

1 **EXPANSION OF DEPARTMENT OF**
2 **ADMINISTRATIVE SERVICES OVERSIGHT**
3 **TO INCLUDE HUMAN RESOURCE**
4 **MANAGEMENT**

5 2005 GENERAL SESSION

6 STATE OF UTAH

7 **Sponsor: D. Gregg Buxton**

8
9 **LONG TITLE**

10 **General Description:**

11 This bill modifies provisions of the Personnel Management Act to change the
12 Department of Human Resource Management to a division under the Department of
13 Administrative Services.

14 **Highlighted Provisions:**

15 This bill:

- 16 ▶ provides that the Department of Human Resource Management shall be changed to
17 a division within the Department of Administrative Services;
- 18 ▶ changes the name of the Department of Human Resource Management to the
19 Division of Human Resource Management;
- 20 ▶ provides that the Division of Human Resource Management shall be administered
21 by a director appointed by the governor with the consent of the Senate;
- 22 ▶ provides that the director shall be accountable to the executive director of the
23 Department of Administrative Services;
- 24 ▶ removes the director's discretion to appoint division directors and program
25 managers;
- 26 ▶ provides that the director of the Division of Human Resource Management shall be
27 responsible for administering the human resource program for the state and for all



28 departments;

29 ▶ provides that policies set by the Division of Human Resource Management shall
30 take precedence over conflicting policies and practices;

31 ▶ eliminates the Utah Quality Service Award program;

32 ▶ terminates existing procedures for performing human resource services for various
33 departments and permits the Division of Human Resource Management to establish
34 field offices in departments;

35 ▶ eliminates the ability for departments to provide certain human resource
36 management functions;

37 ▶ provides a listing of required provisions for agreements governing field offices in
38 departments;

39 ▶ provides for allocation of the cost of department facilities, equipment, and supplies
40 that are used by a division field office;

41 ▶ requires the director of the Division of Human Resource Management to submit an
42 annual budget request for the approval of the governor and the Legislature;

43 ▶ provides the director of the Division of Human Resource Management with
44 responsibility to design and administer the state recruitment and selection system;

45 ▶ changes the date for submission of market comparability adjustments to coincide
46 with the date that the compensation package recommendation is due; and

47 ▶ makes technical changes.

48 **Monies Appropriated in this Bill:**

49 None

50 **Other Special Clauses:**

51 This bill takes effect on July 1, 2006.

52 **Utah Code Sections Affected:**

53 AMENDS:

54 **13-1a-3**, as last amended by Chapter 79, Laws of Utah 1996

55 **35A-1-205**, as last amended by Chapter 17, Laws of Utah 2003

56 **49-20-401**, as last amended by Chapter 118, Laws of Utah 2004

57 **53-6-104**, as renumbered and amended by Chapter 234, Laws of Utah 1993

58 **53A-24-114**, as last amended by Chapter 352, Laws of Utah 2004

- 59 **53C-1-201**, as last amended by Chapters 41 and 63, Laws of Utah 2004
60 **54-1-6**, as last amended by Chapters 101 and 122, Laws of Utah 1988
61 **54-4a-3**, as last amended by Chapter 122, Laws of Utah 1988
62 **61-1-18**, as last amended by Chapter 145, Laws of Utah 2001
63 **62A-15-613**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth
64 Special Session
65 **63-5b-102**, as last amended by Chapters 14 and 159, Laws of Utah 2002
66 **63-13-2**, as last amended by Chapter 306, Laws of Utah 2000
67 **63-34-12**, as last amended by Chapter 122, Laws of Utah 1988
68 **63A-1-109**, as last amended by Chapter 356, Laws of Utah 2004
69 **63A-9-501**, as last amended by Chapter 5, Laws of Utah 2003
70 **63A-9-801**, as last amended by Chapter 209, Laws of Utah 2003
71 **67-5-7**, as last amended by Chapter 122, Laws of Utah 1988
72 **67-5-9**, as last amended by Chapter 122, Laws of Utah 1988
73 **67-5-12**, as last amended by Chapter 191, Laws of Utah 1989
74 **67-8-3**, as last amended by Chapter 250, Laws of Utah 2002
75 **67-8-5**, as last amended by Chapter 214, Laws of Utah 1995
76 **67-19-3**, as last amended by Chapter 7, Laws of Utah 2002
77 **67-19-3.1**, as enacted by Chapter 322, Laws of Utah 2000
78 **67-19-5**, as last amended by Chapter 176, Laws of Utah 2002
79 **67-19-6**, as last amended by Chapter 4, Laws of Utah 2003
80 **67-19-6.7**, as last amended by Chapters 82 and 375, Laws of Utah 1997
81 **67-19-11**, as last amended by Chapter 122, Laws of Utah 1988
82 **67-19-12**, as last amended by Chapter 16, Laws of Utah 2003
83 **67-19-12.2**, as enacted by Chapter 231, Laws of Utah 2001
84 **67-19-12.5**, as enacted by Chapter 200, Laws of Utah 1989
85 **67-19-12.7**, as enacted by Chapter 125, Laws of Utah 1999
86 **67-19-12.9**, as last amended by Chapter 14, Laws of Utah 2002, Fifth Special Session
87 **67-19-13**, as enacted by Chapter 139, Laws of Utah 1979
88 **67-19-15**, as last amended by Chapter 213, Laws of Utah 1997
89 **67-19-15.1**, as enacted by Chapter 128, Laws of Utah 1994

- 90 **67-19-19**, as last amended by Chapter 122, Laws of Utah 1988
- 91 **67-19-26**, as enacted by Chapter 139, Laws of Utah 1979
- 92 **67-19-31**, as last amended by Chapter 7, Laws of Utah 2002
- 93 **67-19-33**, as enacted by Chapter 280, Laws of Utah 1990
- 94 **67-19-34**, as last amended by Chapter 259, Laws of Utah 1991
- 95 **67-19-36**, as enacted by Chapter 280, Laws of Utah 1990
- 96 **67-19-37**, as enacted by Chapter 280, Laws of Utah 1990
- 97 **67-19-38**, as enacted by Chapter 280, Laws of Utah 1990
- 98 **67-19a-303**, as last amended by Chapter 204, Laws of Utah 1991
- 99 **67-19c-101**, as last amended by Chapters 82 and 375, Laws of Utah 1997
- 100 **67-20-8**, as last amended by Chapter 213, Laws of Utah 1997
- 101 **67-22-2**, as last amended by Chapters 156 and 306, Laws of Utah 2004
- 102 **72-1-203**, as renumbered and amended by Chapter 270, Laws of Utah 1998

103 ENACTS:

104 **67-19-6.1**, Utah Code Annotated 1953

105 REPEALS:

- 106 **67-19-6.4**, as enacted by Chapter 156, Laws of Utah 1997
- 107 **67-19-7**, as last amended by Chapter 139, Laws of Utah 1989
- 108 **67-19-8**, as last amended by Chapter 4, Laws of Utah 2003
- 109 **67-19-9**, as enacted by Chapter 139, Laws of Utah 1979
- 110 **67-19-10**, as enacted by Chapter 139, Laws of Utah 1979

111 **Uncodified Material Affected:**

112 ENACTS UNCODIFIED MATERIAL



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

115 Section 1. Section **13-1a-3** is amended to read:

116 **13-1a-3. Employment and compensation of personnel -- Compensation of**
117 **director.**

118 The director, with the approval of the executive director, may employ personnel
119 necessary to carry out the duties and responsibilities of the division at salaries established by
120 the executive director according to standards established by the [~~Department~~] Division of

121 Human Resource Management. The executive director shall establish the salary of the director
122 according to standards established by the [~~Department~~] Division of Human Resource
123 Management.

124 Section 2. Section **35A-1-205** is amended to read:

125 **35A-1-205. Workforce Appeals Board -- Chair -- Appointment -- Compensation**
126 **-- Qualifications.**

127 (1) There is created the Workforce Appeals Board within the department consisting of
128 one or more panels to hear and decide appeals from the decision of an administrative law
129 judge.

130 (2) (a) A panel shall consist of three impartial members appointed by the governor as
131 follows:

132 (i) the board chair, appointed in accordance with Subsection (5);

133 (ii) one member appointed to represent employers; and in making this appointment,
134 the governor shall consider nominations from employer organizations; and

135 (iii) one member appointed to represent employees; and in making this appointment,
136 the governor shall consider nominations from employee organizations.

137 (b) No more than two members of a panel may belong to the same political party.

138 (3) (a) (i) The term of a member shall be six years beginning on March 1 of the year
139 the member is appointed, except as otherwise provided in Subsection (3)(a)(ii).

140 (ii) The governor shall, at the time of appointment or reappointment, adjust the length
141 of terms to ensure that the terms of members are staggered so that approximately one third of
142 the members are appointed every two years.

143 (b) When a vacancy occurs in the membership for any reason, the replacement shall be
144 appointed for the unexpired term.

145 (c) The governor may remove a member for inefficiency, neglect of duty, malfeasance
146 or misfeasance in office, or other good and sufficient cause.

147 (d) A member shall hold office until a successor is appointed and has qualified.

148 (4) (a) Except as provided in Subsection (4)(c), a member of the board may not receive
149 compensation for the member's services, but may receive per diem and expenses incurred in the
150 performance of the member's official duties at the rates established by the Division of Finance
151 under Sections 63A-3-106 and 63A-3-107.

152 (b) A member may decline to receive per diem and expenses for the member's service.

153 (c) The member appointed as board chair in accordance with Subsection (5) shall be
154 compensated at an hourly rate determined by the [~~Department~~] Division of Human Resource
155 Management in accordance with Title 67, Chapter 19, Utah State Personnel Management Act.

156 (5) (a) The chief officer of the board shall be the chair, who shall serve as the executive
157 and administrative head of the board.

158 (b) The chair shall be appointed by the governor to represent the public and may be
159 removed from that position at the will of the governor.

160 (c) The chair shall be experienced in administration and possess any additional
161 qualifications determined by the governor.

162 (6) (a) The chair shall designate an alternate from a panel appointed under this section:

163 (i) in the absence of a regular member or the chair; or

164 (ii) if the regular member or the chair has a conflict of interest.

165 (b) Each case shall be decided by a full three-member panel.

166 (7) The department shall provide the Workforce Appeals Board necessary staff
167 support, except, the board may employ, retain, or appoint legal counsel.

168 Section 3. Section **49-20-401** is amended to read:

169 **49-20-401. Program -- Powers and duties.**

170 (1) The program shall:

171 (a) act as a self-insurer of employee benefit plans and administer those plans;

172 (b) enter into contracts with private insurers or carriers to underwrite employee benefit
173 plans as considered appropriate by the program;

174 (c) indemnify employee benefit plans or purchase commercial reinsurance as
175 considered appropriate by the program;

176 (d) provide descriptions of all employee benefit plans under this chapter in cooperation
177 with covered employers;

178 (e) process claims for all employee benefit plans under this chapter or enter into
179 contracts, after competitive bids are taken, with other benefit administrators to provide for the
180 administration of the claims process;

181 (f) obtain an annual actuarial review of all health and dental benefit plans and a
182 periodic review of all other employee benefit plans;

183 (g) consult with the covered employers to evaluate employee benefit plans and develop
184 recommendations for benefit changes;

185 (h) annually submit a budget and audited financial statements to the governor and
186 Legislature which includes total projected benefit costs and administrative costs;

187 (i) maintain reserves sufficient to liquidate the unrevealed claims liability and other
188 liabilities of the employee benefit plans as certified by the program's consulting actuary;

189 (j) submit its recommended benefit adjustments for state employees to the director of
190 the state [~~Department~~] Division of Human Resource Management;

191 (k) determine benefits and rates, upon approval of the board, for multiemployer risk
192 pools, retiree coverage, and conversion coverage;

193 (l) determine benefits and rates, upon approval of the board and the Legislature, for
194 state employees;

195 (m) administer benefits and rates, upon ratification of the board, for single employer
196 risk pools;

197 (n) request proposals for provider networks or health and dental benefit plans
198 administered by third party carriers at least once every three years for the purposes of:

199 (i) stimulating competition for the benefit of covered individuals;

200 (ii) establishing better geographical distribution of medical care services; and

201 (iii) providing coverage for both active and retired covered individuals;

202 (o) offer proposals which meet the criteria specified in a request for proposals and
203 accepted by the program to active and retired state covered individuals and which may be
204 offered to active and retired covered individuals of other covered employers at the option of the
205 covered employer;

206 (p) perform the same functions established in Subsections (1)(a), (b), (e), and (h) for
207 the Department of Health if the program provides program benefits to children enrolled in the
208 Utah Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's
209 Health Insurance Act;

210 (q) establish rules and procedures governing the admission of political subdivisions or
211 educational institutions and their employees to the program;

212 (r) contract directly with medical providers to provide services for covered individuals;

213 and

214 (s) take additional actions necessary or appropriate to carry out the purposes of this
215 chapter.

216 (2) (a) Funds budgeted and expended shall accrue from rates paid by the covered
217 employers and covered individuals.

218 (b) Administrative costs shall be approved by the board and reported to the governor
219 and the Legislature.

