

**EXECUTIVE COMPENSATION AMENDMENTS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the process for setting salary ranges for department and other agency heads.

**Highlighted Provisions:**

This bill:

- ▶ creates a single salary range for all "appointed executives";
- ▶ bases that range on the salaries of the deputies to the appointed executives who are not medical doctors; and
- ▶ makes conforming and technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an immediate effective date.

**Utah Code Sections Affected:**

AMENDS:

**67-8-1**, as enacted by Chapter 267, Laws of Utah 1981

**67-8-4**, as last amended by Chapter 220, Laws of Utah 2001

**67-8-5**, as last amended by Chapter 139, Laws of Utah 2006

**67-19-15**, as last amended by Chapter 139, Laws of Utah 2006

**67-22-2**, as last amended by Chapters 123, 128, 139 and 338, Laws of Utah 2006



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

Section 1. Section **67-8-1** is amended to read:

**67-8-1. Short title.**

This act shall be known and may be cited as the "Utah [~~Executive~~] Elected Official and Judicial Salary Act."

Section 2. Section **67-8-4** is amended to read:

**67-8-4. State Executive and Judicial Compensation Commission created -- Composition -- Appointment -- Terms -- Organization -- Vacancies -- Quorum -- Compensation -- Secretary.**

(1) There is created a state [~~Executive~~] Elected Official and Judicial Compensation Commission comprised of six members, not more than three of whom may be from the same political party, appointed as follows:

- (a) one member appointed by the governor;
- (b) one member appointed by the president of the Senate;
- (c) one member appointed by the speaker of the House of Representatives;
- (d) two members appointed by the other three appointed members; and
- (e) one member appointed by the State Bar Commission.

(2) (a) Except as required by Subsection (2)(b), all persons appointed to the commission shall serve four-year terms or until their successors are duly appointed and qualified.

(b) Notwithstanding the requirements of Subsection (2)(a), the appointing authority shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(3) (a) The commission shall select a chair and a vice chair from opposite political parties at its first meeting.

(b) Four members of the commission shall constitute a quorum.

(c) The commission shall take no action nor make any determination without the concurrence of a majority of its members being present.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be

59 appointed for the unexpired term.

60 (5) No member or employee of the legislative, judicial, or executive branch of  
61 government is eligible for appointment to the commission. The legislative fiscal analyst shall  
62 serve as an ex officio, nonvoting secretary of the commission.

63 (6) (a) Members shall receive no compensation or benefits for their services, but may  
64 receive per diem and expenses incurred in the performance of the member's official duties at  
65 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

66 (b) Legislators on the committee shall receive compensation and expenses as provided  
67 by law and legislative rule.

68 Section 3. Section **67-8-5** is amended to read:

69 **67-8-5. Duties of commission -- Salary recommendations.**

70 (1) ~~[(a)]~~ The commission shall recommend to the Legislature salaries for:

71 ~~[(i)]~~ (a) the governor, the lieutenant governor, the attorney general, the state auditor,  
72 and the state treasurer; and

73 ~~[(ii)]~~ (b) justices of the Supreme Court and judges of the constitutional and statutory  
74 courts of record.

75 ~~[(b) The commission shall recommend to the Legislature salary ranges for the other  
76 state officers referred to in Article VII, Section 18, and enumerated in Title 67, Chapter 22,  
77 State Officer Compensation.]~~

78 ~~[(2) As used in this section and for the purposes of compensation in Title 67, Chapter  
79 22, State Officer Compensation, "state officer" means an individual at the executive level in  
80 state government. The term includes:]~~

81 ~~[(a) the governor, the lieutenant governor, the attorney general, the state auditor, and  
82 the state treasurer;]~~

83 ~~[(b) justices of the Supreme Court and judges of all constitutional and statutory courts  
84 of record; and]~~

85 ~~[(c) full-time commissioners and executive directors of executive branch departments  
86 appointed by the governor or with his approval, who report directly to the governor, and who  
87 are enumerated in Section 67-22-2.]~~

88 ~~[(3)]~~ (2) The commission shall:

89 (a) make studies and formulate recommendations concerning the wage and salary

90 classification plan based upon factors such as educational requirements, experience,  
91 responsibility, accountability for funds and staff, comparisons with wages paid in other  
92 comparable public and private employment within this state, and other states similarly situated,  
93 and any other factors generally used in similar comprehensive wage and salary classification  
94 plans so that the plan and its administration reflect current conditions at all times;

95 (b) consult and advise with, and make recommendation to, the Department of Human  
96 Resource Management regarding the plan, its administration, and the position of any ~~officer~~  
97 elected official and judge covered by the plan;

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

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

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

105 (iii) specific recommendations regarding the office of governor, lieutenant governor,  
106 attorney general, state auditor, and state treasurer concerning adjustments, if any, that should be  
107 made in the salary or other emoluments of office so that all ~~executive~~ elected and judicial  
108 ~~[officers, elected or appointed;]~~ officials receive equitable and consistent treatment regardless  
109 of whether salaries are fixed by the Legislature or by the Department of Human Resource  
110 Management; and

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

115 ~~[(4)]~~ (3) (a) The recommendation under Subsection ~~[(3)]~~ (2)(d) shall be based upon  
116 consultation with the Judicial Council and upon consideration for the career status of judges. It  
117 shall be based upon comparisons with salaries paid in other states and in comparable public  
118 and private employment within this state.

119 (b) In even-numbered years, the commission shall update its prior report, based upon  
120 the Consumer Price Index and other relevant factors, and shall forward its updated

121 recommendations as prescribed in this section.

122       ~~[(5)]~~ (4) The Judicial Council shall cooperate with the commission in providing  
123 information on the judicial branch of government and on the individual levels of court as  
124 requested. The director of personnel from the Office of the Court Administrator shall provide  
125 the salary comparison data referred to in this section to the legislative fiscal analyst and shall  
126 provide other staff assistance and support as requested by the legislative fiscal analyst.

127       Section 4. Section **67-19-15** is amended to read:

128       **67-19-15. Career service -- Exempt positions -- Schedules for civil service**  
129 **positions -- Coverage of career service provisions.**

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

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

135       (b) ~~[the agency heads]~~ appointed executives enumerated in Section 67-22-2, and  
136 commissioners designated as Schedule AB;

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

139       (d) employees who are in a confidential relationship to an agency head or  
140 commissioner and who report directly to, and are supervised by, a department head,  
141 commissioner, or deputy director of an agency or its equivalent, designated as Schedule AD;

142       (e) unskilled employees in positions requiring little or no specialized skill or training,  
143 designated as Schedule AE;

144       (f) part-time professional noncareer persons who are paid for any form of medical and  
145 other professional service and who are not engaged in the performance of administrative duties,  
146 designated as Schedule AF;

147       (g) attorneys in the attorney general's office who are under their own career service pay  
148 plan, designated as Schedule AG;

149       (h) teaching staff of all state institutions and patients and inmates employed in state  
150 institutions, designated as Schedule AH;

151       (i) persons appointed to a position vacated by an employee who has a right to return

152 under federal or state law or policy, designated as Schedule AI;

153 (j) noncareer employees compensated for their services on a seasonal or contractual  
154 basis who are hired for limited periods of less than nine consecutive months or who are  
155 employed on less than 1/2 time basis, designated as Schedule AJ;

156 (k) those employees in a personal and confidential relationship to elected officials,  
157 designated as Schedule AK;

158 (l) employees appointed to perform work of a limited duration not exceeding two years  
159 or to perform work with time-limited funding, designated as Schedule AL;

160 (m) employees of the Department of Community and Culture whose positions are  
161 designated as executive/professional positions by the executive director of the Department of  
162 Community and Culture with the concurrence of the executive director, and employees of the  
163 Governor's Office of Economic Development whose positions are designated as  
164 executive/professional positions by the director of the office, designated as Schedule AM;

165 (n) employees of the Legislature, designated as Schedule AN;

166 (o) employees of the judiciary, designated as Schedule AO;

167 (p) all judges in the judiciary, designated as Schedule AP;

168 (q) members of state and local boards and councils appointed by the governor and  
169 governing bodies of agencies, other local officials serving in an ex officio capacity, officers,  
170 faculty, and other employees of state universities and other state institutions of higher  
171 education, designated as Schedule AQ;

172 (r) employees who make statewide policy, designated as Schedule AR;

173 (s) any other employee whose appointment is required by statute to be career service  
174 exempt, designated as Schedule AS; and

175 (t) employees of the Department of Technology Services, designated as  
176 executive/professional positions by the executive director of the Department of Technology  
177 Services with the concurrence of the executive director, designated as Schedule AT.

