

HB0404S01 compared with HB0404

{Omitted text} shows text that was in HB0404 but was omitted in HB0404S01

inserted text shows text that was not in HB0404 but was inserted into HB0404S01

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1 {**Pay for Performance Management System**
 } **Government Employment Amendments**

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Gricius

Senate Sponsor:

2
3 **LONG TITLE**

4 **General Description:**

5 This bill amends provisions related to {~~the pay for performance management system~~} government
6 employment.

6 **Highlighted Provisions:**

7 This bill:

8 ▶ allows an independent entity to opt into participating in the pay for performance management
9 system;

10 ▶ amends which employees of eligible agencies may participate in the pay for performance
11 management system; {and}

12 ▶ **repeals Section 63A-17-111; and**

12 ▶ makes technical and conforming changes.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

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17 None

19 AMENDS:

20 **63A-17-106** , as last amended by Laws of Utah 2024, Chapter 397 , as last amended by Laws of
Utah 2024, Chapter 397

21 **63A-17-112** , as last amended by Laws of Utah 2024, Chapter 397 , as last amended by Laws of
Utah 2024, Chapter 397

22 **63A-17-301** , as last amended by Laws of Utah 2024, Chapter 397 , as last amended by Laws of
Utah 2024, Chapter 397

23 REPEALS:

24 **63A-17-111 , as enacted by Laws of Utah 2021, Chapter 192 , as enacted by Laws of Utah
2021, Chapter 192**

25

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

27 Section 1. Section **63A-17-106** is amended to read:

28 **63A-17-106. Responsibilities of the director.**

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

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

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

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

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

37 (6) The director shall:

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

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

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

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

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- 43 (b) design and administer the state pay plan;
- 44 (c) design and administer the state classification system and procedures for determining schedule assignments;
- 46 (d) design and administer the state recruitment and selection system;
- 47 (e) administer agency human resource practices and ensure compliance with federal law, state law, and state human resource rules, including equal employment opportunity;
- 49 (f) consult with agencies on decisions concerning employee corrective action and discipline;
- 51 (g) maintain central personnel records;
- 52 (h) perform those functions necessary to implement this chapter unless otherwise assigned or prohibited;
- 54 (i) perform duties assigned by the governor, executive director, or statute;
- 55 (j) make rules for human resource management, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 57 (k) establish and maintain a management information system that will furnish the governor, the Legislature, and agencies with current information on authorized positions, payroll, and related matters concerning state human resources;
- 60 (l) conduct research and planning activities to:
 - 61 (i) determine and prepare for future state human resource needs;
 - 62 (ii) develop methods for improving public human resource management; and
 - 63 (iii) propose needed policy changes to the governor;
- 64 (m) study the character, causes, and extent of discrimination in state employment and develop plans for its elimination through programs consistent with federal and state laws governing equal employment opportunity in employment;
- 67 (n) establish compensation policies and procedures for early voluntary retirement;
- 68 (o) confer with the heads of other agencies about human resource policies and procedures;
- 70 (p) submit an annual report to the executive director, the governor, and the Legislature; and
- 72 (q) assist with the development of a vacant position report required under Subsection 63J-1-201(2)(b) (vi).
- 74 (7)

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- (a) After consultation with the executive director, the governor, and the heads of other agencies, the director shall establish and coordinate statewide training programs, including training described in Subsection (7)(e).
- 77 (b) The programs developed under this Subsection (7) shall have application to more than one agency.
- 79 (c) The division may not establish training programs that train employees to perform highly specialized or technical jobs and tasks.
- 81 (d) The division shall ensure that any training program described in this Subsection (7) complies with Title 63G, Chapter 22, State Training and Certification Requirements.
- 83 (e)
- (i) As used in this Subsection (7)(e):
- 84 (A) "Employee" [-]means [~~the same as that term is defined in Section 63A-17-112~~] an employee included in an agency's pay for performance policy adopted in accordance with Section 63A-17-112.
- 87 (B) "Supervisor" means an individual in a position at an agency, as defined in Section 63A-17-112, that requires the regular supervision and performance evaluation of an employee.
- 90 (ii) A supervisor shall attend the training:
- 91 (A) within six months of being promoted or hired to the position of supervisor; and
- 92 (B) at least annually.
- 93 (iii) A supervisor's completion of training and effective use of training information and principles shall be considered in an evaluation of the supervisor's job performance.
- 96 (iv) The training shall include:
- 97 (A) effective employee management and evaluation methods based on the pay for performance management system described in Section 63A-17-112;
- 99 (B) instruction to improve supervisor and employee communications;
- 100 (C) best practices for recognizing and retaining high-performing employees;
- 101 (D) best practices for addressing poor-performing employees; and
- 102 (E) any other information and principles identified by the division to improve management or organizational effectiveness.
- 104 (8)
- (a)
- (i) The division may collect fees for training as authorized by this Subsection (8).

