

1                   **UTAH ANTIDISCRIMINATION ACT AMENDMENTS**

2                                   2018 GENERAL SESSION

3                                   STATE OF UTAH

4                   **Chief Sponsor: James A. Dunnigan**

5                                   Senate Sponsor: Curtis S. Bramble

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7 **LONG TITLE**

8 **General Description:**

9                   This bill amends the Utah Antidiscrimination Act and the Administrative Procedures  
10 Act.

11 **Highlighted Provisions:**

12                   This bill:

13                   ▶ removes a provision relating to the Utah Labor Commission Antidiscrimination and  
14 Labor Division (UALD) holding hearings upon receiving complaints;

15                   ▶ grants the UALD subpoena power during an investigation;

16                   ▶ permits the Career Service Review Office to request an investigation in certain  
17 circumstances;

18                   ▶ instructs the UALD to assign a mediator to offer mediation services between parties  
19 before an investigation begins;

20                   ▶ removes language instructing mediators to attempt a settlement between parties by  
21 conciliation and persuasion;

22                   ▶ requires notification to parties regarding the right to request an evidentiary hearing;

23                   ▶ excludes the issuance of a determination and order from the Utah Administrative  
24 Procedures Act;

25                   ▶ removes a provision requiring a finding before an investigation begins; and

26                   ▶ makes technical changes.

27 **Money Appropriated in this Bill:**

28                   None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **34A-5-102.5**, as enacted by Laws of Utah 2015, Chapter 13

34 **34A-5-104**, as last amended by Laws of Utah 2017, Chapter 18

35 **34A-5-107**, as last amended by Laws of Utah 2016, Chapter 132

36 **34A-5-108**, as last amended by Laws of Utah 2008, Chapter 382

37 **63G-4-102**, as last amended by Laws of Utah 2015, Chapter 441

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

40 Section 1. Section **34A-5-102.5** is amended to read:

41 **34A-5-102.5. Supremacy over local regulations -- No special class created for**  
42 **other purposes.**

43 (1) [~~Consistent with the requirements of Subsection **34A-5-107**(15), this~~] This chapter  
44 supersedes and preempts any ordinance, regulation, standard, or other legal action by a local  
45 government entity, a state entity, or the governing body of a political subdivision that relates to  
46 the prohibition of discrimination in employment.

47 (2) This chapter shall not be construed to create a special or protected class for any  
48 purpose other than employment.

49 Section 2. Section **34A-5-104** is amended to read:

50 **34A-5-104. Powers.**

51 (1) (a) The commission has jurisdiction over the subject of employment practices and  
52 discrimination made unlawful by this chapter.

53 (b) The commission may adopt, publish, amend, and rescind rules, consistent with, and  
54 for the enforcement of this chapter.

55 (2) The division may:

56 (a) appoint and prescribe the duties of an investigator, other employee, or agent of the  
57 commission that the commission considers necessary for the enforcement of this chapter;

- 58 (b) receive, reject, investigate, and pass upon complaints alleging:
- 59 (i) discrimination in:
- 60 (A) employment;
- 61 (B) an apprenticeship program;
- 62 (C) an on-the-job training program; or
- 63 (D) a vocational school; or
- 64 (ii) the existence of a discriminatory or prohibited employment practice by:
- 65 (A) a person;
- 66 (B) an employer;
- 67 (C) an employment agency;
- 68 (D) a labor organization;
- 69 (E) an employee or member of an employment agency or labor organization;
- 70 (F) a joint apprenticeship committee; and
- 71 (G) a vocational school;
- 72 (c) investigate and study the existence, character, causes, and extent of discrimination
- 73 in employment, apprenticeship programs, on-the-job training programs, and vocational schools
- 74 in this state by:
- 75 (i) employers;
- 76 (ii) employment agencies;
- 77 (iii) labor organizations;
- 78 (iv) joint apprenticeship committees; and
- 79 (v) vocational schools;
- 80 (d) formulate plans for the elimination of discrimination by educational or other
- 81 means;
- 82 [~~(e) hold hearings upon complaint made against;~~]
- 83 [~~(i) a person;~~]
- 84 [~~(ii) an employer;~~]
- 85 [~~(iii) an employment agency;~~]

