection (5)(c)(i).
- 2108 (ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified
2109 health coverage described in Subsection (5)(c) during the duration of the
2110 subcontract is subject to penalties in accordance with administrative rules
2111 adopted by the department under Subsection (6).
- 2112 (B) A subcontractor is not subject to penalties for the failure of a contractor to
2113 maintain an offer of qualified health coverage described in Subsection (5)(a).
- 2114 (6) The department shall adopt administrative rules:
- 2115 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 2116 (b) in coordination with:
- 2117 (i) the Department of Environmental Quality in accordance with Section 19-1-206;
- 2118 (ii) a public transit district in accordance with Section 17B-2a-818.5;
- 2119 (iii) the Division of Facilities Construction and Management in accordance with
2120 Section 63A-5b-607;
- 2121 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;
- 2122 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
- 2123 (vi) the Legislature's [~~Administrative~~]Rules Review and General Oversight
2124 Committee created in Section 36-35-102; and
- 2125 (c) that establish:
- 2126 (i) the requirements and procedures a contractor and a subcontractor shall follow to
2127 demonstrate compliance with this section, including:
- 2128 (A) that a contractor or subcontractor's compliance with this section is subject to
2129 an audit by the department or the Office of the Legislative Auditor General;
- 2130 (B) that a contractor that is subject to the requirements of this section shall obtain
2131 a written statement described in Subsection (5)(a); and
- 2132 (C) that a subcontractor that is subject to the requirements of this section shall
2133 obtain a written statement described in Subsection (5)(c)(ii);
- 2134 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
2135 violates the provisions of this section, which may include:

- 2136 (A) a three-month suspension of the contractor or subcontractor from entering into
2137 future contracts with the state upon the first violation;
- 2138 (B) a six-month suspension of the contractor or subcontractor from entering into
2139 future contracts with the state upon the second violation;
- 2140 (C) an action for debarment of the contractor or subcontractor in accordance with
2141 Section 63G-6a-904 upon the third or subsequent violation; and
- 2142 (D) monetary penalties which may not exceed 50% of the amount necessary to
2143 purchase qualified health coverage for an employee and a dependent of an
2144 employee of the contractor or subcontractor who was not offered qualified
2145 health coverage during the duration of the contract; and
- 2146 (iii) a website on which the department shall post the commercially equivalent
2147 benchmark, for the qualified health coverage identified in Subsection (1)(e),
2148 provided by the Department of Health and Human Services, in accordance with
2149 Subsection 26B-3-909(2).
- 2150 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a
2151 contractor or subcontractor who intentionally violates the provisions of this
2152 section is liable to the employee for health care costs that would have been
2153 covered by qualified health coverage.
- 2154 (ii) An employer has an affirmative defense to a cause of action under Subsection
2155 (7)(a)(i) if:
- 2156 (A) the employer relied in good faith on a written statement described in
2157 Subsection (5)(a) or (5)(c)(ii); or
- 2158 (B) the department determines that compliance with this section is not required
2159 under the provisions of Subsection (3).
- 2160 (b) An employee has a private right of action only against the employee's employer to
2161 enforce the provisions of this Subsection (7).
- 2162 (8) Any penalties imposed and collected under this section shall be deposited into the
2163 Medicaid Restricted Account created in Section 26B-1-309.
- 2164 (9) The failure of a contractor or subcontractor to provide qualified health coverage as
2165 required by this section:
- 2166 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
2167 or contractor under:
- 2168 (i) Section 63G-6a-1602; or
- 2169 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

- 2170 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
2171 contractor as a basis for any action or suit that would suspend, disrupt, or terminate
2172 the design or construction.
- 2173 (10) An administrator, including an administrator's actuary or underwriter, who provides a
2174 written statement under Subsection (5)(a) or (c) regarding the qualified health coverage
2175 of a contractor or subcontractor who provides a health benefit plan described in
2176 Subsection (1)(d)(ii):
- 2177 (a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless
2178 the administrator commits gross negligence in preparing the written statement;
- 2179 (b) is not liable for any error in the written statement if the administrator relied in good
2180 faith on information from the contractor or subcontractor; and
- 2181 (c) may require as a condition of providing the written statement that a contractor or
2182 subcontractor hold the administrator harmless for an action arising under this section.

2183 **Section 29. Repealer.**

2184 This bill repeals:

2185 **Section 36-32-101, Title.**

2186 **Section 36-32-102, Definitions.**

2187 **Section 36-32-201, Establishment of committee -- Membership -- Duties.**

2188 **Section 36-32-204, Committee review -- Fiscal analyst -- Powers of committee.**

2189 **Section 36-32-205, Findings -- Report -- Distribution of report.**

2190 **Section 30. Effective date.**

2191 This bill takes effect on May 1, 2024.