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- 105 (ii) Training funded from General Fund appropriations shall be treated as a separate program within
the department budget.
- 107 (iii) All money received from fees under this section will be accounted for by the department as a
separate user driven training program.
- 109 (iv) The user training program includes the costs of developing, procuring, and presenting training
and development programs, and other associated costs for these programs.
- 112 (b)
- (i) Funds remaining at the end of the fiscal year in the user training program are nonlapsing.
- 114 (ii) Each year, as part of the appropriations process, the Legislature shall review the amount of
nonlapsing funds remaining at the end of the fiscal year and may, by statute, require the department
to lapse a portion of the funds.
- 117 (9) Rules described in Subsection (6)(j) shall provide for at least three work days of paid bereavement
leave for an employee:
- 119 (a) following the end of the employee's pregnancy by way of miscarriage or stillbirth; or
- 120 (b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:
- 122 (i) the employee is the individual's spouse or partner;
- 123 (ii)
- (A) the employee is the individual's former spouse or partner; and
- 124 (B) the employee would have been a biological parent of a child born as a result of the pregnancy;
- 126 (iii) the employee provides documentation to show that the individual intended for the employee to be
an adoptive parent, as that term is defined in Section 78B-6-103, of a child born as a result of the
pregnancy; or
- 129 (iv) under a valid gestational agreement in accordance with Title 78B, Chapter 15, Part 8, Gestational
Agreement, the employee would have been a parent of a child born as a result of the pregnancy.
- 136 Section 2. Section **63A-17-112** is amended to read:
- 137 **63A-17-112. Pay for performance management system -- Employees paid for performance.**
- 135 (1) As used in this section:
- 136 (a)
- (i) "Agency" means, except as provided in Subsection [~~(1)(a)(ii)~~] (1)(a)(iii), the same as that term is
defined in Section 63A-17-102.

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(ii) "Agency" includes an independent entity that has decided to participate in the pay for performance management system in accordance with Subsection (6)(a).

140 [~~(ii)~~] (iii) "Agency" does not include:

141 (A) [-]the State Board of Education[-] ;

142 (B) [-]the Office of the State Treasurer[-] ;

143 (C) [-]Office of the State Auditor[-] ;

144 (D) [-]Office of the State Attorney General[-] ;

145 (E) [-]Utah System of Higher Education[-] ;

146 (F) [-]the Legislature[-] ;

147 (G) the judiciary[-] ; or[-]

148 (H) [~~as defined in Section 63E-1-102,~~] an independent entity that chooses not to participate in the pay for performance management system under this section.

150 (b)

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

151 (ii) "Employee" [~~does not include~~] includes the following individuals only if the agency employing the individuals determines that the individuals may participate in the agency's pay for performance policy:

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

155 [~~(B)~~] (A) an individual in a position that is not eligible to receive a retirement benefit under Title 49, Utah State Retirement and Insurance Benefit Act; or

157 [~~(C)~~] (B) an individual that an agency hires for a time-limited position that will last fewer than 12 consecutive months.

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

160 [~~(e)~~] (d) "Pay for performance" means a plan for incentivizing an employee to meet or exceed production or performance goals, in which the plan is well-defined before work begins, specific goals and targets for the employee are determined, and measurement procedures are in place.

164 [~~(d)~~] (e) "Pay for performance management system" means the system described in Subsection (2).

166 (2) The division shall [~~establish and~~] make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, [~~make rules~~]for the administration of a pay for performance management system.

