

Representative Kay J. Christofferson proposes the following substitute bill:

STATE EMPLOYMENT REVISIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill modifies provisions relating to state employment.

Highlighted Provisions:

This bill:

- ▶ provides for certain career service employees to make a voluntary election to convert to career service exempt status;
- ▶ modifies a provision relating to the responsibilities of the director of the Division of Human Resource Management;
- ▶ modifies definitions applicable to a pay-for-performance management system;
- ▶ allows a state independent entity to choose to participate in a pay-for-performance plan under a pay-for-performance management system;
- ▶ establishes a schedule AY position as a career service exempt position;
- ▶ provides for employees in a schedule B career service status position who have not completed probation to become career service exempt employees if the position is changed to a schedule AY position; and
- ▶ modifies provisions related to employee salary ranges.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 This bill provides a special effective date.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **63A-17-102**, as last amended by Laws of Utah 2022, Chapter 209

31 **63A-17-106 (Effective 07/01/23)**, as last amended by Laws of Utah 2022, Chapters
32 166, 169, 177, and 209

33 **63A-17-112 (Effective 07/01/23)**, as enacted by Laws of Utah 2022, Chapter 209

34 **63A-17-301**, as last amended by Laws of Utah 2022, Chapter 209

35 **63A-17-304**, as last amended by Laws of Utah 2022, Chapter 169

36 **63A-17-307**, as last amended by Laws of Utah 2022, Chapters 169 and 209



37
38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **63A-17-102** is amended to read:

40 **63A-17-102. Definitions.**

41 As used in this chapter:

42 (1) "Agency" means any department or unit of Utah state government with authority to
43 employ personnel.

44 (2) "Career service" means positions under schedule B as defined in Section
45 **63A-17-301**.

46 (3) "Career service employee" means an employee who [~~has successfully completed~~];

47 (a) before July 1, 2023, successfully completes a probationary period of service in a
48 position covered by the career service[-]; and

49 [~~(4) "Career service status" means status granted to employees who successfully~~
50 ~~complete probationary periods for competitive career service positions.]~~

51 (b) on or after July 1, 2023, does not voluntarily:

52 (i) accept appointment to a position or status exempt from career service; or

53 (ii) elect to convert to a status exempt from career service.

54 (4) "Career service status" means status granted to an employee who, before July 1,
55 2023, successfully completes the applicable probationary period for a competitive career
56 service position.

- 57 (5) "Classified service" means those positions subject to the classification and
58 compensation provisions of Section 63A-17-307.
- 59 (6) "Controlled substance" means controlled substance as defined in Section 58-37-2.
- 60 (7) (a) "Demotion" means a disciplinary action resulting in a reduction of an
61 employee's current actual wage.
- 62 (b) "Demotion" does not mean:
- 63 (i) a nondisciplinary movement of an employee to another position without a reduction
64 in the current actual wage; or
- 65 (ii) a reclassification of an employee's position under the provisions of Subsection
66 63A-17-307(3) and rules made by the department.
- 67 (8) "Director" means the director of the division.
- 68 (9) "Disability" means a physical or mental disability as defined and protected under
69 the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq.
- 70 (10) "Division" means the Division of Human Resource Management, created in
71 Section 63A-17-105.
- 72 (11) "Employee" means any individual in a paid status covered by the career service or
73 classified service provisions of this chapter.
- 74 (12) "Examining instruments" means written or other types of proficiency tests.
- 75 (13) "Human resource function" means those duties and responsibilities specified:
- 76 (a) under Section 63A-17-106;
- 77 (b) under rules of the division; and
- 78 (c) under other state or federal statute.
- 79 (14) "Market comparability adjustment" means a salary range adjustment determined
80 necessary through a market survey of salary data and other relevant information.
- 81 (15) "Probationary employee" means an employee serving a probationary period in a
82 career service position but who does not have career service status.
- 83 (16) "Probationary period" means that period of time determined by the division that an
84 employee serves in a career service position as part of the hiring process before career service
85 status is granted to the employee.
- 86 (17) "Probationary status" means the status of an employee between the employee's
87 hiring and the granting of career service status.

88 (18) "Structure adjustment" means a division modification of salary ranges.

