

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

31 **53C-1-201. Creation of administration -- Purpose -- Director.**

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

34 (b) The administration shall manage all school and institutional trust lands and assets
35 within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation
36 of Revenue from Trust Lands, and Sections 51-7a-201 and 51-7a-202.

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

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

41 (b) (i) The director may make rules as approved by the board that allow the
42 administration to classify a business proposal submitted to the administration as protected under
43 Section 63-2-304, for as long as is necessary to evaluate the proposal.

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

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

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

50 (c) The director shall make rules in compliance with Title 63, Chapter 46a, Utah
51 Administrative Rulemaking Act, except that the administration is not subject to Subsections
52 63-46a-4(6) and (7), and the director, with the board's approval, may establish a procedure for
53 the expedited approval of rules, based on written findings by the director showing:

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

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

57 (iii) the reasons the normal procedures under Section 63-46a-4 cannot be met without

58 causing the loss of the specific opportunity;

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

60 (v) that the director has filed a copy of the rule and a rule analysis, stating the specific
61 reasons and justifications for its findings, with the Division of Administrative Rules and notified
62 interested parties as provided in Subsection 63-46a-4~~(8)~~ (9).

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

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

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

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

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

81 (e) The administration shall comply with Title 63, Chapter 56, Utah Procurement Code,
82 except where the board approves, upon recommendation of the director, exemption from the
83 Utah Procurement Code, and simultaneous adoption of rules under Title 63, Chapter 46a, Utah
84 Administrative Rulemaking Act, for procurement, which enable the administration to efficiently
85 fulfill its responsibilities under the law.

86 (f) (i) The board and director shall review the exceptions under this Subsection (3) and
87 make recommendations for any modification, if required, which the Legislature would be asked
88 to consider during its annual general session.

89 (ii) The board and director may include in their recommendations any other proposed
90 exceptions from the usual executive and legislative controls the board and director consider
91 necessary to accomplish the purpose of this title.

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

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

96 (b) The board shall provide policies for the ownership and control of Native American
97 remains that are discovered or excavated on school and institutional trust lands in consultation
98 with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4,
99 Native American Grave Protection and Repatriation Act. The director may make rules in
100 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to implement
101 policies provided by the board regarding Native American remains.

102 (6) In connection with joint ventures for the development of trust lands and minerals
103 approved by the board under Sections 53C-1-303 and 53C-2-401, the administration may
104 become a member of a limited liability company under Title 48, Chapter 2c, Utah Revised
105 Limited Liability Company Act, and is considered a person under Section 48-2c-102.

106 Section 2. Section **63-46a-4** is amended to read:

107 **63-46a-4. Rulemaking procedure.**

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

110 (2) Except as provided in Sections 63-46a-6 and 63-46a-7, when making, amending, or
111 repealing a rule agencies shall comply with:

112 (a) the requirements of this section;

113 (b) consistent procedures required by other statutes;

- 114 (c) applicable federal mandates; and
- 115 (d) rules made by the division to implement this chapter.
- 116 (3) Subject to the requirements of this chapter, each agency shall develop and use
- 117 flexible approaches in drafting rules that meet the needs of the agency and that involve persons
- 118 affected by the agency's rules.
- 119 (4) (a) Each agency shall file its proposed rule and rule analysis with the division.
- 120 (b) Rule amendments shall be marked with new language underlined and deleted
- 121 language struck out.
- 122 (c) (i) The division shall publish the information required under this Subsection (4) on
- 123 the rule analysis and the text of the proposed rule in the next issue of the bulletin.
- 124 (ii) For rule amendments, only the section or subsection of the rule being amended need
- 125 be printed.
- 126 (iii) If the director determines that the rule is too long to publish, the director shall
- 127 publish the rule analysis and shall publish the rule by reference to a copy on file with the
- 128 division.
- 129 (5) Prior to filing a rule with the division, the department head shall consider and
- 130 comment on the fiscal impact a rule may have on businesses.
- 131 (6) If the agency reasonably expects that a proposed rule will have a measurable
- 132 negative fiscal impact on small businesses, the agency shall consider, as allowed by federal law,
- 133 each of the following methods of reducing the impact of the rule on small businesses:
- 134 (a) establishing less stringent compliance or reporting requirements for small businesses;
- 135 (b) establishing less stringent schedules or deadlines for compliance or reporting
- 136 requirements for small businesses;
- 137 (c) consolidating or simplifying compliance or reporting requirements for small
- 138 businesses;
- 139 (d) establishing performance standards for small businesses to replace design or
- 140 operational standards required in the proposed rule; and
- 141 (e) exempting small businesses from all or any part of the requirements contained in the

142 proposed rule.

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

147 [~~6~~] (8) The rule analysis shall contain:

- 148 (a) a summary of the rule or change;
- 149 (b) the purpose of the rule or reason for the change;
- 150 (c) the statutory authority or federal requirement for the rule;
- 151 (d) the anticipated cost or savings to:
 - 152 (i) the state budget;
 - 153 (ii) local governments;
 - 154 (iii) small businesses; and
 - 155 (iv) persons other than small businesses, businesses, or local governmental entities;
- 156 (e) the compliance cost for affected persons;
- 157 (f) how interested persons may review the full text of the rule;
- 158 (g) how interested persons may present their views on the rule;
- 159 (h) the time and place of any scheduled public hearing;
- 160 (i) the name and telephone number of an agency employee who may be contacted about
161 the rule;
- 162 (j) the name of the agency head or designee who authorized the rule;
- 163 (k) the date on which the rule may become effective following the public comment
164 period; and
- 165 (l) comments by the department head on the fiscal impact the rule may have on
166 businesses.