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

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- 170 (a) guidelines and criteria for an agency to adopt pay for performance policies and administer pay based
on an employee's performance in furtherance of the agency's mission;
- 173 (b) employee performance ratings;
- 174 (c) requirements for written employee performance standards and expectations;
- 175 (d) supervisor verbal and written feedback based on the standards of performance and behavior outlined
in an employee's performance plan; and
- 177 (e) quarterly written evaluation of an employee's performance.
- 178 (4) In consultation with the division, [~~no later than July 1, 2023,~~]each agency shall:
- 179 (a) adopt and maintain pay for performance policies based on the performance management system; and
- 181 (b) subject to available funds and as necessary, adjust an employee's wage to reflect:
- 182 (i) subject to Subsection (5), [~~for a classified service employee,~~]the salary range [~~of the position~~
~~classified plan~~]for the employee's position; and
- 184 (ii) an increase, decrease, or no change in the employee's wage:
- 185 (A) commensurate to an employee's performance as reflected by the employee's evaluation conducted
in accordance with the pay for performance management system; and
- 188 (B) in an amount that is in accordance with the guidelines and criteria established for a wage change in
the pay for performance management system.
- 190 (5) [~~It~~] The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative
Rulemaking Act, [~~the division shall make rules~~]authorizing [~~a classified service~~] an employee
to receive a wage that exceeds the salary range of the [~~classified service~~]employee's position
[~~classified plan~~]if warranted based on the [~~classified~~]employee's performance rating.
- 195 (6)
- (a) An independent entity may participate in the pay for performance management system by providing
written notice to the division that:
- 197 (i) states the intent of the independent entity to participate in the system; and
- 198 (ii) indicates that the independent entity agrees to comply with Subsection (6)(b).
- 199 (b) An independent participating in the pay for performance management system shall comply with:
- 201 (i) the provisions of this section; and
- 202 (ii) the rules and policies of the division relating to participation in the pay for performance
management system.
- 208 Section 3. Section **63A-17-301** is amended to read:

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- 209 **63A-17-301. Career service -- Exempt positions -- Schedules for civil service positions --**
210 **Coverage of career service provisions.**
- 207 (1) Except as provided in Subsection (3)(d), the following positions are exempt from the career service
 provisions of this chapter and are designated under the following schedules:
- 210 (a) schedule AA includes the governor, members of the Legislature, and all other elected state officers;
- 212 (b) schedule AB includes appointed executives and board or commission executives enumerated in
 Section 67-22-2;
- 214 (c) schedule AC includes all employees and officers in:
- 215 (i) the office and at the residence of the governor;
- 216 (ii) the Public Lands Policy Coordinating Office;
- 217 (iii) the Office of the State Auditor; and
- 218 (iv) the Office of the State Treasurer;
- 219 (d) schedule AD includes employees who:
- 220 (i) are in a confidential relationship to an agency head or commissioner; and
- 221 (ii) report directly to, and are supervised by, a department head, commissioner, or deputy director of an
 agency or its equivalent;
- 223 (e) schedule AE includes each employee of the State Board of Education that the State Board of
 Education designates as exempt from the career service provisions of this chapter;
- 226 (f) schedule AG includes employees in the Office of the Attorney General who are under their own
 career service pay plan under Sections 67-5-7 through 67-5-13;
- 228 (g) schedule AH includes:
- 229 (i) teaching staff of all state institutions; and
- 230 (ii) employees of the Utah Schools for the Deaf and the Blind who are:
- 231 (A) educational interpreters as classified by the division; or
- 232 (B) educators as defined by Section 53E-8-102;
- 233 (h) schedule AN includes employees of the Legislature;
- 234 (i) schedule AO includes employees of the judiciary;
- 235 (j) schedule AP includes all judges in the judiciary;
- 236 (k) schedule AQ includes:
- 237 (i) members of state and local boards and councils appointed by the governor and governing bodies of
 agencies;

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- 239 (ii) a water commissioner appointed under Section 73-5-1;
- 240 (iii) other local officials serving in an ex officio capacity; and
- 241 (iv) officers, faculty, and other employees of state universities and other state institutions of higher
education;
- 243 (l) schedule AR includes employees in positions that involve responsibility:
- 244 (i) for determining policy;
- 245 (ii) for determining the way in which a policy is carried out; or
- 246 (iii) of a type not appropriate for career service, as determined by the agency head with the concurrence
of the director;
- 248 (m) schedule AS includes any other employee:
- 249 (i) whose appointment is required by statute to be career service exempt;
- 250 (ii) whose agency is not subject to this chapter; or
- 251 (iii) whose agency has authority to make rules regarding the performance, compensation, and bonuses
for its employees;
- 253 (n) schedule AT includes employees of the Division of Technology Services, designated as executive/
professional positions by the director of the Division of Technology Services with the concurrence
of the director of the division;
- 256 (o) schedule AU includes patients and inmates employed in state institutions;
- 257 (p) employees of the Department of Workforce Services, designated as schedule AW:
- 258 (i) who are temporary employees that are federally funded and are required to work under federally
qualified merit principles as certified by the director; or
- 260 (ii) for whom substantially all of their work is repetitive, measurable, or transaction based, and who
voluntarily apply for and are accepted by the Department of Workforce Services to work in a pay
for performance program designed by the Department of Workforce Services with the concurrence
of the director of the division;
- 265 (q) subject to Subsection (6), schedule AX includes employees in positions that:
- 266 (i) require the regular supervision and performance evaluation of one or more other employees; and
- 268 (ii) are not designated exempt from career service under any other schedule described in this Subsection
(1); and
- 270