220 (3) The [~~Department~~] Division of Human Resource Management shall include the
221 benefit adjustments described in Subsection (1)(j) in the total compensation plan recommended
222 to the governor required under Subsection 67-19-12(6)(a).

223 Section 4. Section **53-6-104** is amended to read:

224 **53-6-104. Appointment of director of division -- Qualifications -- Appointment of**
225 **employees -- Term of office -- Compensation.**

226 (1) The commissioner, upon recommendation of the council and with the approval of
227 the governor, shall appoint a director of the division.

228 (2) The director is the executive and administrative head of the division and shall be
229 experienced in administration and possess additional qualifications as determined by the
230 commissioner and as provided by law.

231 (3) The director shall be a full-time officer of the state.

232 (4) The director may appoint deputies, consultants, clerks, and other employees from
233 eligibility lists authorized by the [~~Department~~] Division of Human Resource Management.

234 (5) The director may be removed from his position at the will of the commissioner.

235 (6) The director shall receive compensation as provided by Title 67, Chapter 19, Utah
236 State Personnel Management Act.

237 Section 5. Section **53A-24-114** is amended to read:

238 **53A-24-114. Governor's Committee on Employment of People with Disabilities.**

239 (1) There is created the Governor's Committee on Employment of People with
240 Disabilities.

241 (2) (a) The State Board of Education shall appoint at least twelve members to the
242 committee.

243 (b) The State Board of Education shall ensure that the committee includes members
244 from the public and private sectors who represent:

- 245 (i) business and industry;
- 246 (ii) individuals with disabilities and their advocates;
- 247 (iii) job training and placement;
- 248 (iv) ~~[state agencies]~~ administrative subunits of the state, such as the ~~[Department]~~
- 249 Division of Human Resource Management, the Department of Workforce Services, Public
- 250 Education, Higher Education, and the Department of Human Services;
- 251 (v) labor;
- 252 (vi) veterans;
- 253 (vii) medical;
- 254 (viii) health;
- 255 (ix) insurance;
- 256 (x) media; and
- 257 (xi) the general public.
- 258 (c) (i) Except as provided in Subsection (2)(c)(ii), the State Board of Education shall
- 259 appoint committee members to serve four-year terms.
- 260 (ii) In making the initial appointments to the committee, the State Board of Education
- 261 shall appoint approximately 1/2 of the members to two-year terms and 1/2 of the members to
- 262 four-year terms.
- 263 (d) Committee members shall serve until their successors are appointed and qualified.
- 264 (e) The State Board of Education shall fill any vacancy that occurs on the committee
- 265 for any reason by appointing a person according to the procedures of this section for the
- 266 unexpired term of the vacated member.
- 267 (f) The State Board of Education shall select a chair from the membership.
- 268 (g) Seven members of the committee are a quorum for the transaction of business.
- 269 (3) (a) The committee shall:
- 270 (i) promote employment opportunities for individuals with disabilities;
- 271 (ii) serve as the designated state liaison to the President's Committee on Employment
- 272 of People with Disabilities;
- 273 (iii) provide training and technical assistance to employers in implementing the
- 274 Americans with Disabilities Act;
- 275 (iv) develop and disseminate appropriate information through workshops, meetings,

276 and other requests in response to needs to employers and others regarding employment of
277 individuals with disabilities;

278 (v) establish contacts with various community representatives to identify and resolve
279 barriers to full participation in employment and community life;

280 (vi) formally recognize exemplary contributions in the areas of employment, job
281 placement, training, rehabilitation, support services, medicine, media or public relations, and
282 personal achievements made by individuals with disabilities;

283 (vii) advise, encourage, and motivate individuals with disabilities who are preparing
284 for or seeking employment to reach their full potential as qualified employees;

285 (viii) advocate for policies and practices that promote full and equal rights for
286 individuals with disabilities;

287 (ix) advise the State Board of Education and the governor on issues that affect
288 employment and other requests for information on disability issues;

289 (x) prepare an annual report on the progress, accomplishments, and future goals of the
290 committee and present the report to the State Board of Education and the governor; and

291 (xi) establish and maintain a cooperative liaison between the governor's office, the
292 executive director of the committee, and the executive director of the Utah State Office of
293 Rehabilitation to fulfill the committee's purpose.

294 (b) The committee may, by following the procedures and requirements of Title 63,
295 Chapter 38e, Federal Funds Procedures, receive and accept federal funds, and may receive and
296 accept state funds, private gifts, donations, and funds from any source to carry out its purposes.

297 (4) The director of the State Office of Rehabilitation shall appoint a person to staff the
298 committee.

299 Section 6. Section **53C-1-201** is amended to read:

300 **53C-1-201. Creation of administration -- Purpose -- Director.**

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

303 (b) The administration shall manage all school and institutional trust lands and assets
304 within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation
305 of Revenue from Trust Lands, and Section 51-7-12.

306 (2) The administration is an independent state agency and not a division of any other

307 department.

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

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

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

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

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

319 (c) The director shall make rules in compliance with Title 63, Chapter 46a, Utah
320 Administrative Rulemaking Act, except that the director, with the board's approval, may
321 establish a procedure for the expedited approval of rules, based on written findings by the
322 director showing:

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

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

326 (iii) the reasons the normal procedures under Section 63-46a-4 cannot be met without
327 causing the loss of the specific opportunity;

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

329 (v) that the director has filed a copy of the rule and a rule analysis, stating the specific
330 reasons and justifications for its findings, with the Division of Administrative Rules and
331 notified interested parties as provided in Subsection 63-46a-4(7).

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

334 (ii) The board may approve, upon recommendation of the director, that exemption for
335 specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable
336 the administration to efficiently fulfill its responsibilities under the law. The director shall
337 consult with the director of the ~~[Department]~~ Division of Human Resource Management prior

338 to making such a recommendation.

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

342 (iv) Salaries for exempted positions, except for the director, shall be set by the director,
343 after consultation with the director of the [~~Department~~] Division of Human Resource
344 Management, within ranges approved by the board. The board and director shall consider
345 salaries for similar positions in private enterprise and other public employment when setting
346 salary ranges.

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

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

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

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

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

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

365 (b) The board shall provide policies for the ownership and control of Native American
366 remains that are discovered or excavated on school and institutional trust lands in consultation
367 with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4,
368 Native American Grave Protection and Repatriation Act. The director may make rules in

369 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to implement
370 policies provided by the board regarding Native American remains.

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

375 Section 7. Section **54-1-6** is amended to read:

376 **54-1-6. Employment of staff -- Status and compensation -- Employees not to be**
377 **parties or witnesses and may not appeal commission decisions.**

378 (1) The annual budget of the Public Service Commission shall provide sufficient funds
379 for the commission to hire, develop, and organize an advisory staff to assist the commission in
380 performing the powers, duties, and functions committed to it by statute.

381 (a) The commission may hire:

382 (i) economists, accountants, engineers, statisticians, lawyers, law clerks, and other
383 professional and technical experts;

384 (ii) court reporters, transcribers of tape recordings, clerks, secretaries, and other
385 administrative and support staff;

386 (iii) additional experts as required for a particular matter; and

387 (iv) administrative law judges, who shall be members of the Utah State Bar, and
388 constitute a separate organizational unit reporting directly to the commission.

389 (b) The commission may provide for funds in the annual budget to acquire suitable
390 electronic recording equipment to maintain a verbatim record of proceedings before the
391 commission, any commissioner, or any administrative law judge.

392 (2) (a) With the exception of clerical workers in nonconfidential positions, all staff of
393 the Public Service Commission are exempt employees under the State Personnel Management
394 Act and serve at the pleasure of the commission.

395 (b) Administrative law judges are exempt employees under the State Personnel
396 Management Act and may only be removed from office upon due notice and by a unanimous
397 vote of the commission.

398 (c) (i) The [~~Department~~] Division of Human Resource Management shall determine
399 pay schedules using standard techniques for determining compensation.

400 (ii) The [~~Department~~] Division of Human Resource Management may make its
401 compensation determinations based upon compensation practices common to utility companies
402 throughout the United States.

403 (3) (a) The staff or other employees of the commission may not appear as parties or
404 witnesses in any proceeding before the commission, any commissioner, or any administrative
405 law judge.

406 (b) The staff or other employees of the commission may not appeal any finding, order,
407 or decision of the commission.

408 Section 8. Section **54-4a-3** is amended to read:

409 **54-4a-3. Budget of division -- Employment of personnel.**

410 (1) The annual budget of the Division of Public Utilities shall provide sufficient funds
411 for the division to hire, develop, and organize a technical and professional staff to perform the
412 duties, powers, and responsibilities committed to it by statute.

413 (2) The division director may:

414 (a) hire economists, accountants, engineers, inspectors, statisticians, lawyers, law
415 clerks, and other technical and professional experts as may be required;

416 (b) retain additional experts as required for a particular matter, but only to the extent
417 that it is necessary to supplement division staff in order to fulfill its duties; and

418 (c) employ necessary administrative and support staff.

419 (3) (a) The [~~Department~~] Division of Human Resource Management shall determine
420 pay schedules using standard techniques for determining compensation.

421 (b) The [~~Department~~] Division of Human Resource Management may make its
422 compensation determinations based upon compensation common to utility companies
423 throughout the United States.

424 Section 9. Section **61-1-18** is amended to read:

425 **61-1-18. Division of Securities established -- Director -- Appointment -- Functions**
426 **-- Investigators.**

427 (1) (a) There is established within the Department of Commerce a Division of
428 Securities.

429 (b) The division shall be under the direction and control of a director, appointed by the
430 executive director with the governor's approval.

431 (c) The director shall be responsible for the administration and enforcement of this
432 chapter.

433 (d) The director shall hold office at the pleasure of the governor.

434 (2) The director, with the approval of the executive director, may employ such staff as
435 necessary to discharge the duties of the division at salaries to be fixed by the director according
436 to standards established by the [~~Department~~] Division of Human Resource Management.

437 (3) An investigator employed pursuant to Subsection (2) who meets the training
438 requirements of Subsection 53-13-105(3) may be designated a special function officer, as
439 defined in Section 53-13-105, by the director, but is not eligible for retirement benefits under
440 the Public Safety Employee's Retirement System.

441 Section 10. Section **62A-15-613** is amended to read:

442 **62A-15-613. Appointment of superintendent -- Qualifications -- Powers and**
443 **responsibilities.**

444 (1) The director, with the advice and consent of the board and the approval of the
445 executive director, shall appoint a superintendent of the state hospital, who shall hold office at
446 the will of the director.

447 (2) The superintendent shall have a bachelor's degree from an accredited university or
448 college, be experienced in administration, and be knowledgeable in matters concerning mental
449 health.

450 (3) Subject to the rules of the board, the superintendent has general responsibility for
451 the buildings, grounds, and property of the state hospital. The superintendent shall appoint,
452 with the approval of the director, as many employees as necessary for the efficient and
453 economical care and management of the state hospital, and shall fix their compensation and
454 administer personnel functions according to the standards of the [~~Department~~] Division of
455 Human Resource Management.

456 Section 11. Section **63-5b-102** is amended to read:

457 **63-5b-102. Definitions.**

458 (1) (a) "Absent" means:

459 (i) not physically present or not able to be communicated with for 48 hours; or

460 (ii) for local government officers, as defined by local ordinances.

461 (b) "Absent" does not include a person who can be communicated with via telephone,

462 radio, or telecommunications.

463 (2) "Attack" means a nuclear, conventional, biological, or chemical warfare action
464 against the United States of America or this state.

465 (3) "Department" means the Department of Administrative Services, the Department of
466 Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of
467 Commerce, the Department of Community and Economic Development, the Department of
468 Corrections, the Department of Environmental Quality, the Department of Financial
469 Institutions, the Department of Health, [~~the Department of Human Resource Management,~~] the
470 Department of Workforce Services, the Labor Commission, the National Guard, the
471 Department of Insurance, the Department of Natural Resources, the Department of Public
472 Safety, the Public Service Commission, the Department of Human Services, the State Tax
473 Commission, the Department of Transportation, any other major administrative subdivisions of
474 state government, the State Board of Education, the State Board of Regents, the Utah Housing
475 Corporation, the Utah Technology Finance Corporation, the Workers' Compensation Fund, the
476 State Retirement Board, and each institution of higher education within the system of higher
477 education.

478 (4) "Disaster" means a situation causing, or threatening to cause, widespread damage,
479 social disruption, or injury or loss of life or property resulting from attack, internal disturbance,
480 natural phenomenon, or technological hazard.

481 (5) "Division" means the Division of Emergency Services and Homeland Security
482 established in Title 53, Chapter 2, Emergency Services and Homeland Security Act.

483 (6) "Emergency interim successor" means a person designated by this chapter to
484 exercise the powers and discharge the duties of an office when the person legally exercising the
485 powers and duties of the office is unavailable.

486 (7) "Executive director" means the person with ultimate responsibility for managing
487 and overseeing the operations of each department, however denominated.

488 (8) "Internal disturbance" means a riot, prison break, disruptive terrorism, or strike.

489 (9) "Natural phenomenon" means any earthquake, tornado, storm, flood, landslide,
490 avalanche, forest or range fire, drought, epidemic, or other catastrophic event.

