

Administrative Procedures Act Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor:

LONG TITLE**General Description:**

This bill modifies provisions of the Administrative Procedures Act.

Highlighted Provisions:

This bill:

- provides cross references;
- describes when an order or decree constitutes a final agency action; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

19-1-301.5, as last amended by Laws of Utah 2018, Chapter 281

59-1-205, as last amended by Laws of Utah 2003, Chapter 80

63G-4-302, as renumbered and amended by Laws of Utah 2008, Chapter 382

63G-4-401, as last amended by Laws of Utah 2023, Chapter 433

63G-4-403, as last amended by Laws of Utah 2024, Chapter 158

78A-3-102, as last amended by Laws of Utah 2009, Chapter 344

78A-4-103, as last amended by Laws of Utah 2023, Chapter 516

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

Section 1. Section **19-1-301.5** is amended to read:

19-1-301.5 . Permit review adjudicative proceedings.

(1) As used in this section:

(a) "Dispositive action" means a final agency action that:

- (i) the executive director takes as part of a special adjudicative proceeding; and
- (ii) is subject to judicial review, in accordance with Subsection (16).

- (b) "Dispositive motion" means a motion that is equivalent to:
- (i) a motion to dismiss under Utah Rules of Civil Procedure, Rule 12(b)(6);
 - (ii) a motion for judgment on the pleadings under Utah Rules of Civil Procedure, Rule 12(c); or
 - (iii) a motion for summary judgment under Utah Rules of Civil Procedure, Rule 56.
- (c) "Financial assurance determination" means a decision on whether a facility, site, plan, party, broker, owner, operator, generator, or permittee has met financial assurance or financial responsibility requirements as determined by the director of the Division of Waste Management and Radiation Control.
- (d) "Party" means:
- (i) the director who issued the permit order or financial assurance determination that is being challenged in the special adjudicative proceeding under this section;
 - (ii) the permittee;
 - (iii) the person who applied for the permit, if the permit was denied;
 - (iv) the person who is subject to a financial assurance determination; or
 - (v) a person granted intervention by the administrative law judge.
- (e) "Permit" means any of the following issued under this title:
- (i) a permit;
 - (ii) a plan;
 - (iii) a license;
 - (iv) an approval order; or
 - (v) another administrative authorization made by a director.
- (f)(i) "Permit order" means an order issued by a director that:
- (A) approves a permit;
 - (B) renews a permit;
 - (C) denies a permit;
 - (D) modifies or amends a permit; or
 - (E) revokes and reissues a permit.
- (ii) "Permit order" does not include an order terminating a permit.
- (g) "Special adjudicative proceeding" means a proceeding under this section to resolve a challenge to a:
- (i) permit order; or
 - (ii) financial assurance determination.
- (2) This section governs special adjudicative proceedings.

- (3) Except as expressly provided in this section, the provisions of Title 63G, Chapter 4, Administrative Procedures Act, do not apply to a special adjudicative proceeding under this section.
- (4) If a public comment period was provided during the permit application process or the financial assurance determination process, a person who challenges an order or determination may only raise an issue or argument during the special adjudicative proceeding that:
- (a) the person raised during the public comment period; and
 - (b) was supported with information or documentation that is cited with reasonable specificity and sufficiently enables the director to fully consider the substance and significance of the issue.
- (5)(a) Upon request by a party, the executive director shall issue a notice of appointment appointing an administrative law judge, in accordance with Subsections 19-1-301(5) and (6), to conduct a special adjudicative proceeding under this section.
- (b) The executive director shall issue a notice of appointment within 30 days after the day on which a party files a request.
- (c) A notice of appointment shall include:
- (i) the agency's file number or other reference number assigned to the special adjudicative proceeding;
 - (ii) the name of the special adjudicative proceeding; and
 - (iii) the administrative law judge's name, title, mailing address, email address, and telephone number.
- (6)(a) Only the following may file a petition for review of a permit order or financial assurance determination:
- (i) a party; or
 - (ii) a person who is seeking to intervene under Subsection (7).
- (b) A person who files a petition for review of a permit order or a financial assurance determination shall file the petition for review within 30 days after the day on which the permit order or the financial assurance determination is issued.
- (c) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules allowing the extension of the filing deadline described in Subsection (6)(b).
- (d) A petition for review shall:
- (i) be served in accordance with department rule;