- 86           ~~[(iv) a labor organization;]~~
- 87           ~~[(v) an employee or member of an employment agency or labor organization;]~~
- 88           ~~[(vi) a joint apprenticeship committee, or]~~
- 89           ~~[(vii) a vocational school;]~~
- 90           ~~[(f)]~~ (e) issue publications and reports of investigations and research that:
- 91           (i) promote good will among the various racial, religious, and ethnic groups of the
- 92 state; and
- 93           (ii) minimize or eliminate discrimination in employment because of race, color, sex,
- 94 religion, national origin, age, disability, sexual orientation, or gender identity;
- 95           ~~[(g)]~~ (f) prepare and transmit to the governor, at least once each year, reports
- 96 describing:
- 97           (i) ~~[the division's]~~ division proceedings[, and investigations[, and hearings];
- 98           ~~[(ii) the outcome of those hearings;]~~
- 99           ~~[(iii)]~~ (ii) decisions the division renders; and
- 100           ~~[(iv) the]~~ (iii) other work performed by the division;
- 101           ~~[(h)]~~ (g) recommend policies to the governor, and submit recommendation to
- 102 employers, employment agencies, and labor organizations to implement those policies;
- 103           ~~[(i)]~~ (h) recommend legislation to the governor that the division considers necessary
- 104 concerning discrimination because of:
- 105           (i) race;
- 106           (ii) sex;
- 107           (iii) color;
- 108           (iv) national origin;
- 109           (v) religion;
- 110           (vi) age;
- 111           (vii) disability;
- 112           (viii) sexual orientation; or
- 113           (ix) gender identity; and

114           ~~[(j)]~~ (i) within the limits of appropriations made for ~~[its]~~ the division's operation,  
115 cooperate with other agencies or organizations, both public and private, in the planning and  
116 conducting of educational programs designed to eliminate discriminatory practices prohibited  
117 under this chapter.

118           (3) ~~[The]~~ In addition to processing complaints made in accordance with this chapter,  
119 the division shall investigate an alleged discriminatory practice involving an officer or  
120 employee of state government ~~[if]~~ when requested ~~[to do so]~~ by the Career Service Review  
121 Office.

122           (4) (a) In ~~[a hearing]~~ an investigation held under this chapter, the division may  
123 subpoena a person to compel the person to:

124           (i) ~~[subpoena witnesses and compel their attendance at the hearing;]~~ cooperate and  
125 participate in an interview; or

126           ~~[(ii) administer oaths and take the testimony of a person under oath; and]~~

127           ~~[(iii)]~~ (ii) ~~[compel a person to]~~ produce for examination a book, paper, or other  
128 information relating to the matters raised by the complaint.

129           ~~[(b) The division director or a hearing examiner appointed by the division director may~~  
130 ~~conduct a hearing.]~~

131           ~~[(c)]~~ (b) If a ~~[witness]~~ person fails or refuses to obey a subpoena issued by the division,  
132 the division may petition the district court to enforce the subpoena.

133           ~~[(d)]~~ (c) If a ~~[witness]~~ person asserts a privilege against self-incrimination, testimony  
134 and evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants of  
135 Immunity.

136           (5) In 2018, before November 1, the division shall submit, in accordance with Section  
137 [68-3-14](#), a written report to the Business and Labor Interim Committee on the effectiveness of  
138 the commission and state law in addressing discrimination in matters of compensation.

139           Section 3. Section **34A-5-107** is amended to read:

140           **34A-5-107. Procedure for aggrieved person to file claim -- Investigations --**  
141 **Adjudicative proceedings -- Settlement -- Reconsideration -- Determination.**

142 (1) (a) A person claiming to be aggrieved by a discriminatory or prohibited  
143 employment practice may, or that person's attorney or agent may, make, sign, and file with the  
144 division a request for agency action.

145 (b) A request for agency action shall be verified under oath or affirmation.

146 (c) A request for agency action made under this section shall be filed within 180 days  
147 after the alleged discriminatory or prohibited employment practice occurs.

148 (d) The division may transfer a request for agency action filed with the division  
149 pursuant to this section to the federal Equal Employment Opportunity Commission in  
150 accordance with a work-share agreement that is:

151 (i) between the division and the Equal Employment Opportunity Commission; and

152 (ii) in effect on the day on which the request for agency action is transferred.

153 (2) An employer, labor organization, joint apprenticeship committee, or vocational  
154 school who has an employee or member who refuses or threatens to refuse to comply with this  
155 chapter may file with the division a request for agency action asking the division for assistance  
156 to obtain the employee's or member's compliance by conciliation or other remedial action.