167 [~~7~~] (9) (a) For a rule being repealed and reenacted, the rule analysis shall contain a
168 summary that generally includes the following:

- 169 (i) a summary of substantive provisions in the repealed rule which are eliminated from

170 the enacted rule; and

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

172 (b) The summary required under this Subsection [~~(7)~~] (9) is to aid in review and may
173 not be used to contest any rule on the ground of noncompliance with the procedural
174 requirements of this chapter.

175 [~~(8)~~] (10) A copy of the rule analysis shall be mailed to all persons who have made
176 timely request of the agency for advance notice of its rulemaking proceedings and to any other
177 person who, by statutory or federal mandate or in the judgment of the agency, should also
178 receive notice.

179 [~~(9)~~] (11) (a) Following the publication date, the agency shall allow at least 30 days for
180 public comment on the rule.

181 (b) The agency shall review and evaluate all public comments submitted in writing
182 within the time period under Subsection [~~(9)~~] (11)(a) or presented at public hearings conducted
183 by the agency within the time period under Subsection [~~(9)~~] (11)(a).

184 [~~(10)~~] (12) (a) Except as provided in Sections 63-46a-6 and 63-46a-7, a proposed rule
185 becomes effective on any date specified by the agency that is no fewer than seven calendar days
186 after the close of the public comment period under Subsection [~~(9)~~] (11), nor more than 120
187 days after the publication date.

188 (b) The agency shall provide notice of the rule's effective date to the division in the form
189 required by the division.

190 (c) The notice of effective date may not provide for an effective date prior to the date it
191 is received by the division.

192 (d) The division shall publish notice of the effective date of the rule in the next issue of
193 the bulletin.

194 (e) A proposed rule lapses if a notice of effective date or a change to a proposed rule is
195 not filed with the division within 120 days of publication.

196 [~~(11)~~] (13) (a) As used in this Subsection [~~(11)~~] (13), "initiate rulemaking proceedings"
197 means the filing, for the purposes of publication in accordance with Subsection (4), of an

198 agency's proposed rule that is required by state statute.

199 (b) A state agency shall initiate rulemaking proceedings no later than 180 days after the
200 effective date of the statutory provision that requires the rulemaking.

201 (c) If a state agency does not initiate rulemaking proceedings in accordance with the
202 time requirements in Subsection [~~(11)~~] (13)(b), the state agency shall appear before the
203 legislative Administrative Rules Review Committee and provide the reasons for the delay.

204 Section 3. Section **63-46a-7** is amended to read:

205 **63-46a-7. Emergency rulemaking procedure.**

206 (1) All agencies shall comply with the rulemaking procedures of Section 63-46a-4
207 unless an agency finds that these procedures would:

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

209 (b) cause an imminent budget reduction because of budget restraints or federal
210 requirements; or

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

212 (2) (a) When finding that its rule is excepted from regular rulemaking procedures by
213 this section, the agency shall file with the division:

214 (i) the text of the rule; and

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

216 (b) The division shall publish the rule in the bulletin as provided in Subsection 63-46a-4
217 (4).

218 (c) The agency shall notify interested persons as provided in Subsection 63-46a-4[~~(8)~~]
219 (10).

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

222 (3) If the agency intends the rule to be effective beyond 120 days, the agency shall also
223 comply with the procedures of Section 63-46a-4.

224 Section 4. Section **63-46a-10.5** is amended to read:

225 **63-46a-10.5. Repeal and reenactment of Utah Administrative Code.**

226 (1) When the director determines that the Utah Administrative Code requires extensive
227 revision and reorganization, the division may repeal the code and reenact a new code according
228 to the requirements of this section.

229 (2) The division may:

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

231 (b) require each agency to review its rules and make any organizational or substantive
232 changes according to the requirements of Section 63-46a-6; and

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

235 (3) The division may make nonsubstantive changes in the code by:

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

237 (b) eliminating duplication;

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

240 (d) eliminating all obsolete or redundant words;

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

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

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

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

248 (4) (a) To inform the public about the proposed code reenactment, the division shall
249 publish in the bulletin:

250 (i) notice of the code reenactment;

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

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

- 254 (iv) agency summaries of substantive changes in the reenacted code.
- 255 (b) To inform the public about substantive changes in agency rules contained in the
- 256 proposed reenactment, each agency shall:
- 257 (i) make the text of their reenacted rules available:
- 258 (A) for public review during regular business hours; and
- 259 (B) in an electronic version; and
- 260 (ii) comply with the requirements of Subsection 63-46a-4~~[(8)]~~ (10).
- 261 (5) The division shall hold a public hearing on the proposed code reenactment no fewer
- 262 than 30 days nor more than 45 days after the publication required by Subsection (4)(a).
- 263 (6) The division shall distribute complete text of the proposed code reenactment
- 264 without charge to:
- 265 (a) state-designated repositories in Utah;
- 266 (b) the Administrative Rules Review Committee; and
- 267 (c) the Office of Legislative Research and General Counsel.
- 268 (7) The former code is repealed and the reenacted code is effective at noon on a date
- 269 designated by the division that is not fewer than 45 days nor more than 90 days after the
- 270 publication date required by this section.
- 271 (8) Repeal and reenactment of the code meets the requirements of Section 63-46a-9 for
- 272 a review of all agency rules.