- 100 (ii) include the name and address of each person to whom a copy of the petition for
101 review is sent;
- 102 (iii) if known, include the agency's file number or other reference number assigned to
103 the special adjudicative proceeding;
- 104 (iv) state the date on which the petition for review is served;
- 105 (v) include a statement of the petitioner's position, including, as applicable:
- 106 (A) the legal authority under which the petition for review is requested;
- 107 (B) the legal authority under which the agency has jurisdiction to review the
108 petition for review;
- 109 (C) each of the petitioner's arguments in support of the petitioner's requested relief;
- 110 (D) an explanation of how each argument described in Subsection (6)(d)(v)(C)
111 was preserved;
- 112 (E) a detailed description of any permit condition to which the petitioner is
113 objecting;
- 114 (F) any modification or addition to a permit that the petitioner is requesting;
- 115 (G) a demonstration that the agency's permit decision is based on a finding of fact
116 or conclusion of law that is clearly erroneous;
- 117 (H) if the agency director addressed a finding of fact or conclusion of law
118 described in Subsection (6)(d)(v)(G) in a response to public comment, a
119 citation to the comment and response that relates to the finding of fact or
120 conclusion of law and an explanation of why the director's response was
121 clearly erroneous or otherwise warrants review; and
- 122 (I) a claim for relief.
- 123 (e) A person may not raise an issue or argument in a petition for review unless the issue
124 or argument:
- 125 (i) was preserved in accordance with Subsection (4); or
- 126 (ii) was not reasonably ascertainable before or during the public comment period.
- 127 (f) To demonstrate that an issue or argument was preserved in accordance with
128 Subsection (4), a petitioner shall include the following in the petitioner's petition for
129 review:
- 130 (i) a citation to where the petitioner raised the issue or argument during the public
131 comment period; and
- 132 (ii) for each document upon which the petitioner relies in support of an issue or
133 argument, a description that:

- 134 (A) states why the document is part of the administrative record; and
135 (B) demonstrates that the petitioner cited the document with reasonable specificity
136 in accordance with Subsection (4)(b).
- 137 (7)(a) A person who is not a party may not participate in a special adjudicative
138 proceeding under this section unless the person is granted the right to intervene under
139 this Subsection (7).
- 140 (b) A person who seeks to intervene in a special adjudicative proceeding under this
141 section shall, within 30 days after the day on which the permit order or the financial
142 assurance determination being challenged was issued, file:
- 143 (i) a petition to intervene that:
- 144 (A) meets the requirements of Subsection 63G-4-207(1); and
145 (B) demonstrates that the person is entitled to intervention under Subsection
146 (7)(d)(ii); and
- 147 (ii) a timely petition for review.
- 148 (c) In a special adjudicative proceeding to review a permit order, the permittee is a party
149 to the special adjudicative proceeding regardless of who files the petition for review
150 and does not need to file a petition to intervene under Subsection (7)(b).
- 151 (d) An administrative law judge shall grant a petition to intervene in a special
152 adjudicative proceeding, if:
- 153 (i) the petition to intervene is timely filed; and
154 (ii) the petitioner:
- 155 (A) demonstrates that the petitioner's legal interests may be substantially affected
156 by the special adjudicative proceeding;
- 157 (B) demonstrates that the interests of justice and the orderly and prompt conduct
158 of the special adjudicative proceeding will not be materially impaired by
159 allowing the intervention; and
- 160 (C) in the petitioner's petition for review, raises issues or arguments that are
161 preserved in accordance with Subsection (4).
- 162 (e) An administrative law judge:
- 163 (i) shall issue an order granting or denying a petition to intervene in accordance with
164 Subsection 63G-4-207(3)(a); and
- 165 (ii) may impose conditions on intervenors as described in Subsections
166 63G-4-207(3)(b) and (c).
- 167 (f) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative

Rulemaking Act, make rules allowing the extension of the filing deadline described in Subsection (7)(b).

