

OFFICE OF THE  
LEGISLATIVE  
FISCAL  
ANALYST

JONATHAN C. BALL  
DIRECTOR

**MEMORANDUM FOR:**

- **Governor Gary Herbert**
- **Rep. Brad Wilson, Speaker of the House of Representatives**
- **Sen. Stuart Adams, President of the Senate**

**FROM:** David Clark, EJCC Chair  
Sam Alba, EJCC Vice Chair

**DATE:** September 12, 2019

**SUBJECT:** Elected Official and Judicial Compensation Commission  
2019 report

Governing statute for the Elected Official and Judicial Compensation Commission (UCA §67-8-5) requires an annual report to the Governor, President of the Senate, and the Speaker of the House of Representatives. The report includes actions taken by the commission and an in-depth review of compensation for both elected officials and the judiciary. The EJCC provides the report for this year and hopes you find it informative and it assists you in setting appropriate compensations for the positions reviewed. The commission makes the following recommendations:

Recommendation One: The Legislature draft a bill that address the statutory issues outlined in the report

Recommendation Two: The Legislature continue to appropriate a Cost of Living Adjustment for each Elected Official equal to that of all state employees. This recommendation does not include any changes to benefits.

Recommendation Three: The Legislature continue to appropriate a cost of living adjustment for the Judiciary equal to that of all state employees. This recommendation does not include any changes to benefits.

UTAH STATE CAPITOL COMPLEX  
HOUSE BUILDING, SUITE W310  
P.O. BOX 145310  
SALT LAKE CITY, UTAH

PHONE: (801) 538-1034  
FAX: (801) 538-1692

WEBSITE:  
[WWW.LE.UTAH.GOV/LFA](http://WWW.LE.UTAH.GOV/LFA)



This page intentionally left blank.



REPORT OF THE UTAH  
ELECTED OFFICIAL AND  
JUDICIAL COMPENSATION  
COMMISSION

2019

To the Honorable Governor Gary R. Herbert, House Speaker Brad Wilson, Senate President Stuart Adams, and members of the Executive Appropriations Committee.

As required by Utah law (Utah Code Ann. §67-8-5), the Elected Official and Judicial Compensation Commission (EJCC) is pleased to submit its 2019 Report on elected official and judicial compensation.

The purpose of this report is to inform both the Executive and Legislative branches on the actions of the EJCC during calendar year 2019 and provide recommendations on compensation for both the Elected Officials and the Judiciary.

The report is divided into four parts –

1. A brief introduction on the Commission and a report of all action taken by the Commission during calendar year 2019;
2. Discussion regarding current statute and a proposed bill including substantive and non-substantive changes.
3. Discussion on Elected Official Compensation; and
4. Discussion on Judicial Compensation.

The report will outline the following three recommendations made by the Commission:

Recommendation One: The Legislature draft a bill that address the statutory issues outlined in this report.

Recommendation Two: The Legislature continue to appropriate a cost of living adjustment (COLA) for each Elected Official equal to that of all state employees. This recommendation does not include any changes to benefits.

Recommendation Three: The Legislature continue to appropriate a cost of living adjustment for the Judiciary equal to that of all state employees. This recommendation does not include any changes to benefits.

The members of the EJCC are motivated solely by public service. By law, none of the EJCC members may be employed by the executive or judicial branches of government. Our conclusions and recommendations were made unanimously and are, in our view, in the best interests of the State of Utah.

We appreciate the opportunity to serve the citizens of the State of Utah.

Sincerely,

## Contents

Elected Official and Judicial Compensation Commission Members .....	2
Part one – Introduction and EJCC Action .....	3
Introduction .....	3
Commission Action .....	3
Part Two – Potential Bill.....	4
Utah Elected Official and Judicial Salary Act.....	4
Part Three – Elected Officials.....	5
EJCC Recommendations for Utah Elected Official Compensation.....	5
Part Four – Judicial.....	6
EJCC Recommendations for Utah Judicial Salaries .....	6
Appendix A – 2018 Recommendation Results.....	7
Appendix B – Elected Officials Statutory Benefits .....	8
Appendix C – Private Sector Benefits.....	9
Appendix D – Judges Retirement Comparison .....	10