157 (3) (a) Before ~~[a hearing is set or held as part of any adjudicative proceeding]~~ an  
158 investigation begins into allegations of discriminatory or prohibited employment practice, the  
159 division shall promptly assign ~~[an investigator to attempt a settlement]~~ a mediator to offer  
160 mediation services between the parties by conference~~[, conciliation, or persuasion].~~

161 (b) (i) If mediation services are refused or no settlement is reached, ~~[the]~~ the division  
162 shall promptly assign an investigator.

163 (ii) The investigator shall make a prompt impartial investigation of all allegations made  
164 in the request for agency action.

165 (c) The division and ~~[its]~~ the division's staff, agents, and employees~~[-(it)]~~ shall conduct  
166 every investigation in fairness to all parties and agencies involved~~[, and].~~

167 ~~[(ii) may not attempt a settlement between the parties if it is clear that no~~  
168 ~~discriminatory or prohibited employment practice has occurred.]~~

169 (d) An aggrieved party may withdraw the request for agency action prior to the

170 issuance of a final order.

171 (4) (a) If the initial attempts at settlement are unsuccessful, and the investigator  
172 uncovers insufficient evidence during the investigation to support the allegations of a  
173 discriminatory or prohibited employment practice set out in the request for agency action, the  
174 investigator shall formally report these findings to the director or the director's designee.

175 (b) (i) Upon receipt of the investigator's report described in Subsection (4)(a), the  
176 director or the director's designee may issue a determination and order for dismissal of the  
177 adjudicative proceeding.

178 (ii) A determination and order issued under this Subsection (4)(b) shall include a  
179 notice:

180 (A) of the right to request an evidentiary hearing under Subsection (4)(c); and

181 (B) that failure to request an evidentiary hearing under Subsection (4)(c) will result in  
182 the determination and order becoming final, in accordance with Subsection (4)(d).

183 (c) A party may make a written request to the Division of Adjudication for an  
184 evidentiary hearing to review de novo the director's or the director's designee's determination  
185 and order within 30 days [~~of the date~~] from the day on which the determination and order for  
186 dismissal is issued.

187 (d) If the director or the director's designee receives no timely request for a hearing, the  
188 determination and order issued by the director or the director's designee becomes the final order  
189 of the commission.

190 (5) (a) If the initial attempts at settlement are unsuccessful and the investigator  
191 uncovers sufficient evidence during the investigation to support the allegations of a  
192 discriminatory or prohibited employment practice set out in the request for agency action, the  
193 investigator shall formally report these findings to the director or the director's designee.

194 (b) (i) Upon receipt of the investigator's report described in Subsection (5)(a), the  
195 director or the director's designee may issue a determination and order based on the  
196 investigator's report.

197 (ii) A determination and order issued under this Subsection (5)(b) shall:

198 (A) direct the respondent to cease any discriminatory or prohibited employment  
199 practice; ~~and~~

200 (B) provide relief to the aggrieved party as the director or the director's designee  
201 determines is appropriate~~[-]~~;

202 (C) include a notice of the right to request an evidentiary hearing under Subsection  
203 (5)(c); and

204 (D) include a notice that failure to request an evidentiary hearing under Subsection  
205 (5)(c) will result in the determination and order becoming final, in accordance with Subsection  
206 (5)(d).

207 (c) A party may file a written request to the Division of Adjudication for an evidentiary  
208 hearing to review de novo the director's or the director's designee's determination and order  
209 within 30 days ~~[of the date]~~ after the day on which the determination and order is issued.

210 (d) If the director or the director's designee receives no timely request for a hearing, the  
211 determination and order issued by the director or the director's designee in accordance with  
212 Subsection (5)(b) becomes the final order of the commission.

213 (6) In an adjudicative proceeding to review the director's or the director's designee's  
214 determination that a prohibited employment practice has occurred, the division shall present the  
215 factual and legal basis of the determination ~~[or]~~ and order issued under Subsection (5).

216 ~~[(7) (a) Before the commencement of an evidentiary hearing:]~~

217 ~~[(i) the party filing the request for agency action may reasonably and fairly amend any~~  
218 ~~allegation; and]~~

219 ~~[(ii) the respondent may amend its answer.]~~

220 ~~[(b) An amendment permitted under this Subsection (7) may be made:]~~

221 ~~[(i) during or after a hearing; and]~~

222 ~~[(ii) only with permission of the presiding officer.]~~

223 ~~[(8)]~~ (7) (a) If, upon reviewing all the evidence at a hearing, the presiding officer finds  
224 that a respondent has not engaged in a discriminatory or prohibited employment practice, the  
225 presiding officer shall issue an order dismissing the request for agency action containing the

226 allegation of a discriminatory or prohibited employment practice.