491 (10) (a) "Office" includes all state and local offices, the powers and duties of which are
492 defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

493 (b) "Office" does not include the office of governor or the legislative or judicial offices.

494 (11) "Place of governance" means the physical location where the powers of an office
495 are being exercised.

496 (12) "Political subdivision" includes counties, cities, towns, townships, districts,
497 authorities, and other public corporations and entities whether organized and existing under
498 charter or general law.

499 (13) "Political subdivision officer" means a person holding an office in a political
500 subdivision.

501 (14) "State officer" means the attorney general, the state treasurer, the state auditor, and
502 the executive director of each department.

503 (15) "Technological hazard" means any hazardous materials accident, mine accident,
504 train derailment, air crash, radiation incident, pollution, structural fire, or explosion.

505 (16) "Unavailable" means:

506 (a) absent from the place of governance during a disaster that seriously disrupts normal
507 governmental operations, whether or not that absence or inability would give rise to a vacancy
508 under existing constitutional or statutory provisions; or

509 (b) as otherwise defined by local ordinance.

510 Section 12. Section **63-13-2** is amended to read:

511 **63-13-2. Legal holidays -- Personal preference day -- Governor authorized to**
512 **declare additional days.**

513 (1) (a) The following-named days are legal holidays in this state:

514 (i) every Sunday;

515 (ii) January 1, called New Year's Day;

516 (iii) the third Monday of January, called Dr. Martin Luther King, Jr. Day;

517 (iv) the third Monday of February, called Washington and Lincoln Day;

518 (v) the last Monday of May, called Memorial Day;

519 (vi) July 4, called Independence Day;

520 (vii) July 24, called Pioneer Day;

521 (viii) the first Monday of September, called Labor Day;

522 (ix) the second Monday of October, called Columbus Day;

523 (x) November 11, called Veterans' Day;

524 (xi) the fourth Thursday of November, called Thanksgiving Day;
 525 (xii) December 25, called Christmas; and
 526 (xiii) all days which may be set apart by the President of the United States, or the
 527 governor of this state by proclamation as days of fast or thanksgiving.

528 (b) If any of the holidays under Subsection (1)(a), except the first mentioned, namely
 529 Sunday, falls on Sunday, then the following Monday shall be the holiday.

530 (c) If any of the holidays under Subsection (1)(a) falls on Saturday the preceding Friday
 531 shall be the holiday.

532 (d) Each employee may select one additional day, called Personal Preference Day, to
 533 be scheduled pursuant to rules adopted by the [~~Department~~] Division of Human Resource
 534 Management.

535 (2) (a) Whenever in his opinion extraordinary conditions exist justifying the action, the
 536 governor may:

537 (i) declare, by proclamation, legal holidays in addition to those holidays under
 538 Subsection (1); and

539 (ii) limit the holidays to certain classes of business and activities to be designated by
 540 him.

541 (b) A holiday may not extend for a longer period than 60 consecutive days.

542 (c) Any holiday may be renewed for one or more periods not exceeding 30 days each as
 543 the governor may consider necessary, and any holiday may, by like proclamation, be terminated
 544 before the expiration of the period for which it was declared.

545 Section 13. Section **63-34-12** is amended to read:

546 **63-34-12. Approval prerequisite to volunteer service -- Rules and regulations.**

547 (1) Volunteers may not donate any service to the Department of Natural Resources or
 548 its divisions unless and until the work program in which volunteers would serve has first been
 549 approved, in writing, by the executive director of the Department of Natural Resources and the
 550 [~~Department~~] director of the Division of Human Resource Management.

551 (2) Volunteer services shall comply with any rules adopted by the [~~Department~~]
 552 Division of Human Resource Management relating to that service that are not inconsistent with
 553 the provisions of Sections 63-34-9 through 63-34-12.

554 Section 14. Section **63A-1-109** is amended to read:

555 **63A-1-109. Divisions of department -- Administration.**

556 (1) The department shall be composed of the following divisions:

557 (a) administrative rules;

558 (b) archives and records;

559 (c) facilities construction and management;

560 (d) finance;

561 (e) fleet operations;

562 (f) information technology services;

563 (g) office of state debt collection;

564 (h) state purchasing and general services;

565 (i) risk management; [~~and~~]566 (j) office of child welfare parental defense[-]; and567 (k) human resource management.

568 (2) Each division shall be administered and managed by a division director.

569 Section 15. Section **63A-9-501** is amended to read:570 **63A-9-501. Complaints about misuse or illegal operation of state vehicles --**571 **Disposition.**572 (1) The division shall refer complaints from the public about misuse or illegal
573 operation of state vehicles to the agency that is the owner or lessor of the vehicle.574 (2) Each agency head or his designee shall investigate all complaints about misuse or
575 illegal operation of state vehicles and shall discipline each employee that is found to have
576 misused or illegally operated a vehicle by following the procedures set forth in the rules
577 adopted by the [~~Department~~] Division of Human Resource Management as authorized by
578 Section 67-19-18.579 (3) (a) Each agency shall report the findings of each investigation conducted as well as
580 any action taken as a result of the investigation to the directors of the Divisions of Fleet
581 Operations and Risk Management.582 (b) Misuse or illegal operation of state vehicles may result in suspension or revocation
583 of state vehicle driving privileges as governed in rule.584 Section 16. Section **63A-9-801** is amended to read:585 **63A-9-801. State surplus property program -- Definitions -- Administration.**

- 586 (1) As used in this section:
- 587 (a) "Agency" means:
- 588 (i) the Utah Departments of Administrative Services, Agriculture, Alcoholic Beverage
- 589 Control, Commerce, Community and Economic Development, Corrections, Workforce
- 590 Services, Health, [~~Human Resource Management,~~] Human Services, Insurance, Natural
- 591 Resources, Public Safety, and Transportation and the Labor Commission;
- 592 (ii) the Utah Offices of the Auditor, Attorney General, Court Administrator, Crime
- 593 Victim Reparations, Rehabilitation, and Treasurer;
- 594 (iii) the Public Service Commission and State Tax Commission;
- 595 (iv) the State Boards of Education, Pardons and Parole, and Regents;
- 596 (v) the Career Service Review Board;
- 597 (vi) other state agencies designated by the governor;
- 598 (vii) the legislative branch, the judicial branch, and the State Board of Regents; and
- 599 (viii) an institution of higher education, its president, and its board of trustees for
- 600 purposes of Section 63A-9-802.
- 601 (b) "Division" means the Division of Fleet Operations.
- 602 (c) "Information technology equipment" means any equipment that is designed to
- 603 electronically manipulate, store, or transfer any form of data.
- 604 (d) "Inventory property" means property in the possession of the division that is
- 605 available for purchase by an agency or the public.
- 606 (e) "Judicial district" means the geographic districts established by Section 78-1-2.1.
- 607 (f) (i) "Surplus property" means property purchased by, seized by, or donated to, an
- 608 agency that the agency wishes to dispose of.
- 609 (ii) "Surplus property" does not mean real property.
- 610 (g) "Transfer" means transfer of surplus property without cash consideration.
- 611 (2) (a) The division shall make rules establishing a state surplus property program that
- 612 meets the requirements of this chapter by following the procedures and requirements of Title
- 613 63, Chapter 46a, Utah Administrative Rulemaking Act.
- 614 (b) Those rules shall include:
- 615 (i) a requirement prohibiting the transfer of surplus property from one agency to
- 616 another agency without written approval from the division;

- 617 (ii) procedures and requirements governing division administration requirements that
618 an agency must follow;
- 619 (iii) requirements governing purchase priorities;
- 620 (iv) requirements governing accounting, reimbursement, and payment procedures;
- 621 (v) procedures for collecting bad debts;
- 622 (vi) requirements and procedures for disposing of firearms;
- 623 (vii) the elements of the rates or other charges assessed by the division for services and
624 handling;
- 625 (viii) procedures governing the timing and location of public sales of inventory
626 property; and
- 627 (ix) procedures governing the transfer of information technology equipment by state
628 agencies directly to public schools.
- 629 (c) The division shall report all transfers of information technology equipment by state
630 agencies to public schools to the Utah Technology Commission and to the Legislative Interim
631 Education Committee at the end of each fiscal year.
- 632 (3) In creating and administering the program, the division shall:
- 633 (a) when conditions, inventory, and demand permit:
- 634 (i) establish facilities to store inventory property at geographically dispersed locations
635 throughout the state; and
- 636 (ii) hold public sales of property at geographically dispersed locations throughout the
637 state;
- 638 (b) establish, after consultation with the agency requesting the sale of surplus property,
639 the price at which the surplus property shall be sold; and
- 640 (c) transfer proceeds arising from the sale of state surplus property to the agency
641 requesting the sale in accordance with Title 63, Chapter 38, Budgetary Procedures Act, less an
642 amount established by the division by rule to pay the costs of administering the surplus
643 property program.
- 644 (4) Unless specifically exempted from this chapter by explicit reference to this chapter,
645 each state agency shall dispose of and acquire surplus property only by participating in the
646 division's program.
- 647 Section 17. Section **67-5-7** is amended to read:

648 **67-5-7. Establishment of career service system.**

649 (1) The purpose of this chapter is to establish a career service system for attorneys
650 employed by the Office of the Attorney General that will attract and retain attorneys of proven
651 ability and experience who will devote their full time to the service of the state.

652 (2) The Office of the Attorney General may adopt rules necessary to implement this
653 chapter, including personnel and work rules different from those promulgated by the
654 [~~Department~~] Division of Human Resource Management.

655 Section 18. Section **67-5-9** is amended to read:

656 **67-5-9. Reassignment of career status attorneys -- Additional compensation for**
657 **managerial assignments -- Employment of special assistant attorneys general --**
658 **Termination of attorneys -- Salary increases.**

659 This chapter does not affect the authority of the attorney general to:

660 (1) assign and reassign attorneys in a career status to different positions on his staff.
661 The salary of an attorney reassigned to a different position shall not be decreased by reason of
662 reassignment; except that if the attorney reassigned occupies the position of deputy attorney
663 general, the salary may be reduced by not more than 15% upon the assignment to a different
664 position;

665 (2) develop, with the assistance of the [~~Department~~] Division of Human Resource
666 Management, a plan for additional compensation for career status attorneys who accept
667 managerial assignments within the office. The provisions of Subsection (1) notwithstanding,
668 the attorney general may discontinue any additional compensation if the attorney no longer
669 holds a managerial assignment. Additional compensation provided under this section shall be
670 determined by the attorney general pursuant to the plan developed by the Office of the Attorney
671 General. At such time as the attorney no longer holds a managerial assignment, and the
672 attorney general decides to discontinue any additional compensation, the reduction may not
673 place the attorney at a salary below where the attorney would be through normal salary
674 increases if the attorney had not been in a managerial position;

675 (3) employ special assistant attorneys general, who shall not be subject to this chapter,
676 to represent the state in particular lawsuits or to handle particular legal matters for the state;

677 (4) terminate the employment of any attorney employed by the Office of the Attorney
678 General who is not in a career service status;

679 (5) establish the salary or determine salary increases of any attorney under this chapter.

680 Section 19. Section **67-5-12** is amended to read:

681 **67-5-12. Dismissal of career status attorneys -- Causes -- Procedure -- Retention**
682 **roster -- Reappointment register.**

683 (1) (a) Attorneys in a career status may be dismissed only:

684 (i) to advance the good of public service;

685 (ii) where funds have expired or work no longer exists; or

686 (iii) for causes such as dishonesty, inefficiency, insubordination, disloyalty to the
687 orders of a superior, misfeasance, malfeasance, or nonfeasance in office.

688 (b) Attorneys in career status may not be dismissed for reasons of race, national origin,
689 religion, or political affiliation.

690 (2) Except in aggravated cases of misconduct, no attorney in a career status may be
691 demoted or dismissed without the following procedures:

692 (a) The attorney general shall notify the attorney of the reasons for demotion or
693 dismissal.

694 (b) The attorney shall have an opportunity to reply and have the reply considered by the
695 attorney general.

696 (c) The attorney shall have an opportunity to be heard by the attorney general or his
697 designated representatives.

698 (d) Following a hearing, an attorney may be demoted or dismissed if the attorney
699 general finds adequate reason.

700 (e) If the attorney general finds that retention of an attorney would endanger the peace
701 and safety of others or pose a grave threat to the public interest, the attorney may be summarily
702 suspended pending administrative hearings and a review by the Career Service Review Board.

703 (3) (a) An attorney in a career status who is aggrieved by a decision of the attorney
704 general to either dismiss or demote may appeal the decision to the Career Service Review
705 Board or its hearing officers by following the procedures in Title 67, Chapter 19a, Grievance
706 and Appeal Procedures.

707 (b) Matters other than dismissal or demotion may be appealed to and reviewed by the
708 attorney general or a designated representative whose decision is final with no right of appeal
709 to the Career Service Review Board or its hearing officers.

710 (4) Disciplinary actions shall be supported by credible evidence, but the normal rules
711 of evidence in courts of law do not apply in hearings before the attorney general or the Career
712 Service Review Board or its hearing officers.

