

1 **Pay for Performance Management System Amendments**

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Gricius

Senate Sponsor: Ronald M. Winterton

3 **LONG TITLE**

4 **General Description:**

5 This bill amends provisions related to the pay for performance management system.

6 **Highlighted Provisions:**

7 This bill:

- 8 ▶ allows an independent entity to opt into participating in the pay for performance
- 9 management system;
- 10 ▶ amends which employees of eligible agencies may participate in the pay for performance
- 11 management system; and
- 12 ▶ makes technical and conforming changes.

13 **Money Appropriated in this Bill:**

14 None

15 **Other Special Clauses:**

16 None

17 **Utah Code Sections Affected:**

18 AMENDS:

19 **63A-17-106**, as last amended by Laws of Utah 2024, Chapter 397

20 **63A-17-112**, as last amended by Laws of Utah 2024, Chapter 397

21 **63A-17-301**, as last amended by Laws of Utah 2024, Chapter 397

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

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

25 **63A-17-106 . Responsibilities of the director.**

- 26 (1) As used in this section, "miscarriage" means the spontaneous or accidental loss of a
- 27 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
- 29 the statewide human resource management system.
- 30 (3) Except as provided in Section 63A-17-201, an agency may not perform human resource

- 31 functions without the consent of the director.
- 32 (4) Statewide human resource management rules made by the division in accordance with
33 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take precedence if
34 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
36 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
39 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;
- 43 (b) design and administer the state pay plan;
- 44 (c) design and administer the state classification system and procedures for determining
45 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,
48 state law, and state human resource rules, including equal employment opportunity;
- 49 (f) consult with agencies on decisions concerning employee corrective action and
50 discipline;
- 51 (g) maintain central personnel records;
- 52 (h) perform those functions necessary to implement this chapter unless otherwise
53 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
56 3, Utah Administrative Rulemaking Act;
- 57 (k) establish and maintain a management information system that will furnish the
58 governor, the Legislature, and agencies with current information on authorized
59 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

- 65 develop plans for its elimination through programs consistent with federal and state
66 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
69 procedures;
- 70 (p) submit an annual report to the executive director, the governor, and the Legislature;
71 and
- 72 (q) assist with the development of a vacant position report required under Subsection
73 63J-1-201(2)(b)(vi).
- 74 (7)(a) After consultation with the executive director, the governor, and the heads of
75 other agencies, the director shall establish and coordinate statewide training
76 programs, including training described in Subsection (7)(e).
- 77 (b) The programs developed under this Subsection (7) shall have application to more
78 than one agency.
- 79 (c) The division may not establish training programs that train employees to perform
80 highly specialized or technical jobs and tasks.
- 81 (d) The division shall ensure that any training program described in this Subsection (7)
82 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]~~
85 an employee included in an agency's pay for performance policy adopted in
86 accordance with Section 63A-17-112.
- 87 (B) "Supervisor" means an individual in a position at an agency, as defined in
88 Section 63A-17-112, that requires the regular supervision and performance
89 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
94 and principles shall be considered in an evaluation of the supervisor's job
95 performance.
- 96 (iv) The training shall include:
- 97 (A) effective employee management and evaluation methods based on the pay for
98 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
103 management or organizational effectiveness.
- 104 (8)(a)(i) The division may collect fees for training as authorized by this Subsection (8).
105 (ii) Training funded from General Fund appropriations shall be treated as a separate
106 program within the department budget.
107 (iii) All money received from fees under this section will be accounted for by the
108 department as a separate user driven training program.
109 (iv) The user training program includes the costs of developing, procuring, and
110 presenting training and development programs, and other associated costs for
111 these programs.
- 112 (b)(i) Funds remaining at the end of the fiscal year in the user training program are
113 nonlapsing.
114 (ii) Each year, as part of the appropriations process, the Legislature shall review the
115 amount of nonlapsing funds remaining at the end of the fiscal year and may, by
116 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
118 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
121 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
125 the pregnancy;
126 (iii) the employee provides documentation to show that the individual intended for
127 the employee to be an adoptive parent, as that term is defined in Section
128 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,
130 Part 8, Gestational Agreement, the employee would have been a parent of a child
131 born as a result of the pregnancy.

132 Section 2. Section **63A-17-112** is amended to read:

133 **63A-17-112 . Pay for performance management system -- Employees paid for**
 134 **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
 137 same as that term is defined in Section 63A-17-102.

138 (ii) "Agency" includes an independent entity that has decided to participate in the pay
 139 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,]~~ (H) an independent entity that chooses not to
 149 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
 152 agency employing the individuals determines that the individuals may participate
 153 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
 156 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
 158 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
 161 exceed production or performance goals, in which the plan is well-defined before
 162 work begins, specific goals and targets for the employee are determined, and
 163 measurement procedures are in place.