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

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

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

182 (b) Schedule B is the competitive career service schedule, consisting of all positions

183 filled through competitive selection procedures as defined by the executive director.

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

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

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

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

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

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

198 (d) Unless otherwise provided by law, compensation for all other Schedule A  
199 employees shall be established by their appointing authorities, within ranges approved by, and  
200 after consultation with the executive director of the Department of Human Resource  
201 Management.

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

206 Section 5. Section ~~67-22-2~~ is amended to read:

207 **67-22-2. Compensation -- Other state officers.**

208 [~~(1) (a) The governor shall establish salaries for the following state officers within the~~  
209 ~~following salary ranges fixed by the Legislature:]~~

210 [~~\_\_\_\_\_ State Officer \_\_\_\_\_ Salary Range]~~

211 [~~Commissioner of Agriculture and Food — \$66,800 - \$90,600]~~

212 [~~Commissioner of Insurance — \$66,800 - \$90,600]~~

213 [~~Commissioner of the Labor Commission — \$66,800 - \$90,600]~~

214 [~~Director, Alcoholic Beverage Control~~]  
215 [~~Commission~~ \$66,800 - \$90,600]  
216 [~~Members, Board of Pardons and Parole~~ \$66,800 - \$90,600]  
217 [~~Executive Director, Department~~]  
218 [~~of Commerce~~ \$66,800 - \$90,600]  
219 [~~Executive Director, Commission on~~]  
220 [~~Criminal and Juvenile Justice~~ \$66,800 - \$90,600]  
221 [~~Adjutant General~~ \$66,800 - \$90,600]  
222 [~~Chair, Tax Commission~~ \$72,400 - \$97,600]  
223 [~~Commissioners, Tax Commission~~ \$72,400 - \$97,600]  
224 [~~Executive Director, Department of~~]  
225 [~~Community and Culture~~ \$72,400 - \$97,600]  
226 [~~Executive Director, Tax Commission~~ \$72,400 - \$97,600]  
227 [~~Chair, Public Service Commission~~ \$72,400 - \$97,600]  
228 [~~Commissioners, Public Service~~]  
229 [~~Commission~~ \$72,400 - \$97,600]  
230 [~~Executive Director, Department~~]  
231 [~~of Corrections~~ \$78,700 - \$106,200]  
232 [~~Commissioner, Department of Public Safety~~ \$78,700 - \$106,200]  
233 [~~Executive Director, Department of~~]  
234 [~~Natural Resources~~ \$78,700 - \$106,200]  
235 [~~Director, Governor's Office of Planning~~]  
236 [~~and Budget~~ \$78,700 - \$106,200]  
237 [~~Executive Director, Department of~~]  
238 [~~Administrative Services~~ \$78,700 - \$106,200]  
239 [~~Executive Director, Department of~~]  
240 [~~Human Resource Management~~ \$78,000 - \$106,200]  
241 [~~Executive Director, Department of~~]  
242 [~~Environmental Quality~~ \$78,700 - \$106,200]  
243 [~~Director, Governor's Office~~]  
244 [~~of Economic Development~~ \$78,700 - \$106,200]

245 ~~[Executive Director, Utah Science]~~  
 246 ~~[Technology and Research]~~  
 247 ~~[Governing Authority \$78,700 - \$106,200]~~  
 248 ~~[Executive Director, Department of]~~  
 249 ~~[Workforce Services \$85,700 - \$115,700]~~  
 250 ~~[Executive Director, Department of]~~  
 251 ~~[Health, Nonphysician \$85,700 - \$115,700]~~  
 252 ~~[Executive Director, Department]~~  
 253 ~~[of Human Services \$85,700 - \$115,700]~~  
 254 ~~[Executive Director, Department]~~  
 255 ~~[of Transportation \$85,700 - \$115,700]~~  
 256 ~~[Executive Director, Department]~~  
 257 ~~[of Information Technology]~~  
 258 ~~[Services \$85,700 - \$115,700]~~