713 (5) (a) Reductions in force required by reinstatement of an attorney under Section
714 67-5-11, inadequate funds, change of workload, or lack of work shall be governed by a
715 retention roster to be maintained by the director of the [~~Department~~] Division of Human
716 Resource Management and the requirements of this Subsection (5).

717 (b) Attorneys not in a career status shall be separated before any attorney in a career
718 status.

719 (c) Retention points for each attorney in a career status shall be based on [~~his~~] the
720 attorney's seniority in service as an attorney in the Office of the Attorney General, including
721 any military service fulfilled subsequent to [~~his~~] the attorney's original appointment.

722 (d) Attorneys in career status shall be separated in the order of their retention points,
723 the attorney with the lowest points to be discharged first.

724 (e) Those attorneys who are serving in other positions under Section 67-5-11 shall:

725 (i) have retention points determined as if they were working for the office; and
726 (ii) be separated in the order of the retention points as if they were working in the
727 Office of the Attorney General.

728 (f) An attorney in a career status who is separated by reason of a reduction in force
729 shall be:

730 (i) placed on a reappointment register kept by the director of the [~~Department~~] Division
731 of Human Resource Management for one year; and

732 (ii) offered reappointment to a position in the Office of the Attorney General before
733 any attorney not having a career status is appointed.

734 Section 20. Section **67-8-3** is amended to read:

735 **67-8-3. Compensation plan for appointive officers -- Exceptions -- Legislative**
736 **approval -- Career status attorneys.**

737 (1) (a) The director of the [~~Department~~] Division of Human Resource Management,
738 based upon recommendations of the Executive and Judicial Compensation Commission shall,
739 before October 31 of each year, recommend to the governor a compensation plan for appointed
740 officers of the state except those officers whose compensation is set under Section 49-11-203,

741 53A-1-301, 53B-1-105, or 53C-1-301.

742 (b) The plan shall include salaries and wages, paid leave, group insurance plans,
743 retirement programs, and any other benefits that may be offered to state officers.

744 (2) The governor shall include in each annual budget proposal to the Legislature
745 specific recommendations on compensation for those appointed state officers in Subsection (1).

746 (3) (a) After consultation with the attorney general, the director of the [~~Department~~
747 Division] of Human Resource Management shall place career status attorneys on a state salary
748 schedule at a range comparable with salaries paid attorneys in private and other public
749 employment.

750 (b) The attorney general and the director shall take into consideration the experience of
751 the attorney, length of service with the Office of the Attorney General, quality of performance,
752 and responsibility involved in legal assignments.

753 (c) The attorney general and the director shall periodically adjust the salary levels for
754 attorneys in a career status to reasonably compensate them for full-time employment and the
755 restrictions placed on the private practice of law.

756 Section 21. Section **67-8-5** is amended to read:

757 **67-8-5. Duties of commission -- Salary recommendations.**

758 (1) (a) The commission shall recommend to the Legislature salaries for:

759 (i) the governor, the lieutenant governor, the attorney general, the state auditor, and the
760 state treasurer; and

761 (ii) justices of the Supreme Court and judges of the constitutional and statutory courts
762 of record.

763 (b) The commission shall recommend to the Legislature salary ranges for the other
764 state officers referred to in Article VII, Section 18, and enumerated in Title 67, Chapter 22,
765 State Officer Compensation.

766 (2) As used in this section and for the purposes of compensation in Title 67, Chapter
767 22, State Officer Compensation, "state officer" means an individual at the executive level in
768 state government. The term includes:

769 (a) the governor, the lieutenant governor, the attorney general, the state auditor, and the
770 state treasurer;

771 (b) justices of the Supreme Court and judges of all constitutional and statutory courts

772 of record; and

773 (c) full-time commissioners and executive directors of executive branch departments
774 appointed by the governor or with his approval, who report directly to the governor, and who
775 are enumerated in Section 67-22-2.

776 (3) The commission shall:

777 (a) make studies and formulate recommendations concerning the wage and salary
778 classification plan based upon factors such as educational requirements, experience,
779 responsibility, accountability for funds and staff, comparisons with wages paid in other
780 comparable public and private employment within this state, and other states similarly situated,
781 and any other factors generally used in similar comprehensive wage and salary classification
782 plans so that the plan and its administration reflect current conditions at all times;

783 (b) consult and advise with, and make recommendation to, the [Department] Division
784 of Human Resource Management regarding the plan, its administration, and the position of any
785 officer covered by the plan;

786 (c) submit to the Executive Appropriations Committee not later than 60 days before
787 commencement of each annual general session:

788 (i) a report briefly summarizing its activities during the calendar year immediately
789 preceding the session;

790 (ii) recommendations concerning revisions, modifications, or changes, if any, which
791 should be made in the plan, its administration, or in the classification of any officer under the
792 plan; and

793 (iii) specific recommendations regarding the office of governor, lieutenant governor,
794 attorney general, state auditor, and state treasurer concerning adjustments, if any, that should be
795 made in the salary or other emoluments of office so that all executive and judicial officers,
796 elected or appointed, receive equitable and consistent treatment regardless of whether salaries
797 are fixed by the Legislature or by the [Department] Division of Human Resource Management;
798 and

799 (d) conduct a comprehensive review of judicial salary levels and make
800 recommendations for judicial salaries in a report to the president of the Senate, the speaker of
801 the House of Representatives, and the governor by November 1, prior to the convening of the
802 general session of the Legislature in each odd-numbered year.

803 (4) (a) The recommendation under Subsection (3)(d) shall be based upon consultation
 804 with the Judicial Council and upon consideration for the career status of judges. It shall be
 805 based upon comparisons with salaries paid in other states and in comparable public and private
 806 employment within this state.

807 (b) In even-numbered years, the commission shall update its prior report, based upon
 808 the Consumer Price Index and other relevant factors, and shall forward its updated
 809 recommendations as prescribed in this section.

810 (5) The Judicial Council shall cooperate with the commission in providing information
 811 on the judicial branch of government and on the individual levels of court as requested. The
 812 director of personnel from the Office of the Court Administrator shall provide the salary
 813 comparison data referred to in this section to the legislative fiscal analyst and shall provide
 814 other staff assistance and support as requested by the legislative fiscal analyst.

815 Section 22. Section **67-19-3** is amended to read:

816 **67-19-3. Definitions.**

817 As used in this chapter:

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

820 (2) "Career service" means positions under Schedule B as defined in Section 67-19-15.

821 (3) "Career service employee" means an employee who has successfully completed a
 822 probationary period of service in a position covered by the career service.

823 (4) "Career service status" means status granted to employees who successfully
 824 complete probationary periods for competitive career service positions.

825 (5) "Classified service" means those positions subject to the classification and
 826 compensation provisions of Section 67-19-12.

827 (6) "Controlled substance" means controlled substance as defined in Section 58-37-2.

828 [~~(7) "Department" means the Department of Human Resource Management.~~]

829 (7) "Director" means the director of the Division of Human Resource Management.

830 (8) "Disability" means a physical or mental disability as defined and protected under
 831 the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq.

832 (9) "Division" means the Division of Human Resource Management.

833 [~~(9)~~] (10) "Employee" means any individual in a paid status covered by the career

834 service or classified service provisions of this chapter.

835 ~~[(10)]~~ (11) "Examining instruments" means written or other types of proficiency tests.

836 ~~[(11)]~~ (12) "Executive director," except where otherwise specified, means the
837 executive director of the ~~[department]~~ Department of Administrative Services.

838 ~~[(12)]~~ (13) "Market comparability adjustment" means a salary range adjustment
839 determined necessary through a market survey of salary ranges of a reasonable cross section of
840 comparable benchmark positions in private and public employment.

841 ~~[(13)]~~ (14) "Probationary employee" means an employee serving a probationary period
842 in a career service position but who does not have career service status.

843 ~~[(14)]~~ (15) "Probationary period" means that period of time determined by the
844 department that an employee serves in a career service position as part of the hiring process
845 before career service status is granted to the employee.

846 ~~[(15)]~~ (16) "Probationary status" means the status of an employee between the
847 employee's hiring and the granting of career service status.

848 ~~[(16)]~~ (17) "Total compensation" means salaries and wages, bonuses, paid leave, group
849 insurance plans, retirement, and all other benefits offered to state employees as inducements to
850 work for the state.

851 Section 23. Section **67-19-3.1** is amended to read:

852 **67-19-3.1. Principles guiding interpretation of chapter and adoption of rules.**

853 (1) The ~~[department]~~ division shall establish a career service system designed in a
854 manner that will provide for the effective implementation of the following merit principles:

855 (a) recruiting, selecting, and advancing employees on the basis of their relative ability,
856 knowledge, and skills, including open consideration of qualified applicants for initial
857 appointment;

858 (b) providing for equitable and competitive compensation;

859 (c) training employees as needed to assure high-quality performance;

860 (d) retaining employees on the basis of the adequacy of their performance and
861 separating employees whose inadequate performance cannot be corrected;

862 (e) fair treatment of applicants and employees in all aspects of ~~[personnel]~~ human
863 resource administration without regard to race, color, religion, sex, national origin, political
864 affiliation, age, or disability, and with proper regard for their privacy and constitutional rights

865 as citizens;

866 (f) providing information to employees regarding their political rights and the
867 prohibited practices under the Hatch Act; and

868 (g) providing a formal procedure for processing the appeals and grievances of
869 employees without discrimination, coercion, restraint, or reprisal.

870 (2) The principles in Subsection (1) shall govern interpretation and implementation of
871 this chapter.

872 Section 24. Section **67-19-5** is amended to read:

873 **67-19-5. Division of Human Resource Management created -- Director --**
874 **Compensation -- Staff.**

875 (1) There is created the [~~Department~~] Division of Human Resource Management
876 within the Department of Administrative Services.

877 (2) (a) The [~~department~~] division shall be administered by a director appointed by the
878 governor with the consent of the Senate.

879 (b) The director shall be a person with experience in [~~personnel~~] human resource
880 management and shall be accountable to the [~~governor~~] executive director for his performance
881 in office.

882 [~~(c) The governor shall establish the director's salary within the salary range fixed by~~
883 ~~the Legislature in Title 67, Chapter 22, State Officer Compensation.]~~

884 (3) The director may[~~:(a)~~] appoint a personal secretary and, with the approval of the
885 [~~governor~~] executive director, a deputy director, both of whom shall be exempt from career
886 service[~~;and~~].

887 [~~(b) appoint division directors and program managers who may be career service~~
888 ~~exempt.]~~

889 (4) (a) The director shall have full responsibility and accountability for the
890 administration of the statewide human resource management system.

891 (b) Except as provided in Section 67-19-6.1, an agency may not perform human
892 resource functions without the consent of the director.

893 (5) Statewide human resource management rules adopted by the Division of Human
894 Resource Management in accordance with Title 63, Chapter 46a, Utah Administrative
895 Rulemaking Act, shall take precedence if there is a conflict with department rules, policies, or

896 practices.

897 Section 25. Section **67-19-6** is amended to read:

898 **67-19-6. Responsibilities of director.**

899 (1) The director shall:

900 (a) develop, implement, and administer a statewide program of [~~personnel~~] human
901 resource management [~~for state employees~~] that will:

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

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

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

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

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

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

909 (e) monitor agency human resource practices to determine compliance with federal
910 law, state law, and state human resource rules, including equal employment opportunity;

911 (f) maintain central personnel records;

912 [~~(b)~~] (g) perform those functions necessary to implement this chapter unless otherwise
913 assigned or prohibited;

914 [~~(e)~~] (h) perform duties assigned by the governor or statute;

915 [~~(d)~~] (i) adopt rules for [~~personnel~~] human resource management according to the
916 procedures of Title 63, Chapter 46a, Utah Administrative Rulemaking Act;

917 [~~(e)~~] (j) establish and maintain a management information system that will furnish the
918 governor, the Legislature, and agencies with current information on authorized positions,
919 payroll, and related matters concerning state [~~personnel~~] human resources;

920 [~~(f)~~] (k) [~~in cooperation with other agencies;~~] conduct research and planning activities
921 to:

922 (i) determine and prepare for future state [~~personnel~~] human resource needs;

923 (ii) develop methods for improving public [~~personnel~~] human resource management;

924 and

925 (iii) propose needed policy changes to the governor;

926 [~~(g)~~] (l) study the character, causes, and extent of discrimination in state employment

927 and develop plans for its elimination through programs consistent with federal and state laws
928 governing equal employment opportunity in employment;

929 ~~(h)~~ (m) when requested by counties, municipalities, and other political subdivisions
930 of the state, provide technical service and advice on ~~[personnel]~~ human resource management
931 at a charge determined by the director;

932 ~~(i)~~ (n) establish compensation policies and procedures for early voluntary retirement;

933 ~~(j)~~ (o) confer with the heads of other agencies about human resource policies and
934 procedures;

935 ~~(k)~~ (p) submit an annual report to the governor and the Legislature; and

936 ~~(l)~~ (q) (i) develop a procedure by which each agency will:

937 (A) identify funded vacant positions; and

938 (B) report those funded vacant positions to the ~~[department]~~ division;

939 (ii) identify all funded employee positions in each agency that have been vacant for
940 more than 180 consecutive days during the 18-month period prior to July 1 of each year; and

941 (iii) by no later than September 1 of each year, provide a report of all funded employee
942 positions in each agency identified in Subsections (1)~~(h)~~ (q)(i) and (ii) to:

943 (A) the Governor's Office of Planning and Budget; and

944 (B) the Office of the Legislative Fiscal Analyst.