(8)(a) Unless the parties otherwise agree, or the administrative law judge otherwise orders, a special adjudicative proceeding shall be conducted as follows:

- (i) the director shall file and serve the administrative record within 40 days after the day on which the executive director issues a notice of appointment, unless otherwise ordered by the administrative law judge;
- (ii) any dispositive motion shall be filed and served within 15 days after the day on which the administrative record is filed and served;
- (iii) the petitioner shall file and serve an opening brief of no more than 30 pages:
 - (A) within 30 days after the day on which the director files and serves the administrative record; or
 - (B) if a party files and serves a dispositive motion, within 30 days after the day on which the administrative law judge issues a decision on the dispositive motion, including a decision to defer the motion;
- (iv) each responding party shall file and serve a response brief of no more than 30 pages within 15 days after the day on which the petitioner files and serves the opening brief;
- (v) the petitioner may file and serve a reply brief of not more than 15 pages within 15 days after the day on which the response brief is filed and served; and
- (vi) if the petitioner files and serves a reply brief, each responding party may file and serve a surreply brief of no more than 15 pages within five business days after the day on which the petitioner files and serves the reply brief.

(b)(i) A reply brief may not raise an issue that was not raised in the response brief.

(ii) A surreply brief may not raise an issue that was not raised in the reply brief.

(9)(a) An administrative law judge shall conduct a special adjudicative proceeding based only on the administrative record and not as a trial de novo.

(b) To the extent relative to the issues and arguments raised in the petition for review, the administrative record consists of the following items, if they exist:

- (i)(A) for review of a permit order, the permit application, draft permit, and final permit; or
- (B) for review of a financial assurance determination, the proposed financial assurance determination from the owner or operator of the facility, the draft financial assurance determination, and the final financial assurance

- determination;
- (ii) each statement of basis, fact sheet, engineering review, or other substantive explanation designated by the director as part of the basis for the decision relating to the permit order or the financial assurance determination;
 - (iii) the notice and record of each public comment period;
 - (iv) the notice and record of each public hearing, including oral comments made during the public hearing;
 - (v) written comments submitted during the public comment period;
 - (vi) responses to comments that are designated by the director as part of the basis for the decision relating to the permit order or the financial assurance determination;
 - (vii) any information that is:
 - (A) requested by and submitted to the director; and
 - (B) designated by the director as part of the basis for the decision relating to the permit order or the financial assurance determination;
 - (viii) any additional information specified by rule;
 - (ix) any additional documents agreed to by the parties; and
 - (x) information supplementing the record under Subsection (9)(c).
- (c)(i) There is a rebuttable presumption against supplementing the record.
- (ii) A party may move to supplement the record described in Subsection (9)(b) with technical or factual information.
 - (iii) The administrative law judge may grant a motion to supplement the record described in Subsection (9)(b) with technical or factual information if the moving party proves that:
 - (A) good cause exists for supplementing the record;
 - (B) supplementing the record is in the interest of justice; and
 - (C) supplementing the record is necessary for resolution of the issues.
 - (iv) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules permitting further supplementation of the record.
- (10)(a) Except as otherwise provided by this section, the administrative law judge shall review and respond to a petition for review in accordance with Subsections 63G-4-201(3)(d) and (e), following the relevant procedures for formal adjudicative proceedings.
- (b) The administrative law judge shall require the parties to file responsive briefs in

236 accordance with Subsection (8).

237 (c) If an administrative law judge enters an order of default against a party, the
238 administrative law judge shall enter the order of default in accordance with Section
239 63G-4-209.

240 (d) The administrative law judge, in conducting a special adjudicative proceeding:

241 (i) may not participate in an ex parte communication with a party to the special
242 adjudicative proceeding regarding the merits of the special adjudicative
243 proceeding unless notice and an opportunity to be heard are afforded to all parties;
244 and

245 (ii) shall, upon receiving an ex parte communication, place the communication in the
246 public record of the proceeding and afford all parties an opportunity to comment
247 on the information.

248 (e) In conducting a special adjudicative proceeding, the administrative law judge may
249 take judicial notice of matters not in the administrative record, in accordance with
250 Utah Rules of Evidence, Rule 201.

251 (f) An administrative law judge may take any action in a special adjudicative proceeding
252 that is not a dispositive action.

253 (11)(a) A person who files a petition for review has the burden of demonstrating that an
254 issue or argument raised in the petition for review has been preserved in accordance
255 with Subsection (4).

256 (b) The administrative law judge shall dismiss, with prejudice, any issue or argument
257 raised in a petition for review that has not been preserved in accordance with
258 Subsection (4).