89 (19) "Temporary employee" means [~~career service exempt employees~~] an employee
90 described in Subsection 63A-17-301(1)(~~r~~)(s), with career service exempt status.

91 (20) "Total compensation" means salaries and wages, bonuses, paid leave, group
92 insurance plans, retirement, and all other benefits offered to state employees as inducements to
93 work for the state.

94 Section 2. Section **63A-17-106 (Effective 07/01/23)** is amended to read:

95 **63A-17-106 (Effective 07/01/23). Responsibilities of the director.**

96 (1) As used in this section, "miscarriage" means the spontaneous or accidental loss of a
97 fetus, regardless of gestational age or the duration of the pregnancy.

98 (2) The director shall have full responsibility and accountability for the administration
99 of the statewide human resource management system.

100 (3) Except as provided in Section 63A-17-201, an agency may not perform human
101 resource functions without the consent of the director.

102 (4) Statewide human resource management rules made by the division in accordance
103 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take precedence if there
104 is a conflict with agency rules, policies, or practices.

105 (5) The division may operate as an internal service fund agency in accordance with
106 Section 63J-1-410 for the human resource functions the division provides.

107 (6) The director shall:

108 (a) develop, implement, and administer a statewide program of human resource
109 management that will:

110 (i) aid in the efficient execution of public policy;

111 (ii) foster careers in public service for qualified employees; and

112 (iii) render assistance to state agencies in performing their missions;

113 (b) design and administer the state pay plan;

114 (c) design and administer the state classification system and procedures for determining
115 schedule assignments;

116 (d) design and administer the state recruitment and selection system;

117 (e) administer agency human resource practices and ensure compliance with federal
118 law, state law, and state human resource rules, including equal employment opportunity;

- 119 (f) consult with agencies on decisions concerning employee corrective action and
- 120 discipline;
- 121 (g) maintain central personnel records;
- 122 (h) perform those functions necessary to implement this chapter unless otherwise
- 123 assigned or prohibited;
- 124 (i) perform duties assigned by the governor, executive director, or statute;
- 125 (j) make rules for human resource management, in accordance with Title 63G, Chapter
- 126 3, Utah Administrative Rulemaking Act;
- 127 (k) establish and maintain a management information system that will furnish the
- 128 governor, the Legislature, and agencies with current information on authorized positions,
- 129 payroll, and related matters concerning state human resources;
- 130 (l) conduct research and planning activities to:
- 131 (i) determine and prepare for future state human resource needs;
- 132 (ii) develop methods for improving public human resource management; and
- 133 (iii) propose needed policy changes to the governor;
- 134 (m) study the character, causes, and extent of discrimination in state employment and
- 135 develop plans for its elimination through programs consistent with federal and state laws
- 136 governing equal employment opportunity in employment;
- 137 (n) when requested by charter schools or counties, municipalities, and other political
- 138 subdivisions of the state, provide technical service, training recommendations, or advice on
- 139 human resource management at a charge determined by the director;
- 140 (o) establish compensation policies and procedures for early voluntary retirement;
- 141 (p) confer with the heads of other agencies about human resource policies and
- 142 procedures;
- 143 (q) submit an annual report to the executive director, the governor, and the Legislature;
- 144 and
- 145 (r) assist with the development of a vacant position report required under Subsection
- 146 [63J-1-201\(2\)\(b\)\(vi\)](#).
- 147 (7) (a) After consultation with the executive director, the governor, and the heads of
- 148 other agencies, the director shall establish and coordinate statewide training programs,
- 149 including training described in Subsection (7)(e).

150 (b) The programs developed under this Subsection (7) shall have application to more
151 than one agency.

152 (c) The division may not establish training programs that train employees to perform
153 highly specialized or technical jobs and tasks.

154 (d) The division shall ensure that any training program described in this Subsection (7)
155 complies with Title 63G, Chapter 22, State Training and Certification Requirements.

156 (e) (i) As used in this Subsection (7)(e):

157 (A) "Employee" means the same as that term is defined in Section 63A-17-112.

158 (B) "Supervisor" means an individual in a position at an agency, as defined in Section
159 63A-17-112, that requires the regular supervision and performance evaluation of an employee.