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- (r) for employees in positions that are temporary, seasonal, time limited, funding limited, or variable hour in nature, under schedule codes and parameters established by the division by administrative rule.
- 273 (2) The civil service shall consist of two schedules as follows:
- 274 (a)
- (i) Schedule A is the schedule consisting of positions under Subsection (1).
- 275 (ii) Removal from any appointive position under schedule A, unless otherwise regulated by statute, is at the pleasure of the appointing officers without regard to tenure.
- 278 (b) Schedule B is the competitive career service schedule, consisting of:
- 279 (i) all positions filled through competitive selection procedures as defined by the director; or
- 281 (ii) positions filled through a division approved on-the-job examination intended to appoint a qualified person with a disability, or a veteran in accordance with Title 71A, Chapter 2, Veterans Preference.
- 284 (3)
- (a) The director, after consultation with the heads of concerned executive branch departments and agencies and with the approval of the governor, shall allocate positions to the appropriate schedules under this section.
- 287 (b) Agency heads shall make requests and obtain approval from the director before changing the schedule assignment and tenure rights of any position.
- 289 (c) Unless the director's decision is reversed by the governor, when the director denies an agency's request, the director's decision is final.
- 291 (d)
- (i) An agency may file a request with the division[-] :
- 292 (A) to keep a position scheduled as a schedule B position as a schedule B position; or
- 294 (B) to reschedule a position that is scheduled as a schedule A position as a schedule B position.
- 296 (ii) The division shall review a request filed under Subsection (3)(d)(i) and approve the request only if the exception is necessary to conform to a requirement imposed as a condition precedent to receipt of federal funds or grant of a tax benefit under federal law.
- 300 (4)
- (a) Compensation for employees of the Legislature shall be established by the directors of the legislative offices in accordance with Section 36-12-7.

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- (b) Compensation for employees of the judiciary shall be established by the state court administrator in accordance with Section 78A-2-107.
- 304 (c) Compensation for officers, faculty, and other employees of state universities and institutions of higher education shall be established as provided in Title 53B, Chapter 1, Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of Higher Education.
- 308 (d) Unless otherwise provided by law, compensation for all other schedule A employees shall be established by their appointing authorities, within ranges approved by, and after consultation with the director.
- 311 (5) An employee who is in a position designated schedule AC and who holds career service status on June 30, 2010, shall retain the career service status if the employee:
- 313 (a) remains in the position that the employee is in on June 30, 2010; and
- 314 (b) does not elect to convert to career service exempt status in accordance with a rule made by the division.
- 316 (6)
- (a) An employee who is hired for a schedule AX position on or after July 1, 2022, is exempt from career service status.
- 318 (b) An employee who before July 1, 2022, is a career service employee employed in a schedule B position that is rescheduled to a schedule AX position on July 1, 2022, shall maintain the employee's career service status for the duration of the employee's employment in the same position unless the employee voluntarily converts to career service exempt status before July 1, 2023.
- 323 (c)
- (i) Subject to Subsection (6)(c)(ii), an employee is exempt from career service status if:
- 325 (A) before July 1, 2022, the employee was a probationary employee in a schedule B position and had not completed the probationary period; and
- 327 (B) on July 1, 2022, the schedule B position in which the probationary employee is employed is rescheduled as a scheduled AX position.
- 329 (ii) An employee described in Subsection (6)(c)(i):
- 330 (A) is not a probationary employee on or after July 1, 2022; and
- 331 (B) is exempt from career service status on and after July 1, 2022, unless the employee changes employment to a schedule B position.
- 333

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

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

343 Section 4. **Repealer.**

This Bill Repeals:

344 This bill repeals:

345 Section **63A-17-111, Teleworking progress report.**

346 Section 5. **Effective date.**

This bill takes effect on May 7, 2025.

2-18-25 11:41 AM