259 (12) In response to a dispositive motion, within 45 days after the day on which oral
260 argument takes place, or, if there is no oral argument, within 45 days after the day on
261 which the reply brief on the dispositive motion is due, the administrative law judge shall:

262 (a) submit a proposed dispositive action to the executive director recommending full or
263 partial resolution of the special adjudicative proceeding, that includes:

264 (i) written findings of fact;
265 (ii) written conclusions of law; and
266 (iii) a recommended order; or

267 (b) if the administrative law judge determines that a full or partial resolution of the
268 special adjudicative proceeding is not appropriate, issue an order that explains the
269 basis for the administrative law judge's determination.

- (13) For each issue or argument that is not dismissed or otherwise resolved under Subsection (11)(b) or (12), the administrative law judge shall:
- (a) provide the parties an opportunity for briefing and oral argument in accordance with this section;
 - (b) conduct a review of the director's order or determination, based on the record described in Subsections (9)(b), (9)(c), and (10)(e); and
 - (c) within 60 days after the day on which the reply brief on the dispositive motion is due, submit to the executive director a proposed dispositive action, that includes:
 - (i) written findings of fact;
 - (ii) written conclusions of law; and
 - (iii) a recommended order.
- (14)(a) When the administrative law judge submits a proposed dispositive action to the executive director, the executive director may:
- (i) adopt, adopt with modifications, or reject the proposed dispositive action; or
 - (ii) return the proposed dispositive action to the administrative law judge for further action as directed.
- (b) On review of a proposed dispositive action, the executive director shall uphold all factual, technical, and scientific agency determinations that are not clearly erroneous based on the petitioner's marshaling of the evidence.
- (c) In reviewing a proposed dispositive action during a special adjudicative proceeding, the executive director may take judicial notice of matters not in the record, in accordance with Utah Rules of Evidence, Rule 201.
- (d) The executive director may use the executive director's technical expertise in making a determination.
- (15)(a) Except as provided in Subsection (15)(b), the executive director may not participate in an ex parte communication with a party to a special adjudicative proceeding regarding the merits of the special adjudicative proceeding, unless notice and opportunity to be heard are afforded to all parties involved in the proceeding.
- (b) The executive director may discuss ongoing operational matters that require the involvement of a division director without violating Subsection (15)(a).
- (c) Upon receiving an ex parte communication from a party to a proceeding, the executive director shall place the communication in the public record of the proceeding and afford all parties to the proceeding with an opportunity to comment on the communication.

- (16)(a) A party may seek judicial review in the Utah Court of Appeals of a dispositive action in a special adjudicative proceeding, in accordance with Sections 63G-4-401, 63G-4-403, and 63G-4-405.
- (b) An appellate court shall limit its review of a dispositive action of a special adjudicative proceeding under this section to:
- (i) the record described in Subsections (9)(b), (9)(c), (10)(e), and (14)(c); and
 - (ii) the record made by the administrative law judge and the executive director during the special adjudicative proceeding.
- (c) During judicial review of a dispositive action, the appellate court shall:
- (i) review all agency determinations in accordance with Subsection [~~63G-4-403(4)~~ 63G-4-403(5)], recognizing that the agency has been granted substantial discretion to interpret its governing statutes and rules; and
 - (ii) uphold all factual, technical, and scientific agency determinations that are not clearly erroneous based upon the petitioner's marshaling of the evidence.
- (17)(a) The filing of a petition for review does not:
- (i) stay a permit order or a financial assurance determination; or
 - (ii) delay the effective date of a permit order or a portion of a financial assurance determination.
- (b) A permit order or a financial assurance determination may not be stayed or delayed unless a stay is granted under this Subsection (17).
- (c) The administrative law judge shall:
- (i) consider a party's motion to stay a permit order or a financial assurance determination during a special adjudicative proceeding; and
 - (ii) within 45 days after the day on which the reply brief on the motion to stay is due, submit a proposed determination on the stay to the executive director.
- (d) The administrative law judge may not recommend to the executive director a stay of a permit order or a financial assurance determination, or a portion of a permit order or a portion of a financial assurance determination, unless:
- (i) all parties agree to the stay; or
 - (ii) the party seeking the stay demonstrates that:
 - (A) the party seeking the stay will suffer irreparable harm unless the stay is issued;
 - (B) the threatened injury to the party seeking the stay outweighs whatever damage the proposed stay is likely to cause the party restrained or enjoined;
 - (C) the stay, if issued, would not be adverse to the public interest; and