160 (ii) A supervisor shall attend the training:

161 (A) within six months of being promoted or hired to the position of supervisor; and

162 (B) at least annually.

163 (iii) [~~Training attendance~~] Completion of the training and the effective use of training
164 information and principles shall be considered in an evaluation of a supervisor's job
165 performance.

166 (iv) The training shall include:

167 (A) effective employee management and evaluation methods based on the pay for
168 performance management system described in Section 63A-17-112;

169 (B) instruction to improve supervisor and employee communications;

170 (C) best practices for recognizing and retaining high-performing employees;

171 (D) best practices for addressing poor-performing employees; and

172 (E) any other information and principles identified by the division to improve
173 management or organizational effectiveness.

174 (8) (a) (i) The division may collect fees for training as authorized by this Subsection
175 (8).

176 (ii) Training funded from General Fund appropriations shall be treated as a separate
177 program within the department budget.

178 (iii) All money received from fees under this section will be accounted for by the
179 department as a separate user driven training program.

180 (iv) The user training program includes the costs of developing, procuring, and

181 presenting training and development programs, and other associated costs for these programs.

182 (b) (i) Funds remaining at the end of the fiscal year in the user training program are
183 nonlapsing.

184 (ii) Each year, as part of the appropriations process, the Legislature shall review the
185 amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require
186 the department to lapse a portion of the funds.

187 (9) Rules described in Subsection (6)(j) shall provide for at least three work days of
188 paid bereavement leave for an employee:

189 (a) following the end of the employee's pregnancy by way of miscarriage or stillbirth;
190 or

191 (b) following the end of another individual's pregnancy by way of a miscarriage or
192 stillbirth, if:

193 (i) the employee is the individual's spouse or partner;

194 (ii) (A) the employee is the individual's former spouse or partner; and

195 (B) the employee would have been a biological parent of a child born as a result of the
196 pregnancy;

197 (iii) the employee provides documentation to show that the individual intended for the
198 employee to be an adoptive parent, as that term is defined in Section 78B-6-103, of a child born
199 as a result of the pregnancy; or

200 (iv) under a valid gestational agreement in accordance with Title 78B, Chapter 15, Part
201 8, Gestational Agreement, the employee would have been a parent of a child born as a result of
202 the pregnancy.

203 Section 3. Section 63A-17-112 (Effective 07/01/23) is amended to read:

204 **63A-17-112 (Effective 07/01/23). Pay for performance management system --**
205 **Employees paid for performance.**

206 (1) As used in this section:

207 (a) (i) "Agency" means, except as provided in Subsection (1)(a)(ii), the same as that
208 term is defined in Section 63A-17-102.

209 (ii) "Agency" does not include the State Board of Education, the Office of the State
210 Treasurer, Office of the State Auditor, Office of the State Attorney General, Utah System of
211 Higher Education, the Legislature, the judiciary, or~~[, as defined in Section 63E-1-102,]~~ an

212 independent entity.

213 (b) (i) "Employee" means an employee of an agency.

214 (ii) "Employee" does not include:

215 (A) an individual in a schedule AB position, as described in Section [63A-17-301](#);

216 position;

217 (B) an individual in a position that does not receive retirement benefits under Title 49,

218 Utah State Retirement and Insurance Benefit Act; or

219 (C) an individual hired for a position that has a duration of less than 12 consecutive

220 months.

221 (c) "Independent entity" means the same as that term is defined in Section [63E-1-102](#).

222 ~~(e)~~ (d) "Pay for performance" means a plan:

223 (i) for incentivizing an employee ~~[for meeting or exceeding]~~ to meet or exceed

224 production or performance goals~~[, in which the plan]~~;

225 (ii) that is well-defined before work begins~~[, eligible work groups are defined]~~; and

226 (iii) under which specific goals and targets for the employee are determined~~[, and~~

227 measurement procedures are in place~~[, and specific incentives are provided when goals and~~

228 targets are met].

229 ~~(d)~~ (e) "Pay for performance management system" means the system described in

230 Subsection ~~(2)~~ (3).

231 (2) The division shall establish and, in accordance with Title 63G, Chapter 3, Utah

232 Administrative Rulemaking Act, make rules for the administration of a pay for performance

233 management system.