259 ~~[(b) If the executive director of the Department of Health is a physician, the governor~~  
 260 ~~shall establish a salary within the highest physician salary range established by the Department~~  
 261 ~~of Human Resource Management.]~~

262 ~~[(c) The governor shall establish the salary for the commissioner of the Department of~~  
 263 ~~Financial Institutions to be no less than 110% and no more than 120% of the highest salary~~  
 264 ~~paid to any other employee of the Department of Financial Institutions.]~~

265 (1) As used in this section:

266 (a) "Appointed executive" means the:

267 (i) Commissioner of the Department of Agriculture and Food;

268 (ii) Commissioner of the Insurance Department;

269 (iii) Commissioner of the Labor Commission;

270 (iv) Director, Alcoholic Beverage Control Commission;

271 (v) Members, Board of Pardons and Parole;

272 (vi) Executive Director, Department of Commerce;

273 (vii) Executive Director, Commission on Criminal and Juvenile Justice;

274 (viii) Adjutant General;

275 (ix) Chair, State Tax Commission;

- 276 (x) Commissioners, State Tax Commission;
- 277 (xi) Executive Director, Department of Community and Culture;
- 278 (xii) Executive Director, State Tax Commission;
- 279 (xiii) Chair, Public Service Commission;
- 280 (xiv) Commissioners, Public Service Commission;
- 281 (xv) Executive Director, Department of Corrections;
- 282 (xvi) Commissioner, Department of Public Safety;
- 283 (xvii) Executive Director, Department of Natural Resources;
- 284 (xviii) Director, Governor's Office of Planning and Budget;
- 285 (xix) Executive Director, Department of Administrative Services;
- 286 (xx) Executive Director, Department of Human Resource Management;
- 287 (xxi) Executive Director, Department of Environmental Quality;
- 288 (xxii) Director, Governor's Office of Economic Development;
- 289 (xxiii) Executive Director, Utah Science Technology and Research Governing
- 290 Authority;
- 291 (xxiv) Executive Director, Department of Workforce Services;
- 292 (xxv) Executive Director, Department of Health, Nonphysician;
- 293 (xxvi) Executive Director, Department of Human Services;
- 294 (xxvii) Executive Director, Department of Transportation; and
- 295 (xxviii) Executive Director, Department of Information Technology Services.
- 296 (b) "Deputy" means the person who acts as the appointed executive's second in
- 297 command as determined by the Department of Human Resource Management.
- 298 (2) (a) The executive director of the Department of Human Resource Management
- 299 shall:
- 300 (i) before October 31 of each year, recommend to the governor a compensation plan for
- 301 the appointed executives; and
- 302 (ii) base those recommendations on market salary studies conducted by the Department
- 303 of Human Resource Management.
- 304 (b) (i) The Department of Human Resource Management shall determine the salary
- 305 range for the appointed executives by:
- 306 (A) identifying the salary ranges assigned to the appointed executive's deputy;

307 (B) designating the lowest minimum salary from those deputies' salary ranges as the  
308 minimum salary for the appointed executives' salary range; and

309 (C) designating 105% of the highest maximum salary range from those deputies' salary  
310 ranges as the maximum salary for the appointed executives' salary range.

311 (ii) If the deputy is a medical doctor, the Department of Human Resource Management  
312 may not consider that deputy's salary range in designating the salary range for appointed  
313 executives.

314 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), the governor shall establish a  
315 specific salary for each appointed executive within the range established under Subsection  
316 (2)(b).

317 (ii) If the executive director of the Department of Health is a physician, the governor  
318 shall establish a salary within the highest physician salary range established by the Department  
319 of Human Resource Management.

320 (iii) The governor may provide salary increases for appointed executives within the  
321 range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).

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

324 (c) The governor may develop standards and criteria for reviewing the appointed  
325 executives.

326 (4) Salaries for other Schedule A employees, as defined in Section 67-19-15, that are  
327 not provided for in this chapter, or in Title 67, Chapter 8, Utah Executive and Judicial Salary  
328 Act, shall be established as provided in Section 67-19-15.