- (D) there is a substantial likelihood that the party seeking the stay will prevail on the merits of the underlying claim, or the case presents serious issues on the merits, which should be the subject of further adjudication.
- (e) A party may appeal the executive director's decision regarding a stay of a permit order or a financial assurance determination to the Utah Court of Appeals, in accordance with Section 78A-4-103.
- (18)(a) Subject to Subsection (18)(c), the administrative law judge shall issue a written response to a non-dispositive motion within 45 days after the day on which the reply brief on the non-dispositive motion is due or, if the administrative law judge grants oral argument on the non-dispositive motion, within 45 days after the day on which oral argument takes place.
- (b) If the administrative law judge determines that the administrative law judge needs more time to issue a response to a non-dispositive motion, the administrative law judge may issue a response after the deadline described in Subsection (18)(a) if, before the deadline expires, the administrative law judge gives notice to the parties that includes:
- (i) the amount of additional time that the administrative law judge requires; and
 - (ii) the reason the administrative law judge needs the additional time.
- (c) If the administrative law judge grants oral argument on a non-dispositive motion, the administrative law judge shall hold the oral argument within 30 days after the day on which the reply brief on the non-dispositive motion is due.
- Section 2. Section **59-1-205** is amended to read:
- 59-1-205 . Chairman -- Quorum -- Voting -- Sessions.**
- (1) The governor shall designate one of the members of the commission as chairperson.
- (2)(a) Three members of the commission constitute a quorum for the transaction of business.
- (b) A quorum of the commission must participate in any order that constitutes a final agency action, as described in Section 63G-4-403, on:
- (i) a formal adjudicative proceeding over which the commission has jurisdiction;
 - (ii) an informal adjudicative proceeding over which the commission has jurisdiction;
 - or
 - (iii) an initial hearing conducted pursuant to Section 59-1-502.5.
- (c) If a commission vote results in a tie vote on any matter described in Subsection (2)(b), the position of the taxpayer is considered to have prevailed.

- 372 (3) The commission shall be in session and open for the transaction of business during
373 ordinary business hours each day.
- 374 (4) The commission may hold sessions or conduct investigations at any place in the state to
375 facilitate the performance of its duties.

376 Section 3. Section **63G-4-302** is amended to read:

377 **63G-4-302 . Agency review -- Reconsideration.**

- 378 (1)(a) Within 20 days after the date that an order is issued for which review by the
379 agency or by a superior agency under Section 63G-4-301 is unavailable, and if the
380 order would otherwise constitute final agency action as described in Section
381 63G-4-403, any party may file a written request for reconsideration with the agency,
382 stating the specific grounds upon which relief is requested.
- 383 (b) Unless otherwise provided by statute, the filing of the request is not a prerequisite for
384 seeking judicial review of the order.
- 385 (2) The request for reconsideration shall be filed with the agency and one copy shall be
386 mailed to each party by the person making the request.
- 387 (3)(a) The agency head, or a person designated for that purpose, shall issue a written
388 order granting the request or denying the request.
- 389 (b) If the agency head or the person designated for that purpose does not issue an order
390 within 20 days after the filing of the request, the request for reconsideration shall be
391 considered to be denied.

392 Section 4. Section **63G-4-401** is amended to read:

393 **63G-4-401 . Judicial review -- Exhaustion of administrative remedies -- Petition**
394 **for judicial review.**

- 395 (1) A party aggrieved may obtain judicial review of final agency action, as described in
396 Section 63G-4-403, except in actions where judicial review is expressly prohibited by
397 statute.
- 398 (2) A party may seek judicial review only after exhausting all administrative remedies
399 available, except that:
- 400 (a) a party seeking judicial review need not exhaust administrative remedies if this
401 chapter or any other statute states that exhaustion is not required;
- 402 (b) the court may relieve a party seeking judicial review of the requirement to exhaust
403 any or all administrative remedies if:
- 404 (i) the administrative remedies are inadequate; or
- 405 (ii) exhaustion of remedies would result in irreparable harm disproportionate to the

public benefit derived from requiring exhaustion.

(3)(a) Except as provided in Subsection (3)(c), a party shall file a petition for judicial review of final agency action within 30 days after the day on which the order:

(i) constituting the final agency action is issued; or

(ii) is considered to have been issued under Subsection 63G-4-302(3)(b).

(b) The petition shall:

(i) name the agency and all other appropriate parties as respondents; and

(ii) meet the form requirements specified in this chapter.