234 (3) The pay for performance management system shall include:

235 (a) guidelines and criteria for an agency to adopt pay for performance policies and

236 administer pay based on an employee's performance in furtherance of the agency's mission;

237 (b) employee performance ratings;

238 (c) requirements for written employee performance standards and expectations;

239 (d) supervisor verbal and written feedback based on the standards of performance and

240 behavior outlined in an employee's performance plan; and

241 (e) quarterly written evaluation of an employee's performance.

242 (4) In consultation with the division, no later than July 1, 2023, each agency shall:

243 (a) adopt pay for performance policies based on the performance management system;
244 and

245 (b) subject to available funds and as necessary, adjust an employee's wage to reflect:

246 (i) subject to Subsection (5), for a classified service employee, the salary range of the
247 position classified plan for the employee's position; and

248 (ii) an increase, decrease, or no change in the employee's wage:

249 (A) commensurate to an employee's performance as reflected by the employee's
250 evaluation conducted in accordance with the pay for performance management system; and

251 (B) in an amount that is in accordance with the guidelines and criteria established for a
252 wage change in the pay for performance management system.

253 (5) (a) Notwithstanding Subsection (1)(a)(ii), an independent entity may choose to
254 adopt pay for performance policies in accordance with the performance management system
255 established by the division under this section.

256 (b) An independent entity that chooses to adopt pay for performance policies:

257 (i) shall provide written notification to the division of the independent entity's choice;
258 and

259 (ii) is subject to this section and division rules made under this section to the same
260 extent as an agency described in Subsection (1)(a)(i).

261 [~~5~~] (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
262 Act, the division shall make rules authorizing a classified service employee to receive a wage
263 that exceeds the salary range of the classified service employee's position classified plan if
264 warranted based on the classified employee's performance rating.

265 Section 4. Section **63A-17-301** is amended to read:

266 **63A-17-301. Career service -- Exempt positions -- Schedules for civil service**
267 **positions -- Coverage of career service provisions.**

268 (1) Except as provided in Subsection (3)(d), the following positions are exempt from
269 the career service provisions of this chapter and are designated under the following schedules:

270 (a) schedule AA includes the governor, members of the Legislature, and all other
271 elected state officers;

272 (b) schedule AB includes appointed executives and board or commission executives
273 enumerated in Section [67-22-2](#);

- 274 (c) schedule AC includes all employees and officers in:
- 275 (i) the office and at the residence of the governor;
- 276 (ii) the Public Lands Policy Coordinating Office;
- 277 (iii) the Office of the State Auditor; and
- 278 (iv) the Office of the State Treasurer;
- 279 (d) schedule AD includes employees who:
- 280 (i) are in a confidential relationship to an agency head or commissioner; and
- 281 (ii) report directly to, and are supervised by, a department head, commissioner, or
- 282 deputy director of an agency or its equivalent;
- 283 (e) schedule AE includes each employee of the State Board of Education that the State
- 284 Board of Education designates as exempt from the career service provisions of this chapter;
- 285 (f) schedule AG includes employees in the Office of the Attorney General who are
- 286 under their own career service pay plan under Sections [67-5-7](#) through [67-5-13](#);
- 287 (g) schedule AH includes:
- 288 (i) teaching staff of all state institutions; and
- 289 (ii) employees of the Utah Schools for the Deaf and the Blind who are:
- 290 (A) educational interpreters as classified by the division; or
- 291 (B) educators as defined by Section [53E-8-102](#);
- 292 (h) schedule AN includes employees of the Legislature;
- 293 (i) schedule AO includes employees of the judiciary;
- 294 (j) schedule AP includes all judges in the judiciary;
- 295 (k) schedule AQ includes:
- 296 (i) members of state and local boards and councils appointed by the governor and
- 297 governing bodies of agencies;
- 298 (ii) a water commissioner appointed under Section [73-5-1](#);
- 299 (iii) other local officials serving in an ex officio capacity; and
- 300 (iv) officers, faculty, and other employees of state universities and other state
- 301 institutions of higher education;
- 302 (l) schedule AR includes employees in positions that involve responsibility:
- 303 (i) for determining policy;
- 304 (ii) for determining the way in which a policy is carried out; or

