

**Representative Daniel McCay** proposes the following substitute bill:

**OFFICE OF THE STATE BOARD OF EDUCATION**

**EMPLOYMENT AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Howard A. Stephenson**

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

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to employees of the State Board of Education.

**Highlighted Provisions:**

This bill:

- ▶ addresses the career service status of employees of the State Board of Education;
- and
- ▶ designates employees of the State Board of Education who are exempt from the career service system as schedule AY.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**63I-2-267**, as last amended by Laws of Utah 2013, Chapter 278

**67-19-15**, as last amended by Laws of Utah 2015, Chapter 401

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

27 Section 1. Section **63I-2-267** is amended to read:

28 **63I-2-267. Repeal dates -- Title 67.**

29 Subsection [67-19-15\(1\)\(q\)\(iii\)](#) is repealed on October 1, 2016.

30 Section 2. Section **67-19-15** is amended to read:

31 **67-19-15. Career service -- Exempt positions -- Schedules for civil service**  
32 **positions -- Coverage of career service provisions.**

33 (1) Except as otherwise provided by law or by rules and regulations established for  
34 federally aided programs, the following positions are exempt from the career service provisions  
35 of this chapter and are designated under the following schedules:

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

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

40 (c) schedule AC includes all employees and officers in:

41 (i) the office and at the residence of the governor;

42 (ii) the Utah Science Technology and Research Initiative (USTAR);

43 (iii) the Public Lands Policy Coordinating Council;

44 (iv) the Office of the State Auditor; and

45 (v) the Office of the State Treasurer;

46 (d) schedule AD includes employees who:

47 (i) are in a confidential relationship to an agency head or commissioner; and

48 (ii) report directly to, and are supervised by, a department head, commissioner, or  
49 deputy director of an agency or its equivalent;

50 (e) schedule AG includes employees in the Office of the Attorney General who are  
51 under their own career service pay plan under Sections [67-5-7](#) through [67-5-13](#);

52 (f) schedule AH includes:

53 (i) teaching staff of all state institutions; and

54 (ii) employees of the Utah Schools for the Deaf and the Blind who are:

55 (A) educational interpreters as classified by the department; or

56 (B) educators as defined by Section [53A-25b-102](#);

- 57 (g) schedule AN includes employees of the Legislature;
- 58 (h) schedule AO includes employees of the judiciary;
- 59 (i) schedule AP includes all judges in the judiciary;
- 60 (j) schedule AQ includes:
  - 61 (i) members of state and local boards and councils appointed by the governor and
  - 62 governing bodies of agencies;
  - 63 (ii) a water commissioner appointed under Section 73-5-1;
  - 64 (iii) other local officials serving in an ex officio capacity; and
  - 65 (iv) officers, faculty, and other employees of state universities and other state
  - 66 institutions of higher education;
- 67 (k) schedule AR includes employees in positions that involve responsibility:
  - 68 (i) for determining policy;
  - 69 (ii) for determining the way in which a policy is carried out; or
  - 70 (iii) of a type not appropriate for career service, as determined by the agency head with
  - 71 the concurrence of the executive director;
- 72 (l) schedule AS includes any other employee:
  - 73 (i) whose appointment is required by statute to be career service exempt;
  - 74 (ii) whose agency is not subject to this chapter; or
  - 75 (iii) whose agency has authority to make rules regarding the performance,
  - 76 compensation, and bonuses for its employees;
- 77 (m) schedule AT includes employees of the Department of Technology Services,
- 78 designated as executive/professional positions by the executive director of the Department of
- 79 Technology Services with the concurrence of the executive director;
- 80 (n) schedule AU includes patients and inmates employed in state institutions;
- 81 (o) employees of the Department of Workforce Services, designated as schedule AW:
  - 82 (i) who are temporary employees that are federally funded and are required to work
  - 83 under federally qualified merit principles as certified by the director; or
  - 84 (ii) for whom substantially all of their work is repetitive, measurable, or transaction
  - 85 based, and who voluntarily apply for and are accepted by the Department of Workforce
  - 86 Services to work in a pay for performance program designed by the Department of Workforce
  - 87 Services with the concurrence of the executive director; [~~and~~]

88 (p) for employees in positions that are temporary, seasonal, time limited, funding  
89 limited, or variable hour in nature, under schedule codes and parameters established by the  
90 department by administrative rule[-]; and

91 (q) schedule AY includes each employee of the State Board of Education who:

92 (i) is exempt from the career service provisions of this chapter;

93 (ii) is not in a position designated as schedule AH; and

94 (iii) is not an employee of the State Office of Rehabilitation.

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

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

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

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

100 (i) all positions filled through competitive selection procedures as defined by the  
101 executive director; or

102 (ii) positions filled through a department approved on-the-job examination intended to  
103 appoint a qualified person with a disability or a veteran as defined in Section 71-10-1.

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

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

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

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

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

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

119 (d) Unless otherwise provided by law, compensation for all other schedule A  
120 employees shall be established by their appointing authorities, within ranges approved by, and  
121 after consultation with the executive director of the Department of Human Resource  
122 Management.

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

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

126 (b) does not elect to convert to career service exempt status in accordance with a rule  
127 made by the department.

128 (6) An employee who is in a position designated as schedule AY and holds career  
129 service status on June 30, 2016, shall retain the career service status if the employee does not  
130 elect to convert to career service exempt status in accordance with rules made by the State  
131 Board of Education.

132 Section 3. **Effective date.**

133 This bill takes effect on July 1, 2016.