(c) If a party files a petition for judicial review of a final agency action resulting from a formal adjudicative proceeding within the 30-day time period described in Subsection (3)(a), any other party to the action may file a petition for judicial review if the petition is filed within the time period permitted for a cross petition under Rule 14 of the Utah Rules of Appellate Procedure.

Section 5. Section **63G-4-403** is amended to read:

63G-4-403 . Judicial review -- Formal adjudicative proceedings - Final agency action.

(1) As provided by statute, the Supreme Court or the Court of Appeals has jurisdiction to review ~~all~~ a final agency action resulting from a formal adjudicative ~~proceedings as~~ proceeding originating from an entity described in Sections 78A-3-102 and 78A-4-103.

(2) An order or decree from a formal adjudicative proceeding is a final agency action if:

(a) the administrative decision-making has reached a stage where judicial review will not disrupt the orderly process of adjudication;

(b) rights or obligations have been determined by, or legal consequences flow from, the order or decree; and

(c) the order or decree, in whole or in part, is not preliminary, preparatory, procedural, or intermediate with regard to subsequent agency action.

~~[(2)]~~ (3)(a) To seek judicial review of final agency action resulting from formal adjudicative proceedings, the petitioner shall file a petition for review of agency action with the appropriate appellate court in the form required by the appellate rules of the appropriate appellate court.

(b) The appellate rules of the appropriate appellate court shall govern all additional filings and proceedings in the appellate court.

~~[(3)]~~ (4) The contents, transmittal, and filing of the agency's record for judicial review of formal adjudicative proceedings are governed by the Utah Rules of Appellate Procedure,

except that:

(a) all parties to the review proceedings may stipulate to shorten, summarize, or organize the record; and

(b) the appellate court may tax the cost of preparing transcripts and copies for the record:

(i) against a party who unreasonably refuses to stipulate to shorten, summarize, or organize the record; or

(ii) according to any other provision of law.

~~[(4)]~~ (5) The appellate court shall grant relief only if, on the basis of the agency's record, it determines that a person seeking judicial review has been substantially prejudiced by any of the following:

(a) the agency action, or the statute or rule on which the agency action is based, is unconstitutional on its face or as applied;

(b) the agency has acted beyond the jurisdiction conferred by any statute;

(c) the agency has not decided all of the issues requiring resolution;

(d) the agency has erroneously interpreted or applied the law;

(e) the agency has engaged in an unlawful procedure or decision-making process, or has failed to follow prescribed procedure;

(f) the persons taking the agency action were illegally constituted as a decision-making body or were subject to disqualification;

(g) the agency action is based upon a determination of fact, made or implied by the agency, that is not supported by substantial evidence when viewed in light of the whole record before the court; or

(h) the agency action is:

(i) an abuse of the discretion delegated to the agency by statute;

(ii) contrary to a rule of the agency;

(iii) contrary to the agency's prior practice, unless the agency justifies the inconsistency by giving facts and reasons that demonstrate a fair and rational basis for the inconsistency; or

(iv) otherwise arbitrary or capricious.

Section 6. Section **78A-3-102** is amended to read:

78A-3-102 . Supreme Court jurisdiction.

(1) The Supreme Court has original jurisdiction to answer questions of state law certified by a court of the United States.

(2) The Supreme Court has original jurisdiction to issue all extraordinary writs and

474 authority to issue all writs and process necessary to carry into effect its orders,
475 judgments, and decrees or in aid of its jurisdiction.

476 (3) The Supreme Court has appellate jurisdiction, including jurisdiction of interlocutory
477 appeals, over:

478 (a) a judgment of the Court of Appeals;

479 (b) cases certified to the Supreme Court by the Court of Appeals prior to final judgment
480 by the Court of Appeals;

481 (c) discipline of lawyers;

482 (d) final orders of the Judicial Conduct Commission;

483 (e) ~~[final orders and decrees in formal adjudicative proceedings]~~ a final agency action, as
484 described in Section 63G-4-403, in a formal adjudicative proceeding originating [with]
485 from:

486 (i) the Public Service Commission;

487 (ii) the State Tax Commission;

488 (iii) the School and Institutional Trust Lands Board of Trustees;

489 (iv) the Board of Oil, Gas, and Mining;

490 (v) the state engineer; or

491 (vi) the executive director of the Department of Natural Resources reviewing actions
492 of the Division of Forestry, Fire, and State Lands;