945 (2) (a) After consultation with the governor and the heads of other agencies, the
946 director shall establish and coordinate statewide training programs.

947 (b) The programs developed under this Subsection (2) shall have application to more
948 than one agency.

949 (c) The ~~[department]~~ division may not establish training programs that train employees
950 to perform highly specialized or technical jobs and tasks.

951 (3) (a) (i) The ~~[department]~~ division may collect fees for training as authorized by this
952 Subsection (3).

953 (ii) Training funded from General Fund appropriations shall be treated as a separate
954 program within the ~~[department]~~ division budget.

955 (iii) All money received from fees under this section will be accounted for by the
956 ~~[department]~~ division as a separate user driven training program.

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

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

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

961 (ii) Each year, as part of the appropriations process, the Legislature shall review the
962 amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require
963 the [department] division to lapse a portion of the funds.

964 Section 26. Section **67-19-6.1** is enacted to read:

965 **67-19-6.1. Department field offices.**

966 (1) After consulting with an agency head, the director of the Division of Human
967 Resource Management may establish a field office in that agency.

968 (2) The director shall assign an employee of the agency to act as field office director.

969 (3) Before establishing a field office, the director and agency head shall sign an
970 agreement, to be approved by the governor, that specifies:

971 (a) the scope of responsibility of the field office director and staff;

972 (b) the services to be provided by the field office director and staff;

973 (c) the relationship between the field office director and agency management;

974 (d) the facilities, equipment, supplies, and budget to be provided for the field office by
975 the agency and the allocation of the cost of those facilities, equipment, and supplies;

976 (e) staff size;

977 (f) protocols to resolve discrepancies between agency practice and Division of Human
978 Resource Management policy;

979 (g) the date that the agreement shall terminate if not previously terminated or renewed;
980 and

981 (h) any other issue necessary for the proper functioning of the field office within the
982 agency.

983 (4) Unless otherwise provided for in the field office agreement, the agency shall:

984 (a) obtain field office approval for the final selection of qualified applicants for
985 appointment and promotion to vacant positions;

986 (b) conduct performance appraisals;

987 (c) discipline employees; and

988 (d) maintain individual personnel records.

989 (5) Any field office agreement shall be subject to termination by the director with the
 990 approval of the governor.

991 Section 27. Section **67-19-6.7** is amended to read:

992 **67-19-6.7. Overtime policies for state employees.**

993 (1) As used in this section:

994 (a) "Accrued overtime hours" means:

995 (i) for nonexempt employees, overtime hours earned during a fiscal year that, at the end
 996 of the fiscal year, have not been paid and have not been taken as time off by the nonexempt
 997 state employee who accrued them; and

998 (ii) for exempt employees, overtime hours earned during an overtime year.

999 [~~(b)~~] "Agreement" means the agreement authorized by the FLSA by which a nonexempt
 1000 employee elects the form of compensation he will receive for overtime.]

1001 [~~(c)~~] (b) "Appointed official" means:

1002 (i) each department executive director and deputy director, each division director, and
 1003 each member of a board or commission; and

1004 (ii) any other person employed by a department who is appointed by, or whose
 1005 appointment is required by law to be approved by, the governor and who:

1006 (A) is paid a salary by the state [~~of Utah~~]; and

1007 (B) who exercises managerial, policy-making, or advisory responsibility.

1008 [~~(d)~~] (c) "Department" means the Department of Administrative Services, the
 1009 Department of Corrections, the Department of Financial Institutions, the Department of
 1010 Alcoholic Beverage Control, the Insurance Department, the Public Service Commission, the
 1011 Labor Commission, the Department of Agriculture and Food, the Department of Human
 1012 Services, the State Board of Education, the Department of Natural Resources, the Department
 1013 of Transportation, the Department of Commerce, the Department of Workforce Services, the
 1014 State Tax Commission, the Department of Community and Economic Development, the
 1015 Department of Health, the National Guard, the Department of Environmental Quality, the
 1016 Department of Public Safety, [~~the Department of Human Resource Management,~~] the
 1017 Commission on Criminal and Juvenile Justice, all merit employees except attorneys in the
 1018 Office of the Attorney General, merit employees in the Office of the State Treasurer, and merit
 1019 employees in the Office of the State Auditor.

1020 ~~[(e)]~~ (d) "Elected official" means any person who is an employee of the state ~~[of Utah]~~
1021 because he was elected by the registered voters of Utah to a position in state government.

1022 ~~[(f)]~~ (e) "Exempt employee" means a state employee who is exempt as defined by the
1023 ~~[FLSA]~~ Fair Labor Standards Act of 1978, 29 U.S.C. Section 201 et seq.

1024 ~~[(g)]~~ (f) "FLSA" means the Fair Labor Standards Act of 1978, 29 U.S.C. Section 201
1025 et seq.~~[-(1978):]~~

1026 (g) "FLSA agreement" means the agreement authorized by the Fair Labor Standards
1027 Act of 1978, 29 U.S.C. Section 201 et seq. by which a nonexempt employee elects the form of
1028 compensation he will receive for overtime.

1029 ~~[(h)]~~ "~~Human Resource Management~~" means ~~the Department of Human Resource~~
1030 ~~Management.~~

1031 ~~[(i)]~~ (h) "Nonexempt employee" means a state employee who is nonexempt as defined
1032 by the Division of Human Resource Management applying FLSA requirements.

1033 ~~[(j)]~~ (i) "Overtime" means actual time worked in excess of the employee's defined work
1034 period.

1035 ~~[(k)]~~ (j) "Overtime year" means the year determined by a department under Subsection
1036 (4)(b) at the end of which an exempt employee's accrued overtime lapses.

1037 ~~[(l)]~~ (k) (i) "State employee" means every person employed by a department who is not
1038 an appointed official or an elected official.

1039 (ii) "State employee" does not mean:

1040 (A) certificated employees of the State Board of Education; and

1041 (B) employees of the Department of Community and Economic Development whose
1042 positions are designated as schedule AM exempt employees under Section 67-19-15.

1043 ~~[(m)]~~ (l) "Uniform annual date" means the date when an exempt employee's accrued
1044 overtime lapses.

1045 ~~[(n)]~~ (m) "Work period" means:

1046 (i) for all nonexempt employees, except law enforcement and hospital employees, a
1047 consecutive seven day 24 hour work period of 40 hours;

1048 (ii) for all exempt employees, a 14 day, 80 hour payroll cycle; and

1049 (iii) for nonexempt law enforcement and hospital employees, the period established by
1050 each department by rule for those employees according to the requirements of the ~~[FLSA]~~ Fair

1051 Labor Standards Act of 1978, 29 U.S.C. Section 201 et seq.

1052 (2) Each department shall compensate each state employee who works overtime by
1053 complying with the requirements of this section.

1054 (3) (a) Each department shall negotiate and obtain a signed FLSA agreement from each
1055 nonexempt employee.

1056 (b) In the FLSA agreement, the nonexempt employee shall elect either to be
1057 compensated for overtime by:

1058 (i) taking time off work at the rate of one and one-half hour off for each overtime hour
1059 worked; or

1060 (ii) being paid for the overtime worked at the rate of one and one-half times the rate per
1061 hour that the state employee receives for nonovertime work.

1062 (c) Any nonexempt employee who elects to take time off under this subsection shall be
1063 paid for any overtime worked in excess of the cap established by the Division of Human
1064 Resource Management.

1065 (d) Before working any overtime, each nonexempt employee shall obtain authorization
1066 to work overtime from the employee's immediate supervisor.

1067 (e) Each department shall:

1068 (i) for employees who elect to be compensated with time off for overtime, allow
1069 overtime earned during a fiscal year to be accumulated; and

1070 (ii) for employees who elect to be paid for overtime worked, pay them for overtime
1071 worked in the paycheck for the pay period in which the employee worked the overtime.

1072 (f) If the department pays a nonexempt employee for overtime, the department shall
1073 charge that payment to the department's budget.

1074 (g) At the end of each fiscal year, the Division of Finance shall total all the accrued
1075 overtime hours for nonexempt employees and charge that total against the appropriate fund or
1076 subfund.

1077 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), each department shall
1078 compensate exempt employees who work overtime by granting them time off at the rate of one
1079 hour off for each hour of overtime worked.

1080 (ii) The director of the Division of Human Resource Management may grant limited
1081 exceptions to this requirement, where work circumstances dictate, by authorizing a department

1082 to pay employees for overtime worked at the rate per hour that the employee receives for
1083 nonovertime work, if the department has funds available.

1084 (b) (i) Each department shall:

1085 (A) establish in its written [~~personnel~~] human resource policies a uniform annual date
1086 for each division that is at the end of any pay period; and

1087 (B) communicate the uniform annual date to its employees.

1088 (ii) If any department fails to establish a uniform annual date as required by this
1089 Subsection (4), the director of the Division of Human Resource Management, in conjunction
1090 with the director of the Division of Finance, shall establish the date for that department.

1091 (c) (i) Any overtime earned under this Subsection (4) is not an entitlement, is not a
1092 benefit, and is not a vested right.

1093 (ii) A court may not construe the overtime for exempt employees authorized by this
1094 Subsection (4) as an entitlement, a benefit, or as a vested right.

1095 (d) At the end of the overtime year, upon transfer to another department at any time,
1096 and upon termination, retirement, or other situations where the employee will not return to
1097 work before the end of the overtime year:

1098 (i) any of an exempt employee's overtime that is more than the maximum established
1099 by the Division of Human Resource Management rule lapses; and

1100 (ii) unless authorized by the director of the Division of Human Resource Management
1101 under Subsection (4)(a)(ii), a department may not compensate the exempt employee for that
1102 lapsed overtime by paying the employee for the overtime or by granting the employee time off
1103 for the lapsed overtime.

1104 (e) Before working any overtime, each exempt employee shall obtain authorization to
1105 work overtime from [~~their~~] the exempt employee's immediate supervisor.

1106 (f) If the department pays an exempt employee for overtime under authorization from
1107 the director of the [~~Department~~] Division of Human Resource Management, the department
1108 shall charge that payment to the department's budget in the pay period earned.

1109 (5) The Division of Human Resource Management shall:

1110 (a) ensure that the provisions of the FLSA and this section are implemented throughout
1111 state government;

1112 (b) determine, for each state employee, whether that employee is exempt, nonexempt,

- 1113 law enforcement, or has some other status under the FLSA;
- 1114 (c) in coordination with modifications to the systems operated by the Division of
1115 Finance, make rules:
- 1116 (i) establishing procedures for recording overtime worked that comply with FLSA
1117 requirements;
- 1118 (ii) establishing requirements governing overtime worked while traveling and
1119 procedures for recording that overtime that comply with FLSA requirements;
- 1120 (iii) establishing requirements governing overtime worked if the employee is "on call"
1121 and procedures for recording that overtime that comply with FLSA requirements;
- 1122 (iv) establishing requirements governing overtime worked while an employee is being
1123 trained and procedures for recording that overtime that comply with FLSA requirements;
- 1124 (v) subject to the FLSA, establishing the maximum number of hours that a nonexempt
1125 employee may accrue before a department is required to pay the employee for the overtime
1126 worked;
- 1127 (vi) subject to the FLSA, establishing the maximum number of overtime hours for an
1128 exempt employee that do not lapse; and
- 1129 (vii) establishing procedures for adjudicating appeals of any FLSA determinations
1130 made by the Division of Human Resource Management as required by this section;
- 1131 (d) monitor departments for compliance with the FLSA; and
- 1132 (e) recommend to the Legislature and the governor any statutory changes necessary
1133 because of federal government action.
- 1134 (6) In coordination with the procedures for recording overtime worked established in
1135 rule by the Division of Human Resource Management, the Division of Finance shall modify its
1136 payroll and [~~personnel~~] human resource systems to accommodate those procedures.
- 1137 (a) Notwithstanding the procedures and requirements of Title 63, Chapter 46b,
1138 Administrative Procedures Act, Section 67-19-31, and Section 67-19a-301, any employee who
1139 is aggrieved by the FLSA designation made by the Division of Human Resource Management
1140 as required by this section may appeal that determination to the [~~executive~~] director of the
1141 Division of Human Resource Management by following the procedures and requirements
1142 established in Division of Human Resource Management rule.
- 1143 (b) Upon receipt of an appeal under this section, the director shall notify the executive

1144 director of the employee's department that the appeal has been filed.

1145 (c) If the employee is aggrieved by the decision of the [executive] director of the
1146 Division of Human Resource Management, he shall appeal that determination to the
1147 Department of Labor, Wage and Hour Division, according to the procedures and requirements
1148 of federal law.

1149 Section 28. Section **67-19-11** is amended to read:

1150 **67-19-11. Use of department facilities -- Field office facilities cost allocation --**
1151 **Funding for division.**

1152 (1) (a) All officers and employees of the state and its political subdivisions shall allow
1153 the [department] division to use public buildings under their control, and furnish heat, light,
1154 and furniture, for any examination, hearing, or investigation authorized by this chapter.