305 (iii) of a type not appropriate for career service, as determined by the agency head with
306 the concurrence of the director;

307 (m) schedule AS includes any other employee:

308 (i) whose appointment is required by statute to be career service exempt;

309 (ii) whose agency is not subject to this chapter; or

310 (iii) whose agency has authority to make rules regarding the performance,
311 compensation, and bonuses for its employees;

312 (n) schedule AT includes employees of the Division of Technology Services,
313 designated as executive/professional positions by the director of the Division of Technology
314 Services with the concurrence of the director of the division;

315 (o) schedule AU includes patients and inmates employed in state institutions;

316 (p) employees of the Department of Workforce Services, designated as schedule AW:

317 (i) who are temporary employees that are federally funded and are required to work
318 under federally qualified merit principles as certified by the director; or

319 (ii) for whom substantially all of their work is repetitive, measurable, or transaction
320 based, and who voluntarily apply for and are accepted by the Department of Workforce
321 Services to work in a pay for performance program designed by the Department of Workforce
322 Services with the concurrence of the director of the division;

323 (q) subject to Subsection (6), schedule AX includes employees in positions that:

324 (i) require the regular supervision and performance evaluation of one or more other
325 employees; and

326 (ii) are not designated exempt from career service under any other schedule described
327 in this Subsection (1); ~~and~~

328 ~~[(r) for employees in positions that are temporary, seasonal, time limited, funding
329 limited, or variable hour in nature, under schedule codes and parameters established by the
330 division by administrative rule.]~~

331 (r) subject to Subsection (7), schedule AY includes an employee, except an employee
332 in a position subject to Subsection (3)(d), who is in a position that is not designated under any
333 other schedule described in this Subsection (1) as exempt from career service; and

334 (s) an employee in a position that is temporary, seasonal, time-limited, funding-limited,
335 or with variable hours, under schedule codes and parameters established by the division by

336 rule.

337 (2) The civil service shall consist of two schedules as follows:

338 (a) (i) Schedule A is the schedule consisting of positions under Subsection (1).

339 (ii) Removal from any appointive position under schedule A, unless otherwise
340 regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

341 (b) Schedule B is the competitive career service schedule, consisting of:

342 (i) all positions filled through competitive selection procedures as defined by the
343 director; or

344 (ii) positions filled through a division approved on-the-job examination intended to
345 appoint a qualified person with a disability, or a veteran in accordance with Title 71, Chapter
346 10, Veterans Preference.

347 (3) (a) The director, after consultation with the heads of concerned executive branch
348 departments and agencies and with the approval of the governor, shall allocate positions to the
349 appropriate schedules under this section.

350 (b) Agency heads shall make requests and obtain approval from the director before
351 changing the schedule assignment and tenure rights of any position.

352 (c) Unless the director's decision is reversed by the governor, when the director denies
353 an agency's request, the director's decision is final.

354 (d) (i) An agency may file with the division a request to reschedule a position that
355 would otherwise be scheduled as a schedule A position.

356 (ii) The division shall review a request filed under Subsection (3)(d)(i) and approve the
357 request only if the exception is necessary to conform to a requirement imposed as a condition
358 precedent to receipt of federal funds or grant of a tax benefit under federal law.

359 (4) (a) Compensation for employees of the Legislature shall be established by the
360 directors of the legislative offices in accordance with Section 36-12-7.

361 (b) Compensation for employees of the judiciary shall be established by the state court
362 administrator in accordance with Section 78A-2-107.

363 (c) Compensation for officers, faculty, and other employees of state universities and
364 institutions of higher education shall be established as provided in Title 53B, Chapter 1,
365 Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of
366 Higher Education.

367 (d) Unless otherwise provided by law, compensation for all other schedule A
368 employees shall be established by their appointing authorities~~[, within ranges approved by,~~
369 ~~and]~~;

370 (i) after consultation with the director~~[,]~~;

371 (ii) using ranges approved by the director; and

372 (iii) at or above the minimum salary of the salary range for the employee's position.

373 (5) An employee who is in a position designated schedule AC and who holds career
374 service status on June 30, 2010, shall retain the career service status if the employee:

375 (a) remains in the position that the employee is in on June 30, 2010; and

376 (b) does not elect to convert to career service exempt status in accordance with a rule
377 made by the division.