## Elected Official and Judicial Compensation Commission Members

<b><u>Name</u></b>	<b><u>Term Expires</u></b>
<b>David Clark - R (Chair)</b> <i>Appointed by Utah House Speaker Gregory H. Hughes</i>	6/1/2023
<b>Sam Alba - D (Vice Chair)</b> <i>Appointed by the Utah State Bar</i>	7/26/2021
<b>Kevin Van Tassell – R</b> <i>Appointed by Utah Senate President Stuart Adams</i>	6/1/2023
<b>Jeff Herring - R</b> <i>Appointed by the Utah Governor Gary Herbert</i>	7/17/2022
<b>Meghan Holbrook - D</b> <i>Appointed by the Elected Official and Judicial Compensation Commission</i>	9/25/2022
<b>Michele Straube - D</b> <i>Appointed by the Elected Official and Judicial Compensation Commission</i>	6/1/2023

## Part one – Introduction and EJCC Action

### Introduction

The Elected Official and Judicial Compensation Commission (EJCC, or hereafter referred to as the Commission) is required by statute (UCA §67-8-5) to make recommendations on Elected Officials’ and Judges’ salaries to the President of the Senate, Speaker of the House, and the Governor, as well as submit the report to the Executive Appropriations Committee (EAC). The Commission is also required to study educational requirements, experience, responsibility, accountability for funds and staff, comparisons of wages paid in other comparable public and private employment within this state, other states similarly situated, and the consumer price index. Additionally, statute requires they consult and advise with the Department of Human Resource Management, the Judicial Council, and the Administrative Office of the Courts. The Commission has reviewed all information required by statute and met with each of these bodies in creating this report. All recommendations are made in consideration of current salaries (See Table 1).

Table 1 - Current Elected Official and Judicial Salaries

<b>Elected Official Salaries</b>		
<b>Officer</b>	<b>FY 2020 Salaries</b>	<b>Rules</b>
Governor	\$160,746.00	Set in Appropriations Act (S.B. 2 Intent Language)
Lieutenant Governor	\$144,671.40	90% of Governor's Salary (UCA §67-22-1)
Attorney General	\$152,708.70	95% of Governor's Salary (UCA §67-22-1)
State Auditor	\$144,671.40	90% of Governor's Salary (UCA §67-22-1)
State Treasurer	\$144,671.40	90% of Governor's Salary (UCA §67-22-1)
<b>Judicial Salaries</b>		
<b>Judges</b>	<b>FY 2020 Salaries</b>	<b>Rules</b>
District Court Judge	\$170,450.00	Set in Appropriations Act (H.B. 2 Intent Language)
Juvenile Court Judge	\$170,450.00	100% of District Court Judge Salary (UCA §67-8-2)
Court of Appeals Judge	\$179,000.00	105% of District Court Judge Salary (UCA §67-8-2)
Justices of the Supreme Court	\$187,500.00	110% of District Court Judge Salary (UCA §67-8-2)

### Commission Action

By statute, the EJCC is required to report on action taken throughout the year. This year, the Commission held four meetings, reviewed statute, rules, and various sources to help make relevant policy recommendations. During the Commission’s first meeting it reviewed last year’s recommendations and discovered that the Legislature did not support the recommendation regarding the Judiciary salary increase during the session (Full 2018 recommendation results are found in Appendix A). Because of this, much of this year’s efforts in the Commission were spent fleshing out this issue. The Commission also focused on benefits for both judges and elected officials and reviewed current governing statute. In addition, the Commission heard presentations from the Department of Human Resource Management, the Administrative Office of the Courts, the Supreme Court, the Judicial Council, and some outstanding reports by staff.

## Part Two – Potential Bill

### Utah Elected Official and Judicial Salary Act

During the Commission’s review of the Utah Elected Official and Judicial Salary Act, the EJCC found that the statute appeared to lack cohesion due to the Legislature updating several individual parts over time. The Commission believes that the wording adjustments over the years have resulted in complicated and unclear language that created convoluted details regarding appointment terms, competing deadlines, leftover language, and outdated requirements.