227 (b) The presiding officer may order that the respondent be reimbursed by the  
228 complaining party for the respondent's [~~attorneys~~] attorney fees and costs.

229 [~~(9)~~] (8) If, upon reviewing all the evidence at the hearing, the presiding officer finds  
230 that a respondent has engaged in a discriminatory or prohibited employment practice, the  
231 presiding officer shall issue an order requiring the respondent to:

232 (a) cease any discriminatory or prohibited employment practice;

233 (b) provide relief to the complaining party, including:

234 (i) reinstatement;

235 (ii) back pay and benefits;

236 (iii) attorney fees; and

237 (iv) costs.

238 [~~(10)~~] (9) If a discriminatory practice described in Subsection [~~(9)~~] (8) includes  
239 discrimination in matters of compensation, the presiding officer may provide, to the  
240 complaining party, in addition to the amount available to the complaining party under  
241 Subsection [~~(9)~~] (8)(b), an additional amount equal to the amount of back pay available to the  
242 complaining party under Subsection [~~(9)~~] (8)(b)(ii) unless a respondent shows that:

243 (a) the act or omission that gave rise to the order was in good faith; and

244 (b) the respondent had reasonable grounds to believe that the act or omission was not  
245 discrimination in matters of compensation under this chapter.

246 [~~(11)~~] (10) Conciliation between the parties is to be urged and facilitated at all stages of  
247 the adjudicative process.

248 [~~(12)~~] (11) (a) Either party may file with the Division of Adjudication a written request  
249 for review before the commissioner or Appeals Board of the order issued by the presiding  
250 officer in accordance with:

251 (i) Section [63G-4-301](#); and

252 (ii) Chapter 1, Part 3, Adjudicative Proceedings.

253 (b) If there is no timely request for review, the order issued by the presiding officer

254 becomes the final order of the commission.

255 ~~[(13)]~~ (12) An order of the commission under Subsection ~~[(12)]~~ (11)(a) is subject to  
256 judicial review as provided in:

257 (a) Section 63G-4-403; and

258 (b) Chapter 1, Part 3, Adjudicative Proceedings.

259 ~~[(14)]~~ (13) The commission may make rules concerning procedures under this chapter  
260 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

261 ~~[(15)]~~ (14) The commission and its staff may not divulge or make public information  
262 gained from an investigation, settlement negotiation, or proceeding before the commission  
263 except as provided in Subsections ~~[(15)]~~ (14)(a) through (d).

264 (a) Information used by the director or the director's designee in making a  
265 determination may be provided to all interested parties for the purpose of preparation for and  
266 participation in proceedings before the commission.

267 (b) General statistical information may be disclosed provided the identities of the  
268 individuals or parties are not disclosed.

269 (c) Information may be disclosed for inspection by the attorney general or other legal  
270 representatives of the state or the commission.

271 (d) Information may be disclosed for information and reporting requirements of the  
272 federal government.

273 ~~[(16)]~~ (15) The procedures contained in this section are the exclusive remedy under  
274 state law for employment discrimination based upon:

275 (a) race;

276 (b) color;

277 (c) sex;

278 (d) retaliation;

279 (e) pregnancy, childbirth, or pregnancy-related conditions;

280 (f) age;

281 (g) religion;

- 282 (h) national origin;
- 283 (i) disability;
- 284 (j) sexual orientation; or
- 285 (k) gender identity.

286 ~~[(17)]~~ (16) (a) The commencement of an action under federal law for relief based upon  
287 an act prohibited by this chapter bars the commencement or continuation of an adjudicative  
288 proceeding before the commission in connection with the same claim under this chapter.

289 (b) The transfer of a request for agency action to the Equal Employment Opportunity  
290 Commission in accordance with Subsection (1)(d) is considered the commencement of an  
291 action under federal law for purposes of Subsection ~~[(17)]~~ (16)(a).

292 (c) Nothing in this Subsection ~~[(17)]~~ (16) is intended to alter, amend, modify, or impair  
293 the exclusive remedy provision set forth in Subsection ~~[(16)]~~ (15).