378 (6) (a) An employee who is hired for a schedule AX position on or after July 1, 2022,
379 is exempt from career service status.

380 (b) An employee who before July 1, 2022, is a career service employee employed in a
381 schedule B position that is rescheduled to a schedule AX position on July 1, 2022, ~~[shall~~
382 ~~maintain]~~ maintains the employee's career service status for the duration of the employee's
383 employment in the same position unless the employee voluntarily converts to career service
384 exempt status before July 1, 2023.

385 (c) (i) Subject to Subsection (6)(c)(ii), an employee is exempt from career service
386 status if:

387 (A) before July 1, 2022, the employee was a probationary employee in a schedule B
388 position and had not completed the probationary period; and

389 (B) on July 1, 2022, the schedule B position in which the probationary employee is
390 employed is rescheduled as a ~~[scheduled]~~ schedule AX position.

391 (ii) An employee described in Subsection (6)(c)(i):

392 (A) is not a probationary employee on or after July 1, 2022; and

393 (B) is exempt from career service status on and after July 1, 2022, unless the employee
394 changes employment to a schedule B position.

395 (d) The division shall disseminate to each employee described in Subsection (6)(b)
396 information on financial and other incentives for voluntary conversion to career-service exempt
397 status.

398 (e) An agency, as defined in Section [63A-17-112](#), may adopt a policy, created in
399 consultation with the division, for agency review of recommendations that schedule AX
400 employees be suspended, demoted, or dismissed from employment.

401 (7) (a) An employee hired for a schedule AY position on or after July 1, 2023 is
402 exempt from career service.

403 (b) An employee who, before July 1, 2023, is a career service employee in a schedule B
404 position that, on July 1, 2023, is rescheduled to a schedule AY position, maintains the
405 employee's career service status for the duration of the employee's employment in the same
406 position unless the employee voluntarily elects, before March 30, 2024, to convert to a status
407 that is exempt from career service .

408 (c) Subject to Subsection (7) (d), an employee is exempt from career service if the
409 employee:

410 (i) (A) before July 1, 2023, was a probationary employee in a schedule B position; and
411 (B) by July 1, 2023, had not completed the probationary period; and
412 (ii) on July 1, 2023, the schedule B position in which the employee is employed is
413 rescheduled as a schedule AY position.

414 (d) An employee described in Subsection (7)(c)(i):

415 (i) is not a probationary employee on and after July 1, 2023; and

416 (ii) is exempt from career service on and after July 1, 2023, unless the employee
417 changes employment to a schedule B position.

418 (e) The division shall disseminate to each employee described in Subsection (7)(b)
419 information on financial and other incentives for the employee to voluntarily convert to a status
420 that is exempt from career service.

421 Section 5. Section **63A-17-304** is amended to read:

422 **63A-17-304. Promotion -- Reclassification -- Market adjustment.**

423 (1) [~~(a)~~] If an employee is promoted or the employee's position is reclassified to a
424 higher salary range maximum, the agency shall place the employee [~~within~~] at or above the
425 minimum salary of the new salary range [~~of~~] for the position.

426 [~~(b) An agency may not set an employee's salary:~~]

427 [~~(i) higher than the maximum in the new salary range; or~~]

428 [~~(ii) lower than the minimum in the new salary range of the position.~~]

429 (2) An agency shall adjust the salary range for an employee whose salary range is
430 approved by the Legislature for a market comparability adjustment consistent with Subsection
431 [63A-17-307\(5\)\(b\)\(i\)](#):

432 (a) at the beginning of the next fiscal year; and

433 (b) consistent with appropriations made by the Legislature.

434 (3) Division-initiated revisions in the state classification system that result in
435 consolidation or reduction of class titles or broadening of pay ranges:

436 (a) may not be regarded as a reclassification of the position or promotion of the
437 employee; and

438 (b) are exempt from the provisions of Subsection (1).

439 Section 6. Section [63A-17-307](#) is amended to read:

440 **[63A-17-307. State pay plans -- Applicability of section -- Exemptions -- Duties of](#)**
441 **director.**

442 (1) (a) This section, and the rules made by the division under this section, apply to each
443 career and noncareer employee not specifically exempted under Subsection (2).

444 (b) If not exempted under Subsection (2), an employee is considered to be in classified
445 service.

446 (2) The following employees are exempt from this section:

447 (a) members of the Legislature and legislative employees;

448 (b) members of the judiciary and judicial employees;

449 (c) elected members of the executive branch and employees designated as schedule AC
450 as provided under Subsection [63A-17-301\(1\)\(c\)](#);

451 (d) employees of the State Board of Education;

452 (e) officers, faculty, and other employees of state institutions of higher education;

453 (f) employees in a position that is specified by statute to be exempt from this
454 Subsection (2);

455 (g) employees in the Office of the Attorney General;

456 (h) department heads and other persons appointed by the governor under statute;

457 (i) schedule AS employees as provided under Subsection [63A-17-301\(1\)\(m\)](#);

458 (j) department deputy directors, division directors, and other employees designated as
459 schedule AD as provided under Subsection [63A-17-301\(1\)\(d\)](#);

460 (k) employees that determine and execute policy designated as schedule AR as
461 provided under Subsection 63A-17-301(1)(l);

462 (l) teaching staff, educational interpreters, and educators designated as schedule AH as
463 provided under Subsection 63A-17-301(1)(g);

464 (m) temporary employees described in Subsection 63A-17-301(1)(r);

465 (n) patients and inmates designated as schedule AU as provided under Subsection
466 63A-17-301(1)(o) who are employed by state institutions; and

467 (o) members of state and local boards and councils and other employees designated as
468 schedule AQ as provided under Subsection 63A-17-301(1)(k).

469 (3) (a) The director shall prepare, maintain, and revise a position classification plan for
470 each employee position not exempted under Subsection (2) to provide equal pay for equal
471 work.

472 (b) Classification of positions shall be based upon similarity of duties performed and
473 responsibilities assumed, so that the same job requirements and the same salary range, subject
474 to Section 63A-17-112, may be applied equitably to each position in the same class.

475 (c) The director shall allocate or reallocate the position of each employee in classified
476 service to one of the classes in the classification plan.

477 (d) (i) The division shall conduct periodic studies and interviews to provide that the
478 classification plan remains reasonably current and reflects the duties and responsibilities
479 assigned to and performed by employees.

480 (ii) The director shall determine the need for studies and interviews after considering
481 factors such as changes in duties and responsibilities of positions or agency reorganizations.

482 (4) (a) With the approval of the executive director and the governor, the director shall
483 develop and adopt pay plans for each position in classified service.

484 (b) The director shall design each pay plan to achieve, to the degree that funds permit,
485 comparability of state salary ranges to the market using data obtained from private enterprise
486 and other public employment for similar work.

487 (c) The director shall adhere to the following in developing each pay plan:

488 (i) each pay plan shall consist of sufficient salary ranges to:

489 (A) permit adequate salary differential among the various classes of positions in the
490 classification plan; and

491 (B) reflect the normal growth and productivity potential of employees in that class.

492 (ii) The director shall issue rules for the administration of pay plans.

493 (d) The establishing of a salary range is a nondelegable activity and is not appealable
494 under the grievance procedures of Part 6, Grievance Provisions, Title 67, Chapter 19a,
495 Grievance Procedures, or otherwise.

496 (e) The director shall make rules, accordance with Title 63G, Chapter 3, Utah
497 Administrative Rulemaking Act, providing for:

498 (i) agency approved salary adjustments [~~within approved salary ranges~~], including an
499 administrative salary adjustment; and

500 (ii) structure adjustments that modify salary ranges, including a cost of living
501 adjustment or market comparability adjustment.

502 (5) (a) On or before October 31 of each year, the director shall submit an annual
503 compensation plan to the executive director and the governor for consideration in the executive
504 budget.

505 (b) The plan described in Subsection (5)(a) may include recommendations, including:

506 (i) salary increases that generally affect employees, including a general increase or
507 merit increase;

508 (ii) salary increases that address compensation issues unique to an agency or
509 occupation;

510 (iii) structure adjustments, including a cost of living adjustment or market
511 comparability adjustment; or

512 (iv) changes to employee benefits.