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

166 (2) The division shall ~~[establish and]~~ make rules, in accordance with Title 63G, Chapter 3,

- 167 Utah Administrative Rulemaking Act, ~~[make rules]~~for the administration of a pay for
168 performance management system.
- 169 (3) The pay for performance management system shall include:
- 170 (a) guidelines and criteria for an agency to adopt pay for performance policies and
171 administer pay based on an employee's performance in furtherance of the agency's
172 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
176 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
180 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~~
183 ~~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
186 evaluation conducted in accordance with the pay for performance management
187 system; and
- 188 (B) in an amount that is in accordance with the guidelines and criteria established
189 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
191 Administrative Rulemaking Act, ~~[the division shall make rules]~~authorizing ~~[a classified~~
192 ~~service]~~ an employee to receive a wage that exceeds the salary range of the ~~[classified~~
193 ~~service]~~employee's position ~~[classified plan]~~if warranted based on the ~~[classified]~~
194 employee's performance rating.
- 195 (6)(a) An independent entity may participate in the pay for performance management
196 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
200 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
 203 performance management system.

204 Section 3. Section **63A-17-301** is amended to read:

205 **63A-17-301 . Career service -- Exempt positions -- Schedules for civil service**
 206 **positions -- Coverage of career service provisions.**

- 207 (1) Except as provided in Subsection (3)(d), the following positions are exempt from the
 208 career service provisions of this chapter and are designated under the following
 209 schedules:
- 210 (a) schedule AA includes the governor, members of the Legislature, and all other elected
 211 state officers;
- 212 (b) schedule AB includes appointed executives and board or commission executives
 213 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
 222 deputy director of an agency or its equivalent;
- 223 (e) schedule AE includes each employee of the State Board of Education that the State
 224 Board of Education designates as exempt from the career service provisions of this
 225 chapter;
- 226 (f) schedule AG includes employees in the Office of the Attorney General who are under
 227 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
- 238 governing bodies of agencies;
- 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
- 242 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
- 247 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,
- 252 compensation, and bonuses for its employees;
- 253 (n) schedule AT includes employees of the Division of Technology Services, designated
- 254 as executive/professional positions by the director of the Division of Technology
- 255 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
- 259 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
- 261 based, and who voluntarily apply for and are accepted by the Department of
- 262 Workforce Services to work in a pay for performance program designed by the
- 263 Department of Workforce Services with the concurrence of the director of the
- 264 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
- 267 employees; and
- 268 (ii) are not designated exempt from career service under any other schedule described

- 269 in this Subsection (1); and
- 270 (r) for employees in positions that are temporary, seasonal, time limited, funding limited,
271 or variable hour in nature, under schedule codes and parameters established by the
272 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
276 regulated by statute, is at the pleasure of the appointing officers without regard to
277 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
280 director; or
- 281 (ii) positions filled through a division approved on-the-job examination intended to
282 appoint a qualified person with a disability, or a veteran in accordance with Title
283 71A, Chapter 2, Veterans Preference.
- 284 (3)(a) The director, after consultation with the heads of concerned executive branch
285 departments and agencies and with the approval of the governor, shall allocate
286 positions to the appropriate schedules under this section.
- 287 (b) Agency heads shall make requests and obtain approval from the director before
288 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
290 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;
293 or
- 294 (B) to reschedule a position that is scheduled as a schedule A position as a
295 schedule B position.
- 296 (ii) The division shall review a request filed under Subsection (3)(d)(i) and approve
297 the request only if the exception is necessary to conform to a requirement imposed
298 as a condition precedent to receipt of federal funds or grant of a tax benefit under
299 federal law.
- 300 (4)(a) Compensation for employees of the Legislature shall be established by the
301 directors of the legislative offices in accordance with Section 36-12-7.
- 302 (b) Compensation for employees of the judiciary shall be established by the state court

- 303 administrator in accordance with Section 78A-2-107.
- 304 (c) Compensation for officers, faculty, and other employees of state universities and
305 institutions of higher education shall be established as provided in Title 53B, Chapter
306 1, Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2,
307 Institutions of Higher Education.
- 308 (d) Unless otherwise provided by law, compensation for all other schedule A employees
309 shall be established by their appointing authorities, within ranges approved by, and
310 after consultation with the director.
- 311 (5) An employee who is in a position designated schedule AC and who holds career service
312 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
315 made by the division.
- 316 (6)(a) An employee who is hired for a schedule AX position on or after July 1, 2022, is
317 exempt from career service status.
- 318 (b) An employee who before July 1, 2022, is a career service employee employed in a
319 schedule B position that is rescheduled to a schedule AX position on July 1, 2022,
320 shall maintain the employee's career service status for the duration of the employee's
321 employment in the same position unless the employee voluntarily converts to career
322 service exempt status before July 1, 2023.
- 323 (c)(i) Subject to Subsection (6)(c)(ii), an employee is exempt from career service
324 status if:
- 325 (A) before July 1, 2022, the employee was a probationary employee in a schedule
326 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
328 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
332 employee changes employment to a schedule B position.
- 333 (d) The division shall disseminate to each employee described in Subsection (6)(b)
334 information on financial and other incentives for voluntary conversion to
335 career-service exempt status.
- 336 (e) An agency[~~, as defined in Section 63A-17-112,~~] may adopt a policy, created in

337 consultation with the division, for agency review of recommendations that schedule
338 AX employees be suspended, demoted, or dismissed from employment.

339 Section 4. **Effective Date.**

340 This bill takes effect on May 7, 2025.