329 ~~[(2)]~~ (5) (a) The Legislature fixes benefits for the [state officers outlined in Subsection  
330 (†)] appointed executives as follows:

331 (i) the option of participating in a state retirement system established by Title 49, Utah  
332 State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered  
333 by the State Retirement Office in accordance with the Internal Revenue Code and its  
334 accompanying rules and regulations;

335 (ii) health insurance;

336 (iii) dental insurance;

337 (iv) basic life insurance;

- 338 (v) unemployment compensation;
- 339 (vi) workers' compensation;
- 340 (vii) required employer contribution to Social Security;
- 341 (viii) long-term disability income insurance;
- 342 (ix) the same additional state-paid life insurance available to other noncareer service
- 343 employees;
- 344 (x) the same severance pay available to other noncareer service employees;
- 345 (xi) the same leave, holidays, and allowances granted to Schedule B state employees as
- 346 follows:
- 347 (A) sick leave;
- 348 (B) converted sick leave if accrued prior to January 1, 2014;
- 349 (C) educational allowances;
- 350 (D) holidays; and
- 351 (E) annual leave except that annual leave shall be accrued at the maximum rate
- 352 provided to Schedule B state employees;
- 353 (xii) the option to convert accumulated sick leave to cash or insurance benefits as
- 354 provided by law or rule upon resignation or retirement according to the same criteria and
- 355 procedures applied to Schedule B state employees;
- 356 (xiii) the option to purchase additional life insurance at group insurance rates according
- 357 to the same criteria and procedures applied to Schedule B state employees; and
- 358 (xiv) professional memberships if being a member of the professional organization is a
- 359 requirement of the position.
- 360 (b) Each department shall pay the cost of additional state-paid life insurance for its
- 361 executive director from its existing budget.
- 362 [~~(3)~~] (6) The Legislature fixes the following additional benefits:
- 363 (a) for the executive director of the State Tax Commission a vehicle for official and
- 364 personal use;
- 365 (b) for the executive director of the Department of Transportation a vehicle for official
- 366 and personal use;
- 367 (c) for the executive director of the Department of Natural Resources a vehicle for
- 368 commute and official use;

- 369 (d) for the Commissioner of Public Safety:
- 370 (i) an accidental death insurance policy if POST certified; and
- 371 (ii) a public safety vehicle for official and personal use;
- 372 (e) for the executive director of the Department of Corrections:
- 373 (i) an accidental death insurance policy if POST certified; and
- 374 (ii) a public safety vehicle for official and personal use;
- 375 (f) for the Adjutant General a vehicle for official and personal use; and
- 376 (g) for each member of the Board of Pardons and Parole a vehicle for commute and
- 377 official use.

378 ~~[(4) (a) The governor has the discretion to establish a specific salary for each office~~  
 379 ~~listed in Subsection (1), and, within that discretion, may provide salary increases within the~~  
 380 ~~range fixed by the Legislature.]~~

381 ~~[(b) The governor shall apply the same overtime regulations applicable to other FLSA~~  
 382 ~~exempt positions.]~~

383 ~~[(c) The governor may develop standards and criteria for reviewing the performance of~~  
 384 ~~the state officers listed in Subsection (1).]~~

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

388 **Section 6. Effective date.**

389 If approved by two-thirds of all the members elected to each house, this bill takes effect  
 390 upon approval by the governor, or the day following the constitutional time limit of Utah  
 391 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,  
 392 the date of veto override.

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**S.B. 196 - Executive Compensation Amendments**

**Fiscal Note**

2007 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations. Based on FY 2007 salaries, if this bill is enacted, the Governor could set the annual salaries of the state officers identified in UCA 67-22-2 between \$57,600 and \$136,450 (current annual salary levels range between \$66,800 and \$90,600, \$72,400 and 97,600, \$78,700 and \$106,200, and \$85,700 and \$115,700). Any increased costs due to compensation increases will depend upon actions of the Governor.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses or local governments. Any increases in compensation for the state officers identified in UCA 67-22-2 will depend upon actions of the Governor.

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*1/30/2007, 12:05:16 PM, Lead Analyst: Tennert, J.*

**Office of the Legislative Fiscal Analyst**