#### *Reporting and Deadlines*

The Commission is currently required to meet two separate deadlines which confuse the practical workflow. The first deadline (UCA §67-8-5{c}) requires the Commission to submit to EAC a report summarizing general action for the year and recommendations regarding judicial and elected official salaries 60 days before the Legislative Session. The second deadline (UCA §67-8-5{d}) requires the Commission to submit a report regarding judicial salaries to the President of the Senate, Speaker of the House, and Governor by November 1<sup>st</sup>. The Commission believes that neither of the reports can/should be completed without the other. Because EAC typically meets during October, and the way the Commission has interpreted the deadlines/reporting requirements, the final meeting for the Commission is typically held during the first weeks of October. This year, EAC has decided to hold its meetings during September instead of October, requiring the Commission to hold their final meeting during the first week of September. The Commission has felt that the two deadlines, while also being required to submit to the Legislature’s meeting schedule has compressed the Commission’s workflow and made the work more challenging than necessary.

To address this issue, the Commission recommends the Legislature modify UCA §67-8-5(c&d) to create a single deadline for the report, which gives Commission more time to complete a thorough review.

#### *State Board of Education Clean-up*

During the 2019 General Session, the Legislature passed H.B. 432, “Elected Official and Judicial Compensation.” The purpose of this bill was to eliminate the requirement of the Commission to study and report on compensation for the State Board of Education (see the 2018 EJCC Report for more details). The bill removed one line referencing the State Board of Education, but did not address every instance in which it occurred. The current language does not make it clear whether or not the EJCC should review compensation for the SBOE, but the passage of H.B. 432 indicates that the legislative intent was to remove the SBOE from the Commission’s responsibilities. Due to this confusion, the EJCC chose in 2019 to bypass a compensation review of the SBOE and instead recommend further statutory clean-up.

To address this issue, the Commission recommends the Legislature remove the language referencing the State Board of Education found in UCA §67-8-5(b & cii).

#### *Commission Staffing*

In January 2018, the Legislature created a Human Resources department to address specific employment needs of the Legislature. The EJCC has historically been staffed by the Legislative Fiscal Analyst’s Office as they likely had the most expertise in the Legislature to determine proper

compensation. However, this has changed with the creation of the HR department and the hiring of a human resources/compensation expert. Though current staff for the EJCC has been beyond exceptional and deserves ample praise for the quality of his work, the EJCC recognizes the value of expertise and realizes it could be better served by staff with a compensation-oriented background.

To address this issue, the EJCC recommends the Legislature change the language requiring services of the Legislative Fiscal Analyst to language that states staff can be provided by a “legislative office.” References to the Legislative Fiscal Analyst are found in UCA §67-8-4(5); §67-8-5(4); and §67-8-6.

#### *Additional Changes*

During its review of the current statute, the EJCC also found other language that could use clarification. The Commission recommends that in writing the bill the Legislature also address general clean-up.

Recommendation One: The Legislature draft a bill that address the statutory issues outlined in this report.

## Part Three – Elected Officials

### EJCC Recommendations for Utah Elected Official Compensation

The EJCC reviewed the compensation for the Governor, Lt. Governor, Attorney General, State Auditor, and State Treasurer. The EJCC reviewed both salary and benefits for the elected officials, but attempted to focus more on benefits this year. The Commission found that the current salaries for elected officials are sufficient to meet the needs of the state and the individuals. Since the adjustments in FY 2016, most elected officials are compensated more favorably than the majority of the states. Because of this, the Commission does not find it necessary to adjust the salaries further. The full analysis can be found in the 2018 report.

In reviewing benefits, the Commission found that benefits for elected officials are the same as benefits for all state employees except for additional benefits outlined in statute. Some of the benefits include a vehicle, housing, security staff, etc. (see Appendix B). The Commission also requested the Department of Human Resource Management (DHRM) to reach out to comparable states to determine if added benefits are similar to Utah’s. DHRM confirmed that benefits were similar and had nothing further to report in this area. DHRM also considered additional benefits that are becoming common practice in the private sector that are not currently provided to state elected officials. These items, such as laundry services, 100% paid premiums, etc. are found in Appendix C. After reviewing these suggestions, the EJCC decided that they would be challenging to support politically through taxpayer funds. Therefore, the Commission makes no recommendations regarding any of these suggestions.