294 Section 4. Section **34A-5-108** is amended to read:

295 **34A-5-108. Judicial enforcement of division findings.**

296 (1) The commission or the attorney general at the request of the commission shall  
297 commence an action under Section **63G-4-501** for civil enforcement of a final order of the  
298 commission issued under ~~[Subsection]~~ Section 34A-5-107~~[(11)]~~ if:

299 (a) the order finds that there is reasonable cause to believe that a respondent has  
300 engaged or is engaging in discriminatory or prohibited employment practices made unlawful by  
301 this chapter;

302 (b) counsel to the commission or the attorney general determines after reasonable  
303 inquiry that the order is well grounded in fact and is warranted by existing law;

304 (c) the respondent has not received an order of automatic stay or discharge from the  
305 United States Bankruptcy Court; and

306 (d) (i) the commission has not accepted a conciliation agreement to which the  
307 aggrieved party and respondent are parties; or

308 (ii) the respondent has not conciliated or complied with the final order of the  
309 commission within 30 days from the date the order is issued.

310 (2) If the respondent seeks judicial review of the final order under Section 63G-4-403,  
311 pursuant to Section 63G-4-405 the commission may stay seeking civil enforcement pending the  
312 completion of the judicial review.

313 Section 5. Section 63G-4-102 is amended to read:

314 **63G-4-102. Scope and applicability of chapter.**

315 (1) Except as set forth in Subsection (2), and except as otherwise provided by a statute  
316 superseding provisions of this chapter by explicit reference to this chapter, the provisions of  
317 this chapter apply to every agency of the state and govern:

318 (a) state agency action that determines the legal rights, duties, privileges, immunities,  
319 or other legal interests of an identifiable person, including agency action to grant, deny, revoke,  
320 suspend, modify, annul, withdraw, or amend an authority, right, or license; and

321 (b) judicial review of the action.

322 (2) This chapter does not govern:

323 (a) the procedure for making agency rules, or judicial review of the procedure or rules;

324 (b) the issuance of a notice of a deficiency in the payment of a tax, the decision to  
325 waive a penalty or interest on taxes, the imposition of and penalty or interest on taxes, or the  
326 issuance of a tax assessment, except that this chapter governs an agency action commenced by  
327 a taxpayer or by another person authorized by law to contest the validity or correctness of the  
328 action;

329 (c) state agency action relating to extradition, to the granting of a pardon or parole, a  
330 commutation or termination of a sentence, or to the rescission, termination, or revocation of  
331 parole or probation, to the discipline of, resolution of a grievance of, supervision of,  
332 confinement of, or the treatment of an inmate or resident of a correctional facility, the Utah  
333 State Hospital, the Utah State Developmental Center, or a person in the custody or jurisdiction  
334 of the Division of Substance Abuse and Mental Health, or a person on probation or parole, or  
335 judicial review of the action;

336 (d) state agency action to evaluate, discipline, employ, transfer, reassign, or promote a  
337 student or teacher in a school or educational institution, or judicial review of the action;

338 (e) an application for employment and internal personnel action within an agency  
339 concerning its own employees, or judicial review of the action;

340 (f) the issuance of a citation or assessment under Title 34A, Chapter 6, Utah  
341 Occupational Safety and Health Act, and Title 58, Occupations and Professions, except that  
342 this chapter governs an agency action commenced by the employer, licensee, or other person  
343 authorized by law to contest the validity or correctness of the citation or assessment;

344 (g) state agency action relating to management of state funds, the management and  
345 disposal of school and institutional trust land assets, and contracts for the purchase or sale of  
346 products, real property, supplies, goods, or services by or for the state, or by or for an agency of  
347 the state, except as provided in those contracts, or judicial review of the action;

348 (h) state agency action under Title 7, Chapter 1, Part 3, Powers and Duties of  
349 Commissioner of Financial Institutions, Title 7, Chapter 2, Possession of Depository Institution  
350 by Commissioner, Title 7, Chapter 19, Acquisition of Failing Depository Institutions or  
351 Holding Companies, and Title 63G, Chapter 7, Governmental Immunity Act of Utah, or  
352 judicial review of the action;

353 (i) the initial determination of a person's eligibility for unemployment benefits, the  
354 initial determination of a person's eligibility for benefits under Title 34A, Chapter 2, Workers'  
355 Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act, or the initial  
356 determination of a person's unemployment tax liability;

357 (j) state agency action relating to the distribution or award of a monetary grant to or  
358 between governmental units, or for research, development, or the arts, or judicial review of the  
359 action;

360 (k) the issuance of a notice of violation or order under Title 26, Chapter 8a, Utah  
361 Emergency Medical Services System Act, Title 19, Chapter 2, Air Conservation Act, Title 19,  
362 Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act, Title 19,  
363 Chapter 5, Water Quality Act, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act,  
364 Title 19, Chapter 6, Part 4, Underground Storage Tank Act, or Title 19, Chapter 6, Part 7, Used  
365 Oil Management Act, or Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, except

366 that this chapter governs an agency action commenced by a person authorized by law to contest  
367 the validity or correctness of the notice or order;

368 (l) state agency action, to the extent required by federal statute or regulation, to be  
369 conducted according to federal procedures;

370 (m) the initial determination of a person's eligibility for government or public  
371 assistance benefits;

372 (n) state agency action relating to wildlife licenses, permits, tags, and certificates of  
373 registration;

374 (o) a license for use of state recreational facilities;

375 (p) state agency action under Title 63G, Chapter 2, Government Records Access and  
376 Management Act, except as provided in Section [63G-2-603](#);

377 (q) state agency action relating to the collection of water commissioner fees and  
378 delinquency penalties, or judicial review of the action;

379 (r) state agency action relating to the installation, maintenance, and repair of headgates,  
380 caps, valves, or other water controlling works and weirs, flumes, meters, or other water  
381 measuring devices, or judicial review of the action;

382 (s) the issuance and enforcement of an initial order under Section [73-2-25](#);

383 (t) (i) a hearing conducted by the Division of Securities under Section [61-1-11.1](#); and

384 (ii) an action taken by the Division of Securities under a hearing conducted under  
385 Section [61-1-11.1](#), including a determination regarding the fairness of an issuance or exchange  
386 of securities described in Subsection [61-1-11.1\(1\)](#); ~~and~~

387 (u) state agency action relating to water well driller licenses, water well drilling  
388 permits, water well driller registration, or water well drilling construction standards, or judicial  
389 review of the action~~[-];~~ or

390 (v) the issuance of a determination and order under Title 34A, Chapter 5, Utah  
391 Antidiscrimination Act.

392 (3) This chapter does not affect a legal remedy otherwise available to:

393 (a) compel an agency to take action; or

394 (b) challenge an agency's rule.

395 (4) This chapter does not preclude an agency, prior to the beginning of an adjudicative  
396 proceeding, or the presiding officer during an adjudicative proceeding from:

397 (a) requesting or ordering a conference with parties and interested persons to:

398 (i) encourage settlement;

399 (ii) clarify the issues;

400 (iii) simplify the evidence;

401 (iv) facilitate discovery; or

402 (v) expedite the proceeding; or

403 (b) granting a timely motion to dismiss or for summary judgment if the requirements of  
404 Rule 12(b) or Rule 56 of the Utah Rules of Civil Procedure are met by the moving party,  
405 except to the extent that the requirements of those rules are modified by this chapter.

406 (5) (a) A declaratory proceeding authorized by Section 63G-4-503 is not governed by  
407 this chapter, except as explicitly provided in that section.

408 (b) Judicial review of a declaratory proceeding authorized by Section 63G-4-503 is  
409 governed by this chapter.

410 (6) This chapter does not preclude an agency from enacting a rule affecting or  
411 governing an adjudicative proceeding or from following the rule, if the rule is enacted  
412 according to the procedures outlined in Title 63G, Chapter 3, Utah Administrative Rulemaking  
413 Act, and if the rule conforms to the requirements of this chapter.

414 (7) (a) If the attorney general issues a written determination that a provision of this  
415 chapter would result in the denial of funds or services to an agency of the state from the federal  
416 government, the applicability of the provision to that agency shall be suspended to the extent  
417 necessary to prevent the denial.

418 (b) The attorney general shall report the suspension to the Legislature at its next  
419 session.

420 (8) Nothing in this chapter may be interpreted to provide an independent basis for  
421 jurisdiction to review final agency action.

422           (9) Nothing in this chapter may be interpreted to restrict a presiding officer, for good  
423 cause shown, from lengthening or shortening a time period prescribed in this chapter, except  
424 the time period established for judicial review.

425           (10) Notwithstanding any other provision of this section, this chapter does not apply to  
426 a special adjudicative proceeding, as defined in Section [19-1-301.5](#), except to the extent  
427 expressly provided in Section [19-1-301.5](#).