1155 [~~(b) The department shall pay a political subdivision the reasonable cost of any facilities~~
1156 ~~furnished by it.~~]

1157 (b) (i) Allocation of the cost for any facilities, equipment, or supplies furnished by an
1158 agency for use as a field office of the division shall be governed by the field office agreement
1159 established in Section 67-19-6.1.

1160 (ii) If the field office agreement does not specifically provide for the allocation of a
1161 cost for the division's use of the agency's facilities, equipment, or supplies, the agency shall pay
1162 the cost of those facilities, equipment, and supplies.

1163 (2) The director shall [submit]:

1164 (a) prepare an annual budget request for the [department] division, which is subject to
1165 the executive director's approval; and

1166 (b) submit the budget request to the governor and the Legislature.

1167 Section 29. Section **67-19-12** is amended to read:

1168 **67-19-12. State pay plans -- Applicability of section -- Exemptions -- Duties of**
1169 **director.**

1170 (1) (a) This section, and the rules adopted by the [department] division to implement
1171 this section, apply to each career and noncareer [state] employee not specifically exempted
1172 under Subsection (2).

1173 (b) If not exempted under Subsection (2), [~~a state~~] an employee is considered to be in
1174 classified service.

- 1175 (2) The following [state] employees are exempt from this section:
- 1176 (a) members of the Legislature and legislative employees;
- 1177 (b) members of the judiciary and judicial employees;
- 1178 (c) elected members of the executive branch and their direct staff who meet career
- 1179 service exempt criteria as defined in Subsection 67-19-15(1)(k);
- 1180 (d) certificated employees of the State Board of Education;
- 1181 (e) officers, faculty, and other employees of state institutions of higher education;
- 1182 (f) employees in any position that is determined by statute to be exempt from this
- 1183 Subsection (2);
- 1184 (g) attorneys in the Office of the Attorney General;
- 1185 (h) department heads and other persons appointed by the governor pursuant to statute;
- 1186 (i) employees of the Department of Community and Economic Development whose
- 1187 positions are designated as executive/professional positions by the executive director of the
- 1188 Department of Community and Economic Development with the concurrence of the director;
- 1189 and
- 1190 (j) employees of the Medical Education Council.
- 1191 (3) (a) The director shall prepare, maintain, and revise a position classification plan for
- 1192 each employee position not exempted under Subsection (2) to provide equal pay for equal
- 1193 work.
- 1194 (b) Classification of positions shall be based upon similarity of duties performed and
- 1195 responsibilities assumed, so that the same job requirements and the same salary range may be
- 1196 applied equitably to each position in the same class.
- 1197 (c) The director shall allocate or reallocate the position of each employee in classified
- 1198 service to one of the classes in the classification plan.
- 1199 (d) (i) The [department] division shall conduct periodic studies and desk audits to
- 1200 provide that the classification plan remains reasonably current and reflects the duties and
- 1201 responsibilities assigned to and performed by employees.
- 1202 (ii) The director shall determine the schedule for studies and desk audits after
- 1203 considering factors such as changes in duties and responsibilities of positions or agency
- 1204 reorganizations.
- 1205 (4) (a) With the approval of the governor, the director shall develop and adopt pay

1206 plans for each position in classified service.

1207 (b) The director shall design each pay plan to achieve, to the degree that funds permit,
1208 comparability of state salary ranges to salary ranges used by private enterprise and other public
1209 employment for similar work.

1210 (c) The director shall adhere to the following in developing each pay plan:

1211 (i) Each pay plan shall consist of sufficient salary ranges to permit adequate salary
1212 differential among the various classes of positions in the classification plan.

1213 (ii) The director shall assign each class of positions in the classification plan to a salary
1214 range and shall set the width of the salary range to reflect the normal growth and productivity
1215 potential of employees in that class. The width of the ranges need not be uniform for all
1216 classes of positions in the plan, but each range shall contain merit steps in increments of 2.75%
1217 salary increases.

1218 (iii) The director shall issue rules for the administration of pay plans. The rules may
1219 provide for exceptional performance increases and for a program of incentive awards for
1220 cost-saving suggestions and other commendable acts of employees. The director shall issue
1221 rules providing for salary adjustments.

1222 (iv) Merit step increases shall be granted, if funds are available, to employees who
1223 receive a rating of "successful" or higher in an annual evaluation of their productivity and
1224 performance.

1225 (v) By October [~~15~~] 31 of each year, the director shall submit market comparability
1226 adjustments to the director of the Governor's Office of Planning and Budget for consideration
1227 to be included as part of the affected agency's base budgets.

1228 (vi) By October 31 of each year, the director shall recommend a compensation package
1229 to the governor.

1230 (vii) Adjustments shall incorporate the results of a total compensation market survey of
1231 salary ranges and benefits of a reasonable cross section of comparable benchmark positions in
1232 private and public employment in the state. The survey may also study comparable unusual
1233 positions requiring recruitment outside Utah in the surrounding western states. The director
1234 may cooperate with other public and private employers in conducting the survey.

1235 (viii) The director shall establish criteria to assure the adequacy and accuracy of the
1236 survey and shall use methods and techniques similar to and consistent with those used in

1237 private sector surveys. Except as provided under Section 67-19-12.3, the survey shall include a
1238 reasonable cross section of employers. The director may cooperate with or participate in any
1239 survey conducted by other public and private employers.

1240 (ix) The establishing of a salary range is a nondelegable activity [~~subject to Subsection~~
1241 ~~67-19-8(1)~~] and is not appealable under the grievance procedures of Sections 67-19-30 through
1242 67-19-32, Title 67, Chapter 19a, Grievance and Appeal Procedures, or otherwise.

1243 (x) The governor shall:

1244 (A) consider salary adjustments recommended under Subsection (4)(c)(vi) in preparing
1245 the executive budget and shall recommend the method of distributing the adjustments;

1246 (B) submit compensation recommendations to the Legislature; and

1247 (C) support the recommendation with schedules indicating the cost to individual
1248 departments and the source of funds.

1249 (xi) If funding is approved by the Legislature in a general appropriations act, the
1250 adjustments take effect on the July 1 following the enactment.

1251 (5) (a) The director shall regularly evaluate the total compensation program of state
1252 employees in the classified service.

1253 (b) The [~~department~~] division shall determine if employee benefits are comparable to
1254 those offered by other private and public employers using information from:

1255 (i) the most recent edition of the Employee Benefits Survey Data conducted by the U.S.
1256 Chamber of Commerce Research Center; or

1257 (ii) the most recent edition of a nationally recognized benefits survey.

1258 (6) (a) The director shall submit proposals for a state employee compensation plan to
1259 the governor by October 31 of each year, setting forth findings and recommendations affecting
1260 [~~state~~] employee compensation.

1261 (b) The governor shall consider the director's proposals in preparing budget
1262 recommendations for the Legislature.

1263 (c) The governor's budget proposals to the Legislature shall include a specific
1264 recommendation on [~~state~~] employee compensation.

1265 Section 30. Section **67-19-12.2** is amended to read:

1266 **67-19-12.2. Education benefit plan for law enforcement and correctional officers.**

1267 (1) As used in this section, "law enforcement officer" has the same meaning as in

1268 Section 53-13-103 and "correctional officer" has the same meaning as in Section 53-13-104.

1269 (2) The director shall establish a plan authorizing any [state] agency to implement an
1270 educational compensation program for law enforcement officers and correctional officers
1271 employed by that [state] agency.

1272 (3) The program shall provide that in order for a law enforcement officer or
1273 correctional officer to qualify for education benefits for college or university education, the law
1274 enforcement officer or correctional officer shall:

1275 (a) provide a certified transcript of grades, demonstrating a grade point average of 3.0
1276 or greater, from an accredited college or university; and

1277 (b) have successfully completed the probationary employment period with the
1278 employing agency.

1279 (4) The program shall also provide that the agency may consider a law enforcement
1280 officer or correctional officer to receive additional compensation as follows for higher
1281 education degrees earned on or after April 30, 2001, in a subject area directly related to the law
1282 enforcement officer's or correctional officer's employment with the agency:

1283 (a) two steps for an associate's degree;

1284 (b) two steps for a bachelor's degree; and

1285 (c) two steps for a master's degree.

1286 (5) Expenses incurred by an agency to provide additional compensation under this
1287 section may be only from the agency's existing budget.

1288 Section 31. Section **67-19-12.5** is amended to read:

1289 **67-19-12.5. Creation of Flexible Benefit Program -- Rulemaking power granted to**
1290 **establish program.**

1291 (1) The [department] division shall establish for calendar year 1990 and thereafter a
1292 Flexible Benefit Program under Section 125 of the Internal Revenue Code of 1986.

1293 (2) The [department] division shall establish accounts for all employees eligible for
1294 benefits which meet the nondiscrimination requirements of the Internal Revenue Code of 1986.

1295 (3) (a) Each account established under this section shall include employee paid
1296 premiums for health and dental services.

1297 (b) The account may also include, at the option of the employee, out-of-pocket
1298 employee medical and dependent care expenses.

1299 (c) Accounts may also include other expenses allowed under the Internal Revenue
1300 Code of 1986.

1301 (4) In accordance with Title 63, Chapter 46a, [~~the~~] Utah Administrative Rulemaking
1302 Act, the [~~department~~] division may make rules to implement the program established under this
1303 section.

1304 Section 32. Section **67-19-12.7** is amended to read:

1305 **67-19-12.7. Accumulated annual leave -- Conversion to deferred compensation**
1306 **plan.**

1307 (1) The [~~department~~] division shall implement a program whereby an employee may,
1308 upon termination of employment or retirement, elect to convert any unused annual leave into
1309 any of the employee's designated deferred compensation accounts that:

1310 (a) are sponsored by the Utah State Retirement Board; and

1311 (b) are qualified under Section 401(k) or Section 457 of the Internal Revenue Code.

1312 (2) Any annual leave converted under Subsection (1) shall be converted into the
1313 employee's deferred compensation account at the employee's pay rate at the time of termination
1314 or retirement.

1315 (3) No employee may convert hours of accrued annual leave to the extent that any
1316 hours so converted would exceed the maximum amount authorized by the Internal Revenue
1317 Code for each calendar year.

1318 Section 33. Section **67-19-12.9** is amended to read:

1319 **67-19-12.9. Accumulated annual leave -- Annual conversion to deferred**
1320 **compensation plan.**

1321 (1) If the Legislature in an annual appropriations act with accompanying intent language
1322 specifically authorizes and fully funds the estimated costs of this use, the [~~department~~] division
1323 shall implement a program that allows an employee, in the approved calendar year, to elect to
1324 convert up to 20 hours of annual leave, in whole hour increments not to exceed \$250 in value,
1325 into any of the employee's designated deferred compensation accounts that:

1326 (a) are sponsored by the Utah State Retirement Board; and

1327 (b) are qualified under Section 401(k) or Section 457 of the Internal Revenue Code.

1328 (2) Any annual leave converted under Subsection (1) shall be:

1329 (a) converted into the employee's deferred compensation account at the employee's pay

1330 rate at the time of conversion; and

1331 (b) calculated in the last pay period of the leave year as determined by the Division of
1332 Finance.

1333 (3) An employee may not convert hours of accrued annual leave to the extent that any
1334 hours converted would:

1335 (a) exceed the maximum amount authorized by the Internal Revenue Code for the
1336 calendar year; or

1337 (b) cause the employee's balance of accumulated annual leave to drop below the
1338 maximum accrual limit provided by rule.

1339 Section 34. Section **67-19-13** is amended to read:

1340 **67-19-13. Examination of payrolls and certification of employee eligibility by**
1341 **director.**

1342 (1) The director [~~of personnel management~~] may examine payrolls at any time to
1343 determine conformity with this chapter and the regulations.

1344 (2) No new employee shall be hired in a position covered by this chapter, and no
1345 employee shall be changed in pay, title or status, nor shall any employee be paid unless
1346 certified by the director as eligible under the provisions of or regulations promulgated pursuant
1347 to this chapter.