493 (f) final orders and decrees of the district court review of informal adjudicative
494 proceedings of agencies under Subsection (3)(e);

495 (g) a final judgment or decree of any court of record holding a statute of the United
496 States or this state unconstitutional on its face under the Constitution of the United
497 States or the Utah Constitution;

498 (h) interlocutory appeals from any court of record involving a charge of a first degree or
499 capital felony;

500 (i) appeals from the district court involving a conviction or charge of a first degree
501 felony or capital felony;

502 (j) orders, judgments, and decrees of any court of record over which the Court of
503 Appeals does not have original appellate jurisdiction; and

504 (k) appeals from the district court of orders, judgments, or decrees ruling on legislative
505 subpoenas.

506 (4) The Supreme Court may transfer to the Court of Appeals any of the matters over which
507 the Supreme Court has original appellate jurisdiction, except:

- (a) capital felony convictions or an appeal of an interlocutory order of a court of record involving a charge of a capital felony;
- (b) election and voting contests;
- (c) reapportionment of election districts;
- (d) retention or removal of public officers;
- (e) matters involving legislative subpoenas; and
- (f) those matters described in Subsections (3)(a) through (d).

- (5) The Supreme Court has sole discretion in granting or denying a petition for writ of certiorari for the review of a Court of Appeals adjudication, but the Supreme Court shall review those cases certified to it by the Court of Appeals under Subsection (3)(b).
- (6) The Supreme Court shall comply with the requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its review of agency adjudicative proceedings.

Section 7. Section **78A-4-103** is amended to read:

78A-4-103 . Court of Appeals jurisdiction.

- (1) As used in this section, "adjudicative proceeding" does not include a proceeding under Title 63G, Chapter 2, Part 4, Appeals, that precedes judicial review under Section 63G-2-404.
- (2) The Court of Appeals has jurisdiction to issue all extraordinary writs and to issue all writs and process necessary:
 - (a) to carry into effect its judgments, orders, and decrees; or
 - (b) in aid of its jurisdiction.
- (3) The Court of Appeals has appellate jurisdiction, including jurisdiction of interlocutory appeals, over:
 - (a)(i) ~~a final [order or decree resulting from]~~ agency action, as described in Section 63G-4-403, originating from:
 - (A) a formal adjudicative proceeding of a state agency;
 - (B) a special adjudicative proceeding, as described in Section 19-1-301.5; or
 - (C) a hearing before a local school board or the State Board of Education as described in Section 53G-11-515; or
 - (ii) an appeal from the district court review of an informal adjudicative proceeding of an agency other than the following:
 - (A) the Public Service Commission;
 - (B) the State Tax Commission;
 - (C) the School and Institutional Trust Lands Board of Trustees;

- (D) the Division of Forestry, Fire, and State Lands, for an action reviewed by the executive director of the Department of Natural Resources;
- (E) the Board of Oil, Gas, and Mining; or
- (F) the state engineer;
- (b) appeals from the district court review of:
- (i) adjudicative proceedings of agencies of political subdivisions of the state or other local agencies; and
- (ii) a challenge to agency action under Section 63G-3-602;
- (c) appeals from the juvenile courts;
- (d) interlocutory appeals from any court of record in criminal cases, except those involving a charge of a first degree or capital felony;
- (e) appeals from a court of record in criminal cases, except those involving a conviction or charge of a first degree felony or capital felony;
- (f) appeals from orders on petitions for extraordinary writs sought by persons who are incarcerated or serving any other criminal sentence, except petitions constituting a challenge to a conviction of or the sentence for a first degree or capital felony;
- (g) appeals from the orders on petitions for extraordinary writs challenging the decisions of the Board of Pardons and Parole except in cases involving a first degree or capital felony;
- (h) appeals from district court involving domestic relations cases, including, but not limited to, divorce, annulment, property division, child custody, support, parent-time, visitation, adoption, and paternity;
- (i) appeals from the Utah Military Court; and
- (j) cases transferred to the Court of Appeals from the Supreme Court.
- (4) The Court of Appeals upon its own motion only and by the vote of four judges of the court may certify to the Supreme Court for original appellate review and determination any matter over which the Court of Appeals has original appellate jurisdiction.
- (5) The Court of Appeals shall comply with the requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its review of agency adjudicative proceedings.

Section 8. Effective Date.

This bill takes effect on May 7, 2025.