Recommendation Two: The Legislature continue to appropriate a cost of living adjustment for each elected official equal to that of all state employees. This recommendation does not include any changes to benefits.

## Part Four – Judicial

### EJCC Recommendations for Utah Judicial Salaries

One of the first actions of the EJCC was to review the results of last year's recommendations (results of that review are found in Appendix A). The Commission found that its recommendation regarding judicial salaries did not advance far in the Legislature (see full analysis for the recommendation in the 2018 EJCC report). The Executive Offices and Criminal Justice Appropriations Subcommittee (EOCJ) ranked this recommendation as one of the lowest items on its priority list (67 out of 73). As a result, the EAC and other legislative leadership did not find this item a priority and the Legislature chose not to appropriate funds for this recommendation. The Commission requested that the Administrative Office of the Courts (AOC), Judicial Council, and Supreme Court come meet with commission members to discuss these results.

The Commission also spent time reviewing judges' benefits and found that judges receive the same benefits as other state employees, with a more robust retirement. It is the Commission's understanding that the retirement recognizes that judges typically have a shorter government career than a typical employee. To accommodate the unique government career, the percentage multiplier for judges' retirement is larger (see retirement comparison in Appendix D). The Commission found in comparing the two retirements, a judge's retirement is significantly more desirable for the employee and a good incentive for a licensed attorney to become a judge. The Commission does not make any recommendations to adjust benefits for judges.

During the review of judicial compensation described above, the Commission recognized the need for increased support of their recommendation. However, the Commission was unable to gather sufficient information to create the analysis necessary to garner that support. As such, the Commission found that more research is necessary before a salary increase could be recommended.

Recommendation Three: The Legislature continue to appropriate a cost of living adjustment for the Judiciary equal to that of all state employees. This recommendation does not include any changes to benefits.

## Appendix A – 2018 Recommendation Results

1. **Recommendation One (Successful):** The Executive Appropriations Committee pursue in the upcoming General Session a bill to allow the Legislature to consider making a change to statute and remove the requirement for the Elected Official and Judicial Compensation Commission to review and make recommendations on State Board of Education compensation.
  - a. H.B. 432
  
2. **Recommendation Two (Successful):** The Legislature continue to appropriate a Cost of Living Adjustment for each Elected Official equal to that of all state employees.
  - a. S.B. 2 Item 131
    1. Under provisions of Section 67-22-1, Utah Code Annotated, the Legislature intends that salaries for Governor be increased by the same percentage as state employees generally. Unless otherwise determined by the Legislature the Governors salary for the fiscal year beginning July 1, 2019 and ending June 30, 2020 shall be \$160,746. Other constitutional offices shall be calculated in accordance with the formula set forth in Section 67-22-1.
  
3. **Recommendation Three (Unsuccessful):** The Legislature appropriate an annual 1.5% market salary increase for all judges in addition to the statewide Cost of Living Adjustment (COLA) with the purpose of addressing the inconsistency of a statewide COLA and the market discrepancy between judges' salaries and the private sector, to be reviewed annually by the Elected Official and Judicial Compensation Commission and measured over the next three years.
  - a. EOCJ Recommendations: Item 67/73
  - b. S.B. 2 Item 127
    1. The Legislature intends that salaries for District Court judges for the fiscal year beginning July 1, 2019 and ending June 30, 2020 shall be \$170,450. The Legislature intends that other judicial salaries shall be calculated in accordance with the formula set forth in UCA Title 67 Chapter 8 Section 2 and rounded to the nearest \$50.

## Appendix B – Elected Officials Statutory Benefits

Utah Code §67-22-1(2)

The Legislature fixes benefits for the constitutional offices as follows:

**(a) governor:**

- (i) a vehicle for official and personal use;
- (ii) housing;
- (iii) household and security staff;
- (iv) household expenses;
- (v) retirement benefits as provided in Title 49, Utah State Retirement and Insurance Benefit Act;
- (vi) health insurance;
- (vii) dental insurance;
- (viii) basic life insurance;
- (ix) workers' compensation;
- (x) required employer contribution to Social Security;
- (xi) long-term disability income insurance; and
- (xii) the same additional state paid life insurance available to other noncareer service employees; and

**(b) lieutenant governor, attorney general, state auditor, and state treasurer:**

- (i) The same as the Governor except housing, household and security staff, household expenses.; and
- (ii) the option of participating in a:
  - (A) state retirement system in accordance with Title 49, Utah State Retirement and Insurance Benefit Act:
    - (I) Chapter 12, Public Employees' Contributory Retirement Act;
    - (II) Chapter 13, Public Employees' Noncontributory Retirement Act; or
    - (III) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or
  - (B) deferred compensation plan administered by the State Retirement Office, in accordance with the Internal Revenue Code and its accompanying rules and regulations;

## Appendix C – Private Sector Benefits

- **Laundry Services**
  
- **100% Paid Medical, Vision, and Dental Insurance Premiums**
  
- **100% Fully Funded HSA or Flexible Spending Account**
  
- **Paid Pet, Child, or Elder care when on Business Travel**
  
- **Lump Sum 401k/457 payment**
  
- **Personal Grooming**
  - Hair cuts
  - Manicures/Pedicures
  - Etc.
  
- **Lifestyle Perks** - Have a direct bearing on the position, and help perform the job:
  - Club Memberships (golf, dining, entertainment, etc.)
  - Wardrobe Allowances
  - Etc.
  
- **Paid Legal Plan** - Coverage could include:
  - Wills
  - Trusts
  - Estates

Appendix D – Judges Retirement Comparison

<b>Judges Retirement</b>	<b>State Retirement</b>
<b>Percentage Multiplier*</b> - <ul style="list-style-type: none"> <li>- 5% X each of the First 10 years</li> <li>- 2.25% X each 10 – 20 years</li> <li>- 1% X 20 – 30 Years</li> </ul>	<b>Percentage Multiplier* –</b> <ul style="list-style-type: none"> <li>- 1.5% X Number of Years Worked</li> </ul>
<b>Years of work required to claim retirement</b> <ul style="list-style-type: none"> <li>- 6 Years of Service at Age 70</li> <li>- 10 Years of Service at Age 62</li> <li>- 20 Years of Service at Age 55</li> <li>- 25 Years of Service at any Age</li> </ul>	<b>Years of work required to claim retirement</b> <ul style="list-style-type: none"> <li>- 4 Years of Service at Age 65</li> <li>- 10 Years of Service at Age 62</li> <li>- 20 Years of Service at Age 60</li> <li>- 35 Years of Service at Any Age</li> </ul>
<b>Early Retirement Penalty</b> <ul style="list-style-type: none"> <li>- None</li> </ul>	<b>Early Retirement Penalty</b> <ul style="list-style-type: none"> <li>- 9% penalty for each year if retirement age is 63 – 64</li> <li>- 7% penalty for each year if retirement age is 60 - 62</li> </ul>
<b>Maximum Retirement Age</b> <ul style="list-style-type: none"> <li>- 75 Years of Age</li> </ul>	<b>Maximum Retirement Age</b> <ul style="list-style-type: none"> <li>- None</li> </ul>
<b>Cost of Living Adjustment</b> <ul style="list-style-type: none"> <li>- Tied to Yearly COLA</li> <li>- No more than 4% increase a year</li> </ul>	<b>Cost of Living Adjustment</b> <ul style="list-style-type: none"> <li>- Tied to Yearly COLA</li> <li>- No more than 2.5% increase a year</li> </ul>
<b>Salary Calculation</b> <ul style="list-style-type: none"> <li>- Average of Highest 2 Years of Earnings</li> </ul>	<b>Salary Calculation</b> <ul style="list-style-type: none"> <li>- Average of Highest 5 Years of Earnings</li> </ul>

\*Percentage of Salary X Years Worked Paid out for Retirement