1348 Section 35. Section **67-19-15** is amended to read:

1349 **67-19-15. Career service -- Exempt positions -- Schedules for civil service**
1350 **positions -- Coverage of career service provisions.**

1351 (1) Except as otherwise provided by law or by rules and regulations established for
1352 federally aided programs, the following positions are exempt from the career service provisions
1353 of this chapter:

1354 (a) the governor, members of the Legislature, and all other elected state officers,
1355 designated as Schedule AA;

1356 (b) the agency heads enumerated in Section 67-22-2, and commissioners designated as
1357 Schedule AB;

1358 (c) all employees and officers in the office and at the residence of the governor,
1359 designated as Schedule AC;

1360 (d) employees who are in a confidential relationship to an agency head or

- 1361 commissioner and who report directly to, and are supervised by, a department head,
1362 commissioner, or deputy director of an agency or its equivalent, designated as Schedule AD;
- 1363 (e) unskilled employees in positions requiring little or no specialized skill or training,
1364 designated as Schedule AE;
- 1365 (f) part-time professional noncareer persons who are paid for any form of medical and
1366 other professional service and who are not engaged in the performance of administrative duties,
1367 designated as Schedule AF;
- 1368 (g) attorneys in the attorney general's office who are under their own career service pay
1369 plan, designated as Schedule AG;
- 1370 (h) teaching staff of all state institutions and patients and inmates employed in state
1371 institutions, designated as Schedule AH;
- 1372 (i) persons appointed to a position vacated by an employee who has a right to return
1373 under federal or state law or policy, designated as Schedule AI;
- 1374 (j) noncareer employees compensated for their services on a seasonal or contractual
1375 basis who are hired for limited periods of less than nine consecutive months or who are
1376 employed on less than 1/2 time basis, designated as Schedule AJ;
- 1377 (k) those employees in a personal and confidential relationship to elected officials,
1378 designated as Schedule AK;
- 1379 (l) employees appointed to perform work of a limited duration not exceeding two years
1380 or to perform work with time-limited funding, designated as Schedule AL;
- 1381 (m) employees of the Department of Community and Economic Development whose
1382 positions are designated as executive/professional positions by the executive director of the
1383 Department of Community and Economic Development with the concurrence of the director,
1384 designated as Schedule AM;
- 1385 (n) employees of the Legislature, designated as Schedule AN;
- 1386 (o) employees of the judiciary, designated as Schedule AO;
- 1387 (p) all judges in the judiciary, designated as Schedule AP;
- 1388 (q) members of state and local boards and councils appointed by the governor and
1389 governing bodies of agencies, other local officials serving in an ex officio capacity, officers,
1390 faculty, and other employees of state universities and other state institutions of higher
1391 education, designated as Schedule AQ;

1392 (r) employees who make statewide policy, designated as Schedule AR; and
1393 (s) any other employee whose appointment is required by statute to be career service
1394 exempt, designated as Schedule AS.

1395 (2) The civil service shall consist of two schedules as follows:

1396 (a) (i) Schedule A is the schedule consisting of positions exempted by Subsection (1).

1397 (ii) Removal from any appointive position under Schedule A, unless otherwise
1398 regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

1399 (b) Schedule B is the competitive career service schedule, consisting of all positions
1400 filled through competitive selection procedures as defined by the director.

1401 (3) (a) The director, after consultation with the heads of concerned executive branch
1402 departments and agencies and with the approval of the governor, shall allocate positions to the
1403 appropriate schedules under this section.

1404 (b) Agency heads shall make requests and obtain approval from the director before
1405 changing the schedule assignment and tenure rights of any position.

1406 (c) Unless the director's decision is reversed by the governor, when the director denies
1407 an agency's request, the director's decision is final.

1408 (4) (a) Compensation for employees of the Legislature shall be established by the
1409 directors of the legislative offices in accordance with Section 36-12-7.

1410 (b) Compensation for employees of the judiciary shall be established by the state court
1411 administrator in accordance with Section 78-3-24.

1412 (c) Compensation for officers, faculty, and other employees of state universities and
1413 institutions of higher education shall be established as provided in Title 53B, Chapters 1 and 2.

1414 (d) Unless otherwise provided by law, compensation for all other Schedule A
1415 employees shall be established by their appointing authorities, within ranges approved by, and
1416 after consultation with the director of the [~~Department~~] Division of Human [~~Resources~~]
1417 Resource Management.

1418 (5) All employees of the Office of State Auditor, the Office of State Treasurer, the
1419 Office of the Attorney General, excluding attorneys who are under their own career service
1420 system, and employees who are not exempt under this section are covered by the career service
1421 provisions of this chapter.

1422 Section 36. Section **67-19-15.1** is amended to read:

1423 **67-19-15.1. Implementation of exempt status for Schedule AD and AR employees.**

1424 (1) As used in this section, "appointee" means:

1425 (a) a deputy director;

1426 (b) a division director;

1427 (c) any assistant directors and administrative assistants who report directly to a
1428 department head, deputy director, or their equivalent; and1429 (d) any other person whose appointment is required by law to be approved by the
1430 governor.1431 (2) After the effective date of this [act] chapter, any new appointee is a merit exempt
1432 employee.1433 (3) Notwithstanding the requirements of this [act] chapter, any appointee who is
1434 currently a nonexempt employee does not lose that nonexempt status because of this [act]
1435 chapter.1436 (4) The [~~Department~~] Division of Human Resource Management shall develop
1437 financial and other incentives to encourage appointees who are nonexempt to voluntarily
1438 convert to merit exempt status.1439 Section 37. Section **67-19-19** is amended to read:1440 **67-19-19. Political activity of employees -- Rules and regulations -- Highway**
1441 **patrol -- Hatch Act.**1442 Except as otherwise provided by law or by rules promulgated under this section for
1443 federally aided programs, the following provisions apply with regard to political activity of
1444 career service employees in all grades and positions.1445 (1) [~~State career~~] Career service employees may voluntarily participate in political
1446 activity subject to the following provisions:1447 (a) if any [state] career service employee is elected to any partisan or full-time
1448 nonpartisan political office, that employee shall be granted a leave of absence without pay for
1449 times when monetary compensation is received for service in political office;1450 (b) no officer or employee in career service may engage in any political activity during
1451 the hours of employment, nor may any person solicit political contributions from employees of
1452 the executive branch during hours of employment for political purposes; and

1453 (c) partisan political activity may not be a basis for employment, promotion, demotion,

1454 or dismissal, except that the director shall adopt rules providing for the discipline or
1455 punishment of a state officer or employee who violates any provision of this section.

1456 (2) (a) Notwithstanding any other provision of this section, no member of the Utah
1457 Highway Patrol may use his official authority or influence for the purpose of interfering with
1458 an election or affecting the results of an election.

1459 (b) No person may induce or attempt to induce any member of the Utah Highway
1460 Patrol to participate in any activity prohibited by this Subsection (2).

1461 (3) Nothing contained in this section may be construed to:

1462 (a) preclude voluntary contributions by [~~a state~~] an employee to the party or candidate
1463 of the officer's or employee's choice; or

1464 (b) permit partisan political activity by any [~~state~~] employee who is prevented or
1465 restricted from engaging in the political activity by the provisions of the federal Hatch Act.

1466 Section 38. Section **67-19-26** is amended to read:

1467 **67-19-26. Severability of provisions -- Compliance with requirements for**
1468 **federally aided programs.**

1469 (1) If any provision of this chapter or of any regulation or order issued thereunder or
1470 the application of any provision of this chapter to any person or circumstance is held invalid,
1471 the remainder of this chapter and the application of provision of this chapter or regulation or
1472 orders issued under it to persons or circumstances other than those to which it is held invalid
1473 shall still be regarded as having the force and effect of law.

1474 (2) If any part of this chapter is found to be in conflict with federal requirements which
1475 are a condition precedent to the allocation of federal funds to the state, the conflicting part of
1476 this chapter shall be inoperative solely to the extent of the conflict and with respect to the
1477 agencies directly affected, and such findings shall not affect the operation of the remainder of
1478 this chapter in its application to the agencies concerned.

1479 (3) Notwithstanding any provisions in this chapter to the contrary, no regulation shall
1480 be adopted which would deprive the state or any of its departments or institutions of federal
1481 grants or other forms of financial assistance, and the rules and regulations promulgated
1482 hereunder shall include standards, provisions, terms, and conditions for personnel engaged in
1483 the administration of federally aided programs, which shall, in all respects, comply with the
1484 necessary requirements for a qualified [~~personnel~~] human resource system under the standards

1485 applicable to personnel engaged in the administration of federally aided programs.

1486 Section 39. Section **67-19-31** is amended to read:

1487 **67-19-31. Position classification grievances -- Scope -- Procedure.**

1488 (1) (a) For the purpose of position classification grievances, the process that culminates
1489 in assigning a career service position to an appropriate class specification is a matter of position
1490 classification and may be grieved.

1491 (b) The process that culminates in assigning a salary range to the class specification is
1492 not a position classification and may not be grieved as a classification grievance.

1493 (2) (a) Upon receipt of a position classification grievance, the director shall refer the
1494 grievance to a classification panel of three or more impartial persons trained in state
1495 classification procedures.

1496 (b) The classification panel shall determine whether or not the classification
1497 assignment for career service positions was appropriate by applying the statutes, rules, and
1498 procedures adopted by the department that were in effect at the time of the classification
1499 change.

1500 (c) The classification panel may:

1501 (i) obtain access to previous audits, classification decisions, and reports;

1502 (ii) request new or additional audits by [~~department or agency personnel~~] human
1503 resource analysts; and

1504 (iii) consider new or additional information.

1505 (d) The classification panel may sustain or modify the original decision and, if
1506 applicable, recommend a new classification.

1507 (e) The classification panel shall report its recommendation to the director, who shall
1508 make the classification decision and notify the grievant.

1509 (3) (a) Either party may appeal the director's decision to an impartial hearing officer
1510 trained in state classification procedures selected through a public bid process by a panel
1511 consisting of the following members:

1512 (i) the [~~executive~~] director of the [~~Department~~] Division of Human Resource
1513 Management;

1514 (ii) two department executive directors;

1515 (iii) a private sector human resources executive appointed by the governor; and

1516 (iv) a representative of the Utah Public Employees Association.

1517 (b) The successful bid shall serve under contract for no more than three years. At the
1518 end of that time, the [~~Department~~] Division of Human Resource Management shall reissue the
1519 bid.

1520 (c) The hearing officer shall review the classification and make the final decision. The
1521 final decision is subject to judicial review pursuant to the provisions of Section 63-46b-15.

1522 Section 40. Section **67-19-33** is amended to read:

1523 **67-19-33. Controlled substances and alcohol use prohibited.**

1524 An employee may not:

1525 (1) manufacture, dispense, possess, use, distribute, or be under the influence of a
1526 controlled substance or alcohol during work hours or on state property except where legally
1527 permissible;

1528 (2) manufacture, dispense, possess, use, or distribute a controlled substance or alcohol
1529 if the activity prevents:

1530 (a) state agencies from receiving federal grants or performing under federal contracts of
1531 \$25,000 or more; or

1532 (b) the employee to perform his services or work for state government effectively as
1533 regulated by the rules of the [~~executive~~] director in accordance with Section 67-19-34; or

1534 (3) refuse to submit to a drug or alcohol test under Section 67-19-36.

1535 Section 41. Section **67-19-34** is amended to read:

1536 **67-19-34. Rulemaking power to director.**

1537 In accordance with this chapter and Title 63, Chapter 46a, Utah Administrative
1538 Rulemaking Act, the [~~executive~~] director shall make rules regulating:

1539 (1) disciplinary actions for employees subject to discipline under Section 67-19-37;

1540 (2) the testing of employees for the use of controlled substances or alcohol as provided
1541 in Section 67-19-36;

1542 (3) the confidentiality of drug testing and test results performed under Section
1543 67-19-36 in accordance with Title 63, Chapter 2, Government Records Access and
1544 Management Act; and

1545 (4) minimum blood levels of alcohol or drug content for work effectiveness of an
1546 employee.

1547 Section 42. Section **67-19-36** is amended to read:

1548 **67-19-36. Drug testing of state employees.**

1549 (1) Except as provided in Subsection (2), when there is reasonable suspicion that an
1550 employee is using a controlled substance or alcohol unlawfully during work hours, an
1551 employee may be required to submit to medically accepted testing procedures for a
1552 determination of whether the employee is using a controlled substance or alcohol in violation
1553 of this part.

1554 (2) In highly sensitive positions, as identified in [~~department~~] division class
1555 specifications, random drug testing of employees may be conducted by an agency in
1556 accordance with the rules of the [~~executive~~] director.

1557 (3) All drug or alcohol testing shall be:

1558 (a) conducted by a federally certified and licensed physician, a federally certified and
1559 licensed medical clinic, or testing facility federally certified and licensed to conduct medically
1560 accepted drug testing;

1561 (b) conducted in accordance with the rules of the [~~executive~~] director made under
1562 Section 67-19-34; and

1563 (c) kept confidential in accordance with the rules of the [~~executive~~] director made in
1564 accordance with Section 67-19-34.

1565 (4) A physician, medical clinic, or testing facility may not be held liable in any civil
1566 action brought by a party for:

1567 (a) performing or failing to perform a test under this section;

1568 (b) issuing or failing to issue a test result under this section; or

1569 (c) acting or omitting to act in any other way in good faith under this section.

1570 Section 43. Section **67-19-37** is amended to read:

1571 **67-19-37. Discipline of employees.**

1572 An employee shall be subject to the rules of discipline of the [~~executive~~] director made
1573 in accordance with Section 67-19-34, if [~~he~~] the employee:

1574 (1) refuses to submit to testing procedures provided in Section 67-19-36;

1575 (2) refuses to complete a drug rehabilitation program in accordance with Subsection
1576 67-19-38(3);

1577 (3) is convicted under a federal or state criminal statute regulating the manufacture,

1578 distribution, dispensation, possession, or use of a controlled substance; or

1579 (4) manufactures, dispenses, possesses, uses, or distributes a controlled substance in
1580 violation of state or federal law during work hours or on state property.