513 (c) (i) (A) Subject to Subsection (5)(c)(i)(B) or (C), the director shall incorporate the
514 results of a salary survey of a reasonable cross section of comparable positions in private and
515 public employment in the state into the annual compensation plan.

516 (B) The salary survey for a law enforcement officer, as defined in Section [53-13-103](#), a
517 correctional officer, as defined in Section [53-13-104](#), or a dispatcher, as defined in Section
518 [53-6-102](#), shall at minimum include the three largest political subdivisions in the state that
519 employ, respectively, comparable positions.

520 (C) The salary survey for an examiner or supervisor described in Title 7, Chapter 1,
521 Part 2, Department of Financial Institutions, shall at minimum include the Federal Deposit

522 Insurance Corporation, Federal Reserve, and National Credit Union Administration.

523 (ii) The director may cooperate with or participate in any survey conducted by other
524 public and private employers.

525 (iii) The director shall obtain information for the purpose of constructing the survey
526 from the Division of Workforce Information and Payment Services and shall include employer
527 name, number of persons employed by the employer, employer contact information and job
528 titles, county code, and salary if available.

529 (iv) The division shall acquire and protect the needed records in compliance with the
530 provisions of Section [35A-4-312](#).

531 (d) The director may incorporate any other relevant information in the plan described
532 in Subsection (5)(a), including information on staff turnover, recruitment data, or external
533 market trends.

534 (e) The director shall:

535 (i) establish criteria to assure the adequacy and accuracy of data used to make
536 recommendations described in this Subsection (5); and

537 (ii) when preparing recommendations use accepted methodologies and techniques
538 similar to and consistent with those used in the private sector.

539 (f) (i) Upon request and subject to Subsection (5)(f)(ii), the division shall make
540 available foundational information used by the division or director in the drafting of a plan
541 described in Subsection (5)(a), including:

542 (A) demographic and labor market information;

543 (B) information on employee turnover;

544 (C) salary information;

545 (D) information on recruitment; and

546 (E) geographic data.

547 (ii) The division may not provide under Subsection (5)(f)(i) information or other data
548 that is proprietary or otherwise protected under the terms of a contract or by law.

549 (g) The governor shall:

550 (i) consider salary and structure adjustments recommended under Subsection (5)(b) in
551 preparing the executive budget and shall recommend the method of distributing the
552 adjustments;

553 (ii) submit compensation recommendations to the Legislature; and
554 (iii) support the recommendation with schedules indicating the cost to individual
555 departments and the source of funds.

556 (h) If funding is approved by the Legislature in a general appropriations act, the
557 adjustments take effect on the July 1 following the enactment unless otherwise indicated.

558 (6) (a) The director shall make rules, in accordance with Title 63G, Chapter 3, Utah
559 Administrative Rulemaking Act, for the granting of incentive awards, including awards for cost
560 saving actions, awards for commendable actions by an employee, or a market-based award to
561 attract or retain employees.

562 (b) An agency may not grant a market-based award unless the award is previously
563 approved by the division.

564 (c) In accordance with Subsection (6)(b), an agency requesting the division's approval
565 of a market-based award shall submit a request and documentation, subject to Subsection
566 (6)(d), to the division.

567 (d) In the documentation required in Subsection (6)(c), the requesting agency shall
568 identify for the division:

569 (i) any benefit the market-based award would provide for the agency, including:

570 (A) budgetary advantages; or

571 (B) recruitment advantages;

572 (ii) a mission critical need to attract or retain unique or hard to find skills in the market;

573 or

574 (iii) any other advantage the agency would gain through the utilization of a
575 market-based award.

576 (7) (a) The director shall regularly evaluate the total compensation program of state
577 employees in the classified service.

578 (b) The division shall determine if employee benefits are comparable to those offered
579 by other private and public employers using information from:

580 (i) a study conducted by a third-party consultant; or

581 (ii) the most recent edition of a nationally recognized benefits survey.

582 Section 7. **Effective date.**

583 (1) Except as provided in Subsection (2), this bill takes effect May 3, 2023.

584

(2) The amendments to Sections [63A-17-106](#) and [63A-17-112](#) take effect July 1, 2023.