1581 Section 44. Section **67-19-38** is amended to read:

1582 **67-19-38. Violations and penalties.**

1583 In addition to other criminal penalties provided by law, an employee who:

1584 (1) fails to notify [~~his~~] the employee's director under Section 67-19-35 is subject to
1585 disciplinary proceedings as established by the [~~executive~~] director by rule in accordance with
1586 Section 67-19-34;

1587 (2) refuses to submit to testing procedures provided for in Section 67-19-36, may be
1588 suspended immediately without pay pending further disciplinary action as set forth in the rules
1589 of the [~~executive~~] director in accordance with Section 67-19-34;

1590 (3) tests positive for the presence of unlawfully used controlled substances or alcohol
1591 may be required, as part of [~~his~~] the employee's disciplinary treatment, to complete a drug
1592 rehabilitation program at [~~his~~] the employee's expense within 60 days after receiving the
1593 positive test results or be subject to further disciplinary procedures established by rule of the
1594 [~~executive~~] director in accordance with Section 67-19-34.

1595 Section 45. Section **67-19a-303** is amended to read:

1596 **67-19a-303. Employees' rights in grievance and appeals procedure.**

1597 (1) For the purpose of processing a grievance, a career service employee may:

1598 (a) obtain assistance by a representative of the employee's choice to act as an advocate
1599 at any level of the grievance procedure;

1600 (b) request a reasonable amount of time during work hours to confer with the
1601 representative and prepare the grievance; and

1602 (c) call other employees as witnesses at a grievance hearing.

1603 (2) The state shall allow employees to attend and testify at the grievance hearing as
1604 witnesses if the employee has given reasonable advance notice to [~~his~~] the employee's
1605 immediate supervisor.

1606 (3) No person may take any reprisals against any career service employee for use of
1607 grievance procedures specified in this chapter.

1608 (4) (a) The employing agency of an employee who files a grievance may not place

1609 grievance forms, grievance materials, correspondence about the grievance, agency and
1610 department replies to the grievance, or other documents relating to the grievance in the
1611 employee's personnel file.

1612 (b) The employing agency of an employee who files a grievance may place records of
1613 disciplinary action in the employee's personnel file.

1614 (c) If any disciplinary action against an employee is rescinded through the grievance
1615 procedures established in this chapter, the agency and the ~~[Department]~~ Division of Human
1616 Resource Management shall remove the record of the disciplinary action from the employee's
1617 agency personnel file and central personnel file.

1618 (d) An agency may maintain a separate grievance file relating to an employee's
1619 grievance, but shall discard the file after three years.

1620 Section 46. Section **67-19c-101** is amended to read:

1621 **67-19c-101. Department award program.**

1622 (1) As used in this section:

1623 (a) "Department" means the Department of Administrative Services, the Department of
1624 Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of
1625 Commerce, the Department of Community and Economic Development, the Department of
1626 Corrections, the Department of Workforce Services, the Department of Environmental Quality,
1627 the Department of Financial Institutions, the Department of Health, ~~[the Department of Human
1628 Resource Management,]~~ the Department of Human Services, the Insurance Department, the
1629 National Guard, the Department of Natural Resources, the Department of Public Safety, the
1630 Public Service Commission, the Labor Commission, the State Board of Education, the State
1631 Board of Regents, the State Tax Commission, and the Department of Transportation.

1632 (b) "Department head" means the individual or body of individuals in whom the
1633 ultimate legal authority of the department is vested by law.

1634 (2) There is created a department awards program to award an outstanding employee in
1635 each department of state government.

1636 (3) (a) By April 1 of each year, each department head shall solicit nominations for
1637 outstanding employee of the year for his department from the employees in his department.

1638 (b) By July 1 of each year, the department head shall:

1639 (i) select a person from the department to receive the outstanding employee of the year

1640 award using the criteria established in Subsection (3)(c); and
1641 (ii) announce the recipient of the award to his employees.
1642 (c) Department heads shall make the award to a person who demonstrates:
1643 (i) extraordinary competence in performing his function;
1644 (ii) creativity in identifying problems and devising workable, cost-effective solutions to
1645 them;
1646 (iii) excellent relationships with the public and other employees;
1647 (iv) a commitment to serving the public as the client; and
1648 (v) a commitment to economy and efficiency in government.
1649 (4) (a) The [~~Department~~] Division of Human Resource Management shall divide any
1650 appropriation for outstanding department employee awards that it receives from the Legislature
1651 equally among the departments.
1652 (b) If the department receives monies from the [~~Department~~] Division of Human
1653 Resource Management or if the department budget allows, the department head shall provide
1654 the employee with a bonus, a plaque, or some other suitable acknowledgement of the award.
1655 (5) (a) The department head may name the award after an exemplary present or former
1656 employee of the department.
1657 (b) A department head may not name the award for himself or for any relative as
1658 defined in Section 52-3-1.
1659 (c) Any awards or award programs existing in any department as of May 3, 1993, shall
1660 be modified to conform to the requirements of this section.
1661 Section 47. Section **67-20-8** is amended to read:
1662 **67-20-8. Volunteer experience credit.**
1663 (1) State agencies shall designate positions for which approved volunteer experience
1664 satisfies the job requirements for purposes of employment.
1665 (2) When evaluating applicants for those designated positions, state agencies shall
1666 consider documented approved volunteer experience in the same manner as similar paid
1667 employment.
1668 (3) The [~~Department~~] Division of Human Resource Management shall make statewide
1669 rules governing the:
1670 (a) designation of volunteer positions; and

1671 (b) a uniform process to document the approval, use, and hours worked by volunteers.

1672 Section 48. Section **67-22-2** is amended to read:

1673 **67-22-2. Compensation -- Other state officers.**

1674 (1) The governor shall establish salaries for the following state officers within the
1675 following salary ranges fixed by the Legislature:

1676	State Officer	Salary Range
1677	Commissioner of Agriculture and Food	\$65,200 - \$88,400
1678	Commissioner of Insurance	\$65,200 - \$88,400
1679	Commissioner of the Labor Commission	\$65,200 - \$88,400
1680	Director, Alcoholic Beverage Control	
1681	Commission	\$65,200 - \$88,400
1682	Commissioner, Department of	
1683	Financial Institutions	\$65,200 - \$88,400
1684	Members, Board of Pardons and Parole	\$65,200 - \$88,400
1685	Executive Director, Department	
1686	of Commerce	\$65,200 - \$88,400
1687	Executive Director, Commission on	
1688	Criminal and Juvenile Justice	\$65,200 - \$88,400
1689	Adjutant General	\$65,200 - \$88,400
1690	Chair, Tax Commission	\$70,600 - \$95,200
1691	Commissioners, Tax Commission	\$70,600 - \$95,200
1692	Executive Director, Department of	
1693	Community and Economic	
1694	Development	\$70,600 - \$95,200
1695	Executive Director, Tax Commission	\$70,600 - \$95,200
1696	Chair, Public Service Commission	\$70,600 - \$95,200
1697	Commissioners, Public Service	
1698	Commission	\$70,600 - \$95,200
1699	Executive Director, Department	
1700	of Corrections	\$76,800 - \$103,600
1701	Commissioner, Department of Public Safety	\$76,800 - \$103,600

1702	Executive Director, Department of	
1703	Natural Resources	\$76,800 - \$103,600
1704	Director, Governor's Office of Planning	
1705	and Budget	\$76,800 - \$103,600
1706	Executive Director, Department of	
1707	Administrative Services	\$76,800 - \$103,600
1708	[Executive Director, Department of]	
1709	[Human Resource Management — \$76,800 - \$103,600]	
1710	Executive Director, Department of	
1711	Environmental Quality	\$76,800 - \$103,600
1712	Executive Director, Department of	
1713	Workforce Services	\$83,600 - \$112,900
1714	Executive Director, Department of	
1715	Health	\$83,600 - \$112,900
1716	Executive Director, Department	
1717	of Human Services	\$83,600 - \$112,900
1718	Executive Director, Department	
1719	of Transportation	\$83,600 - \$112,900
1720	Chief Information Officer	\$83,600 - \$112,900

1721 (2) (a) The Legislature fixes benefits for the state offices outlined in Subsection (1) as
 1722 follows:

- 1723 (i) the option of participating in a state retirement system established by Title 49, Utah
- 1724 State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered
- 1725 by the State Retirement Office in accordance with the Internal Revenue Code and its
- 1726 accompanying rules and regulations;
- 1727 (ii) health insurance;
- 1728 (iii) dental insurance;
- 1729 (iv) basic life insurance;
- 1730 (v) unemployment compensation;
- 1731 (vi) workers' compensation;
- 1732 (vii) required employer contribution to Social Security;

- 1733 (viii) long-term disability income insurance;
- 1734 (ix) the same additional state-paid life insurance available to other noncareer service
1735 employees;
- 1736 (x) the same severance pay available to other noncareer service employees;
- 1737 (xi) the same sick leave, converted sick leave, educational allowances, and holidays
1738 granted to Schedule B state employees, and the same annual leave granted to Schedule B state
1739 employees with more than ten years of state service;
- 1740 (xii) the option to convert accumulated sick leave to cash or insurance benefits as
1741 provided by law or rule upon resignation or retirement according to the same criteria and
1742 procedures applied to Schedule B state employees;
- 1743 (xiii) the option to purchase additional life insurance at group insurance rates according
1744 to the same criteria and procedures applied to Schedule B state employees; and
- 1745 (xiv) professional memberships if being a member of the professional organization is a
1746 requirement of the position.
- 1747 (b) Each department shall pay the cost of additional state-paid life insurance for its
1748 executive director from its existing budget.
- 1749 (3) The Legislature fixes the following additional benefits:
- 1750 (a) for the executive director of the State Tax Commission a vehicle for official and
1751 personal use;
- 1752 (b) for the executive director of the Department of Transportation a vehicle for official
1753 and personal use;
- 1754 (c) for the executive director of the Department of Natural Resources a vehicle for
1755 commute and official use;
- 1756 (d) for the Commissioner of Public Safety:
- 1757 (i) an accidental death insurance policy if POST certified; and
1758 (ii) a public safety vehicle for official and personal use;
- 1759 (e) for the executive director of the Department of Corrections:
- 1760 (i) an accidental death insurance policy if POST certified; and
1761 (ii) a public safety vehicle for official and personal use;
- 1762 (f) for the Adjutant General a vehicle for official and personal use; and
1763 (g) for each member of the Board of Pardons and Parole a vehicle for commute and

1764 official use.

1765 (4) (a) The governor has the discretion to establish a specific salary for each office
1766 listed in Subsection (1), and, within that discretion, may provide salary increases within the
1767 range fixed by the Legislature.

1768 (b) The governor shall apply the same overtime regulations applicable to other FLSA
1769 exempt positions.

1770 (c) The governor may develop standards and criteria for reviewing the performance of
1771 the state officers listed in Subsection (1).

1772 (5) Salaries for other Schedule A employees, as defined in Section 67-19-15, which are
1773 not provided for in this chapter, or in Title 67, Chapter 8, Utah Executive and Judicial Salary
1774 Act, shall be established as provided in Section 67-19-15.

1775 Section 49. Section **72-1-203** is amended to read:

1776 **72-1-203. Deputy director -- Appointment -- Qualifications -- Other assistants**
1777 **and advisers -- Salaries.**

1778 (1) The executive director shall appoint a deputy director, who shall be a registered
1779 professional engineer in the state and shall serve at the discretion of the executive director.

1780 (2) The deputy director is the chief engineer of the department. The deputy director
1781 shall assist the executive director and is responsible for:

1782 (a) program and project development; and

1783 (b) operation and maintenance of the state transportation systems.

1784 (3) The executive director may also appoint assistants to administer the divisions of the
1785 department. These assistants shall serve at the discretion of the executive director.

1786 (4) In addition, the executive director may employ other assistants and advisers as the
1787 executive director finds necessary and fix salaries in accordance with the salary standards
1788 adopted by the [~~Department~~] Division of Human Resource Management.

1789 Section 50. **Repealer.**

1790 This bill repeals:

1791 Section **67-19-6.4, Utah Quality Service Award program.**

1792 Section **67-19-7, State agencies contracting to perform personnel functions on own**
1793 **behalf.**

1794 Section **67-19-8, Functions of department not to be delegated.**

1795 Section **67-19-9, Functions for which state agencies responsible.**
1796 Section **67-19-10, Functions which director may delegate to state agencies --**
1797 **Agreements to delegate -- Contents -- Execution -- Termination.**
1798 Section 51. **Legislative intent.**
1799 It is the intent of the Legislature that the Division of Human Resource Management
1800 renumber its rules, coordinating with the Division of Administrative Rules, and correct
1801 references within its rules by the effective date of this bill.
1802 Section 52. **Effective date.**
1803 This bill takes effect on July 1, 2006.

Legislative Review Note
as of 2-15-05 8:36 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0319

**Expansion of Department of Administrative Services Oversight To Include
Human Resource Management**

17-Feb-05
3:42 PM

State Impact

There is no fiscal impact in converting the Department of Human Resource Management into a division within the Division of Administrative Services. The impact on agency field offices will depend on service agreements.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst