

1 **HUMAN RESOURCE MANAGEMENT**

2 **AMENDMENTS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: David Clark**

6 Senate Sponsor: Beverly Ann Evans

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Utah State Retirement and Insurance Benefit Act, the Utah
11 Administrative Services Code, and the Utah State Personnel Management Act to amend
12 certain provisions related to the Department of Human Resource Management.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ changes the Division of Human Resource Management to the Department of
- 16 Human Resource Management and the title of its director to executive director;
- 17 ▶ allows an employee in the Public Safety Retirement System who is reassigned to the
- 18 Department of Technology Services or to the Department of Human Resource
- 19 Management to remain in the same retirement system;
- 20 ▶ adds certain definitions to the Utah State Personnel Management Act;
- 21 ▶ removes a requirement that:
 - 22 • the governor approve agreements on the establishment of field offices; and
 - 23 • an agency head must be consulted prior to establishing a field office;
- 24 ▶ revises and clarifies certain powers and duties of the Department of Human
- 25 Resource Management relating to the provision of human resource functions to
- 26 executive branch entities and entities that subscribe to services;
- 27 ▶ allows the Department of Human Resource Management to operate as an internal



28 service fund agency for the human resource functions the department provides to executive
29 branch entities and entities that subscribe to services rendered by the listed divisions;

30 ▶ creates a rate committee and provides procedures for the approval by the rate
31 committee of rate changes for services provided by the department;

32 ▶ clarifies that state officers accrue annual leave at the maximum rate provided to
33 Schedule B state employees; and

34 ▶ makes technical changes.

35 Monies Appropriated in this Bill:

36 None

37 Other Special Clauses:

38 This bill takes effect on July 1, 2006.

39 Utah Code Sections Affected:

40 AMENDS:

41 **13-1a-3 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

42 **35A-1-205 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

43 **49-14-201**, as last amended by Chapter 265, Laws of Utah 2005

44 **49-15-201**, as last amended by Chapter 265, Laws of Utah 2005

45 **49-20-401 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

46 **53-6-104 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

47 **53A-24-114 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

48 **53C-1-201 (Effective 07/01/06)**, as last amended by Chapters 48 and 181, Laws of

49 Utah 2005

50 **54-1-6 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

51 **54-4a-3 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

52 **61-1-18 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

53 **62A-15-613 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

54 **63-5b-102 (Effective 07/01/06)**, as last amended by Chapters 71, 148 and 181, Laws of

55 Utah 2005

56 **63-13-2 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

57 **63-34-12 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

58 **63A-1-109 (Effective 07/01/06)**, as last amended by Chapters 169 and 181, Laws of

- 59 Utah 2005
- 60 **63A-9-501 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 61 **63A-9-801 (Effective 07/01/06)**, as last amended by Chapters 148 and 181, Laws of
- 62 Utah 2005
- 63 **67-5-7 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 64 **67-5-9 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 65 **67-5-12 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 66 **67-8-3 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 67 **67-8-5 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 68 **67-19-3 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 69 **67-19-3.1 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 70 **67-19-5 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 71 **67-19-6 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 72 **67-19-6.1 (Effective 07/01/06)**, as enacted by Chapter 181, Laws of Utah 2005
- 73 **67-19-6.3**, as last amended by Chapter 4, Laws of Utah 2003
- 74 **67-19-6.7 (Effective 07/01/06)**, as last amended by Chapters 148 and 181, Laws of
- 75 Utah 2005
- 76 **67-19-11 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 77 **67-19-12 (Effective 07/01/06)**, as last amended by Chapters 114, 148 and 181, Laws of
- 78 Utah 2005
- 79 **67-19-12.2 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 80 **67-19-12.5 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 81 **67-19-12.7 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 82 **67-19-12.9 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 83 **67-19-13 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 84 **67-19-14**, as last amended by Chapter 15, Laws of Utah 2005
- 85 **67-19-15 (Effective 07/01/06)**, as last amended by Chapters 148, 169 and 181, Laws of
- 86 Utah 2005
- 87 **67-19-15.1 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 88 **67-19-15.6**, as last amended by Chapter 44, Laws of Utah 1998
- 89 **67-19-16**, as last amended by Chapter 213, Laws of Utah 1997

- 90 **67-19-17**, as enacted by Chapter 139, Laws of Utah 1979
- 91 **67-19-18**, as last amended by Chapter 130, Laws of Utah 1995
- 92 **67-19-19 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 93 **67-19-31 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 94 **67-19-33 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 95 **67-19-34 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 96 **67-19-36 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 97 **67-19-37 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 98 **67-19-38 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 99 **67-19a-303 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 100 **67-19c-101 (Effective 07/01/06)**, as last amended by Chapters 148 and 181, Laws of
- 101 Utah 2005
- 102 **67-20-8 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 103 **67-22-2 (Effective 07/01/06)**, as last amended by Chapter 8, Laws of Utah 2005, First
- 104 Special Session
- 105 **72-1-203 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

106

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

107 Section 1. Section **13-1a-3 (Effective 07/01/06)** is amended to read:

108 **13-1a-3 (Effective 07/01/06). Employment and compensation of personnel --**
109 **Compensation of director.**

110 The director, with the approval of the executive director, may employ personnel
111 necessary to carry out the duties and responsibilities of the division at salaries established by
112 the executive director according to standards established by the [~~Division~~] Department of
113 Human Resource Management. The executive director shall establish the salary of the director
114 according to standards established by the [~~Division~~] Department of Human Resource
115 Management.
116

117 Section 2. Section **35A-1-205 (Effective 07/01/06)** is amended to read:

118 **35A-1-205 (Effective 07/01/06). Workforce Appeals Board -- Chair --**
119 **Appointment -- Compensation -- Qualifications.**

120 (1) There is created the Workforce Appeals Board within the department consisting of

121 one or more panels to hear and decide appeals from the decision of an administrative law
122 judge.

123 (2) (a) A panel shall consist of three impartial members appointed by the governor as
124 follows:

125 (i) the board chair, appointed in accordance with Subsection (5);

126 (ii) one member appointed to represent employers; and in making this appointment,
127 the governor shall consider nominations from employer organizations; and

128 (iii) one member appointed to represent employees; and in making this appointment,
129 the governor shall consider nominations from employee organizations.

130 (b) No more than two members of a panel may belong to the same political party.

131 (3) (a) (i) The term of a member shall be six years beginning on March 1 of the year
132 the member is appointed, except as otherwise provided in Subsection (3)(a)(ii).

133 (ii) The governor shall, at the time of appointment or reappointment, adjust the length
134 of terms to ensure that the terms of members are staggered so that approximately one third of
135 the members are appointed every two years.

136 (b) When a vacancy occurs in the membership for any reason, the replacement shall be
137 appointed for the unexpired term.

138 (c) The governor may remove a member for inefficiency, neglect of duty, malfeasance
139 or misfeasance in office, or other good and sufficient cause.

140 (d) A member shall hold office until a successor is appointed and has qualified.

141 (4) (a) Except as provided in Subsection (4)(c), a member of the board may not receive
142 compensation for the member's services, but may receive per diem and expenses incurred in the
143 performance of the member's official duties at the rates established by the Division of Finance
144 under Sections 63A-3-106 and 63A-3-107.

145 (b) A member may decline to receive per diem and expenses for the member's service.

146 (c) The member appointed as board chair in accordance with Subsection (5) shall be
147 compensated at an hourly rate determined by the [~~Division~~] Department of Human Resource
148 Management in accordance with Title 67, Chapter 19, Utah State Personnel Management Act.

149 (5) (a) The chief officer of the board shall be the chair, who shall serve as the executive
150 and administrative head of the board.

151 (b) The chair shall be appointed by the governor to represent the public and may be

152 removed from that position at the will of the governor.

153 (c) The chair shall be experienced in administration and possess any additional
154 qualifications determined by the governor.

155 (6) (a) The chair shall designate an alternate from a panel appointed under this section:

156 (i) in the absence of a regular member or the chair; or

157 (ii) if the regular member or the chair has a conflict of interest.

158 (b) Each case shall be decided by a full three-member panel.

159 (7) The department shall provide the Workforce Appeals Board necessary staff

160 support, except, the board may employ, retain, or appoint legal counsel.

161 Section 3. Section **49-14-201** is amended to read:

162 **49-14-201. System membership -- Eligibility.**

163 (1) Except as provided in Section 49-15-201, a public safety service employee of a
164 participating employer participating in this system is eligible for service credit in this system at
165 the earliest of:

166 (a) July 1, 1969, if the public safety service employee was employed by the
167 participating employer on July 1, 1969, and the participating employer was participating in this
168 system on that date;

169 (b) the date the participating employer begins participating in this system if the public
170 safety service employee was employed by the participating employer on that date; or

171 (c) the date the public safety service employee is employed by the participating
172 employer and is eligible to perform public safety service.

173 (2) (a) (i) A participating employer that has public safety service and firefighter service
174 employees that require cross-training and duty shall enroll those dual purpose employees in the
175 system in which the greatest amount of time is actually worked.

176 (ii) The employees shall either be full-time public safety service or full-time firefighter
177 service employees of the participating employer.

178 (b) (i) Prior to transferring a dual purpose employee from one system to another, the
179 participating employer shall receive written permission from the office.

180 (ii) The office may request documentation to verify the appropriateness of the transfer.

181 (3) The board may combine or segregate the actuarial experience of participating

182 employers in this system for the purpose of setting contribution rates.

183 (4) (a) (i) Each participating employer participating in this system shall annually
184 submit to the office a schedule indicating the positions to be covered under this system in
185 accordance with this chapter.

186 (ii) The office may require documentation to justify the inclusion of any position under
187 this system.

188 (b) If there is a dispute between the office and a participating employer or employee
189 over any position to be covered, the disputed position shall be submitted to the Peace Officer
190 Standards and Training Council established under Section 53-6-106 for determination.

191 (c) (i) The Peace Officer Standards and Training Council's authority to decide
192 eligibility for public safety service credit is limited to claims for coverage under this system for
193 time periods after July 1, 1989.

194 (ii) A decision of the Peace Officer Standards and Training Council may not be applied
195 to service credit earned in another system prior to July 1, 1989.

196 (iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer
197 Standards and Training Council granting a position coverage under this system may only be
198 applied prospectively from the date of that decision.

199 (iv) A decision of the Peace Officer Standards and Training Council granting a position
200 coverage under this system may be applied retroactively only if:

201 (A) the participating employer covered other similarly situated positions under this
202 system during the time period in question; and

203 (B) the position otherwise meets all eligibility requirements for receiving service credit
204 in this system during the period for which service credit is to be granted.

205 (5) The Peace Officer Standards and Training Council may use a subcommittee to
206 provide a recommendation to the council in determining disputes between the office and a
207 participating employer or employee over a position to be covered under this system.

208 (6) The Peace Officer Standards and Training Council shall comply with Title 63,
209 Chapter 46b, Administrative Procedures Act, in resolving coverage disputes in this system.

210 (7) A public safety employee who is transferred or promoted to an administration
211 position not covered by this system shall continue to earn public safety service credit in this
212 system as long as the employee remains employed in the same department.

213 (8) Any employee who is [~~transferred to the Division of Information Technology~~

214 ~~Services from the Department of Public Safety prior to January 1, 1992]~~ reassigned to the
215 Department of Technology Services or to the Department of Human Resource Management,
216 and who was a member of this system, shall be entitled to remain a member of this system
217 [~~regardless of whether or not the employee's current position is covered by this system~~].

218 (9) (a) To determine that a position is covered under this system, the office and, if a
219 coverage dispute arises, the Peace Officer Standards and Training Council shall find that the
220 position requires the employee to:

- 221 (i) place the employee's life or personal safety at risk; and
- 222 (ii) complete training as provided in Section 53-13-103, 53-13-104, or 53-13-105.

223 (b) If a position satisfies the requirements of Subsection (9)(a), the office and the Peace
224 Officer Standards and Training Council shall consider whether or not the position requires the
225 employee to:

- 226 (i) perform duties that consist primarily of actively preventing or detecting crime and
- 227 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;
- 228 (ii) perform duties that consist primarily of providing community protection; and
- 229 (iii) respond to situations involving threats to public safety and make emergency
- 230 decisions affecting the lives and health of others.

231 (10) If a subcommittee is used to recommend the determination of disputes to the
232 Peace Officer Standards and Training Council, the subcommittee shall comply with the
233 requirements of Subsection (9) in making its recommendation.

234 (11) A final order of the Peace Officer Standards and Training Council regarding a
235 dispute is a final agency action for purposes of Title 63, Chapter 46b, Administrative
236 Procedures Act.

237 (12) Except as provided under Subsection (13), if a participating employer's public
238 safety service employees are not covered by this system or under Chapter 15, Public Safety
239 Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees
240 who may otherwise qualify for membership in this system shall, at the discretion of the
241 participating employer, remain in their current retirement system.

242 (13) (a) A public safety service employee employed by an airport police department,
243 which elects to cover its public safety service employees under the Public Safety
244 Noncontributory Retirement System under Subsection (12), may elect to remain in the public

245 safety service employee's current retirement system.

246 (b) The public safety service employee's election to remain in the current retirement
247 system under Subsection (13)(a):

248 (i) shall be made at the time the employer elects to move its public safety service
249 employees to a public safety retirement system;

250 (ii) documented by written notice to the participating employer; and

251 (iii) is irrevocable.

252 Section 4. Section **49-15-201** is amended to read:

253 **49-15-201. System membership -- Eligibility.**

254 (1) (a) A public safety service employee employed by the state after July 1, 1989, is
255 eligible for service credit in this system.

256 (b) A public safety service employee employed by the state prior to July 1, 1989, may
257 either elect to receive service credit in this system or continue to receive service credit under
258 the system established under Chapter 14, Public Safety Contributory Retirement Act, by
259 following the procedures established by the board under this chapter.

260 (2) (a) Public safety service employees of a participating employer other than the state
261 that elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement
262 System shall be eligible only for service credit in that system.

263 (b) (i) A participating employer other than the state that elected on or before July 1,
264 1989, to participate in this system shall, have allowed, prior to July 1, 1989, a public safety
265 service employee to elect to participate in either this system or the Public Safety Contributory
266 Retirement System.

267 (ii) Except as expressly allowed by this title, the election of the public safety service
268 employee is final and may not be changed.

269 (c) A public safety service employee hired by a participating employer other than the
270 state after July 1, 1989, shall become a member in this system.

271 (d) A public safety service employee of a participating employer other than the state
272 who began participation in this system after July 1, 1989, is only eligible for service credit in
273 this system.

274 (3) (a) (i) A participating employer that has public safety service and firefighter service
275 employees that require cross-training and duty shall enroll those dual purpose employees in the

276 system in which the greatest amount of time is actually worked.

277 (ii) The employees shall either be full-time public safety service or full-time firefighter
278 service employees of the participating employer.

279 (b) (i) Prior to transferring a dual purpose employee from one system to another, the
280 participating employer shall receive written permission from the office.

281 (ii) The office may request documentation to verify the appropriateness of the transfer.

282 (4) The board may combine or segregate the actuarial experience of participating
283 employers in this system for the purpose of setting contribution rates.

284 (5) (a) (i) Each participating employer participating in this system shall annually
285 submit to the office a schedule indicating the positions to be covered under this system in
286 accordance with this chapter.

287 (ii) The office may require documentation to justify the inclusion of any position under
288 this system.

289 (b) If there is a dispute between the office and a participating employer or employee
290 over any position to be covered, the disputed position shall be submitted to the Peace Officer
291 Standards and Training Council established under Section 53-6-106 for determination.

292 (c) (i) The Peace Officer Standards and Training Council's authority to decide
293 eligibility for public safety service credit is limited to claims for coverage under this system for
294 time periods after July 1, 1989.

295 (ii) A decision of the Peace Officer Standards and Training Council may not be applied
296 to service credit earned in another system prior to July 1, 1989.

297 (iii) Except as provided under Subsection (5)(c)(iv), a decision of the Peace Officer
298 Standards and Training Council granting a position coverage under this system may only be
299 applied prospectively from the date of that decision.

300 (iv) A decision of the Peace Officer Standards and Training Council granting a position
301 coverage under this system may be applied retroactively only if:

302 (A) the participating employer covered other similarly situated positions under this
303 system during the time period in question; and

304 (B) the position otherwise meets all eligibility requirements for receiving service credit
305 in this system during the period for which service credit is to be granted.

306 (6) The Peace Officer Standards and Training Council may use a subcommittee to

307 provide a recommendation to the council in determining disputes between the office and a
308 participating employer or employee over a position to be covered under this system.

309 (7) The Peace Officer Standards and Training Council shall comply with Title 63,
310 Chapter 46b, Administrative Procedures Act, in resolving coverage disputes in this system.

311 (8) A public safety service employee who is transferred or promoted to an
312 administration position not covered by this system shall continue to earn public safety service
313 credit in this system as long as the employee remains employed in the same department.

314 (9) Any employee who is [~~transferred to the Division of Information Technology~~
315 ~~Services from the Department of Public Safety prior to January 1, 1992]~~ reassigned to the
316 Department of Technology Services or to the Department of Human Resource Management,
317 and who was a member in this system, shall be entitled to remain a member in this system
318 [~~regardless of whether or not the employee's current position is covered by this system~~].

319 (10) (a) To determine that a position is covered under this system, the office and, if a
320 coverage dispute arises, the Peace Officer Standards and Training Council shall find that the
321 position requires the employee to:

- 322 (i) place the employee's life or personal safety at risk; and
323 (ii) complete training as provided in Section 53-13-103, 53-13-104, or 53-13-105.

324 (b) If a position satisfies the requirements of Subsection (10)(a), the office and Peace
325 Officer Standards and Training Council shall consider whether the position requires the
326 employee to:

- 327 (i) perform duties that consist primarily of actively preventing or detecting crime and
328 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;
329 (ii) perform duties that consist primarily of providing community protection; and
330 (iii) respond to situations involving threats to public safety and make emergency
331 decisions affecting the lives and health of others.

332 (11) If a subcommittee is used to recommend the determination of disputes to the
333 Peace Officer Standards and Training Council, the subcommittee shall comply with the
334 requirements of Subsection (10) in making its recommendation.

335 (12) A final order of the Peace Officer Standards and Training Council regarding a
336 dispute is a final agency action for purposes of Title 63, Chapter 46b, Administrative
337 Procedures Act.

338 (13) Except as provided under Subsection (14), if a participating employer's public
339 safety service employees are not covered by this system under Chapter 14, Public Safety
340 Contributory Retirement Act, as of January 1, 1998, those public safety service employees who
341 may otherwise qualify for membership in this system shall, at the discretion of the participating
342 employer, remain in their current retirement system.

343 (14) (a) A public safety service employee employed by an airport police department,
344 which elects to cover its public safety service employees under the Public Safety
345 Noncontributory Retirement System under Subsection (13), may elect to remain in the public
346 safety service employee's current retirement system.

347 (b) The public safety service employee's election to remain in the current retirement
348 system under Subsection (14)(a):

349 (i) shall be made at the time the employer elects to move its public safety service
350 employees to a public safety retirement system;

351 (ii) documented by written notice to the participating employer; and

352 (iii) is irrevocable.

353 Section 5. Section **49-20-401 (Effective 07/01/06)** is amended to read:

354 **49-20-401 (Effective 07/01/06). Program -- Powers and duties.**

355 (1) The program shall:

356 (a) act as a self-insurer of employee benefit plans and administer those plans;

357 (b) enter into contracts with private insurers or carriers to underwrite employee benefit
358 plans as considered appropriate by the program;

359 (c) indemnify employee benefit plans or purchase commercial reinsurance as
360 considered appropriate by the program;

361 (d) provide descriptions of all employee benefit plans under this chapter in cooperation
362 with covered employers;

363 (e) process claims for all employee benefit plans under this chapter or enter into
364 contracts, after competitive bids are taken, with other benefit administrators to provide for the
365 administration of the claims process;

366 (f) obtain an annual actuarial review of all health and dental benefit plans and a
367 periodic review of all other employee benefit plans;

368 (g) consult with the covered employers to evaluate employee benefit plans and develop

369 recommendations for benefit changes;

370 (h) annually submit a budget and audited financial statements to the governor and
371 Legislature which includes total projected benefit costs and administrative costs;

372 (i) maintain reserves sufficient to liquidate the unrevealed claims liability and other
373 liabilities of the employee benefit plans as certified by the program's consulting actuary;

374 (j) submit its recommended benefit adjustments for state employees to the executive
375 director of the state [~~Division~~] Department of Human Resource Management;

376 (k) determine benefits and rates, upon approval of the board, for multiemployer risk
377 pools, retiree coverage, and conversion coverage;

378 (l) determine benefits and rates, upon approval of the board and the Legislature, for
379 state employees;

380 (m) administer benefits and rates, upon ratification of the board, for single employer
381 risk pools;

382 (n) request proposals for provider networks or health and dental benefit plans
383 administered by third party carriers at least once every three years for the purposes of:

384 (i) stimulating competition for the benefit of covered individuals;

385 (ii) establishing better geographical distribution of medical care services; and

386 (iii) providing coverage for both active and retired covered individuals;

387 (o) offer proposals which meet the criteria specified in a request for proposals and
388 accepted by the program to active and retired state covered individuals and which may be
389 offered to active and retired covered individuals of other covered employers at the option of the
390 covered employer;

391 (p) perform the same functions established in Subsections (1)(a), (b), (e), and (h) for
392 the Department of Health if the program provides program benefits to children enrolled in the
393 Utah Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's
394 Health Insurance Act;

395 (q) establish rules and procedures governing the admission of political subdivisions or
396 educational institutions and their employees to the program;

397 (r) contract directly with medical providers to provide services for covered individuals;
398 and

399 (s) take additional actions necessary or appropriate to carry out the purposes of this

400 chapter.

401 (2) (a) Funds budgeted and expended shall accrue from rates paid by the covered
402 employers and covered individuals.

403 (b) Administrative costs shall be approved by the board and reported to the governor
404 and the Legislature.

405 (3) The [~~Division~~] Department of Human Resource Management shall include the
406 benefit adjustments described in Subsection (1)(j) in the total compensation plan recommended
407 to the governor required under Subsection 67-19-12(6)(a).

408 Section 6. Section **53-6-104 (Effective 07/01/06)** is amended to read:

409 **53-6-104 (Effective 07/01/06). Appointment of director of division --**

410 **Qualifications -- Appointment of employees -- Term of office -- Compensation.**

411 (1) The commissioner, upon recommendation of the council and with the approval of
412 the governor, shall appoint a director of the division.

413 (2) The director is the executive and administrative head of the division and shall be
414 experienced in administration and possess additional qualifications as determined by the
415 commissioner and as provided by law.

416 (3) The director shall be a full-time officer of the state.

417 (4) The director may appoint deputies, consultants, clerks, and other employees from
418 eligibility lists authorized by the [~~Division~~] Department of Human Resource Management.

419 (5) The director may be removed from his position at the will of the commissioner.

420 (6) The director shall receive compensation as provided by Title 67, Chapter 19, Utah
421 State Personnel Management Act.

422 Section 7. Section **53A-24-114 (Effective 07/01/06)** is amended to read:

423 **53A-24-114 (Effective 07/01/06). Governor's Committee on Employment of**

424 **People with Disabilities.**

425 (1) There is created the Governor's Committee on Employment of People with
426 Disabilities.

427 (2) (a) The State Board of Education shall appoint at least twelve members to the
428 committee.

429 (b) The State Board of Education shall ensure that the committee includes members
430 from the public and private sectors who represent:

- 431 (i) business and industry;
- 432 (ii) individuals with disabilities and their advocates;
- 433 (iii) job training and placement;
- 434 (iv) administrative subunits of the state, such as the [~~Division~~] Department of Human
435 Resource Management, the Department of Workforce Services, Public Education, Higher
436 Education, and the Department of Human Services;
- 437 (v) labor;
- 438 (vi) veterans;
- 439 (vii) medical;
- 440 (viii) health;
- 441 (ix) insurance;
- 442 (x) media; and
- 443 (xi) the general public.
- 444 (c) (i) Except as provided in Subsection (2)(c)(ii), the State Board of Education shall
445 appoint committee members to serve four-year terms.
- 446 (ii) In making the initial appointments to the committee, the State Board of Education
447 shall appoint approximately 1/2 of the members to two-year terms and 1/2 of the members to
448 four-year terms.
- 449 (d) Committee members shall serve until their successors are appointed and qualified.
- 450 (e) The State Board of Education shall fill any vacancy that occurs on the committee
451 for any reason by appointing a person according to the procedures of this section for the
452 unexpired term of the vacated member.
- 453 (f) The State Board of Education shall select a chair from the membership.
- 454 (g) Seven members of the committee are a quorum for the transaction of business.
- 455 (3) (a) The committee shall:
- 456 (i) promote employment opportunities for individuals with disabilities;
- 457 (ii) serve as the designated state liaison to the President's Committee on Employment
458 of People with Disabilities;
- 459 (iii) provide training and technical assistance to employers in implementing the
460 Americans with Disabilities Act;
- 461 (iv) develop and disseminate appropriate information through workshops, meetings,

462 and other requests in response to needs to employers and others regarding employment of
463 individuals with disabilities;

464 (v) establish contacts with various community representatives to identify and resolve
465 barriers to full participation in employment and community life;

466 (vi) formally recognize exemplary contributions in the areas of employment, job
467 placement, training, rehabilitation, support services, medicine, media or public relations, and
468 personal achievements made by individuals with disabilities;

469 (vii) advise, encourage, and motivate individuals with disabilities who are preparing
470 for or seeking employment to reach their full potential as qualified employees;

471 (viii) advocate for policies and practices that promote full and equal rights for
472 individuals with disabilities;

473 (ix) advise the State Board of Education and the governor on issues that affect
474 employment and other requests for information on disability issues;

475 (x) prepare an annual report on the progress, accomplishments, and future goals of the
476 committee and present the report to the State Board of Education and the governor; and

477 (xi) establish and maintain a cooperative liaison between the governor's office, the
478 executive director of the committee, and the executive director of the Utah State Office of
479 Rehabilitation to fulfill the committee's purpose.

480 (b) The committee may, by following the procedures and requirements of Title 63,
481 Chapter 38e, Federal Funds Procedures, receive and accept federal funds, and may receive and
482 accept state funds, private gifts, donations, and funds from any source to carry out its purposes.

483 (4) The director of the State Office of Rehabilitation shall appoint a person to staff the
484 committee.

485 Section 8. Section **53C-1-201 (Effective 07/01/06)** is amended to read:

486 **53C-1-201 (Effective 07/01/06). Creation of administration -- Purpose -- Director.**

487 (1) (a) There is established within state government the School and Institutional Trust
488 Lands Administration.

489 (b) The administration shall manage all school and institutional trust lands and assets
490 within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation
491 of Revenue from Trust Lands, and Section 51-7-12.

492 (2) The administration is an independent state agency and not a division of any other

493 department.

494 (3) (a) It is subject to the usual legislative and executive department controls except as
495 provided in this Subsection (3).

496 (b) (i) The director may make rules as approved by the board that allow the
497 administration to classify a business proposal submitted to the administration as protected
498 under Section 63-2-304, for as long as is necessary to evaluate the proposal.

499 (ii) The administration shall return the proposal to the party who submitted the
500 proposal, and incur no further duties under Title 63, Chapter 2, Government Records Access
501 and Management Act, if the administration determines not to proceed with the proposal.

502 (iii) The administration shall classify the proposal pursuant to law if it decides to
503 proceed with the proposal.

504 (iv) Section 63-2-403 does not apply during the review period.

505 (c) The director shall make rules in compliance with Title 63, Chapter 46a, Utah
506 Administrative Rulemaking Act, except that the director, with the board's approval, may
507 establish a procedure for the expedited approval of rules, based on written findings by the
508 director showing:

509 (i) the changes in business opportunities affecting the assets of the trust;

510 (ii) the specific business opportunity arising out of those changes which may be lost
511 without the rule or changes to the rule;

512 (iii) the reasons the normal procedures under Section 63-46a-4 cannot be met without
513 causing the loss of the specific opportunity;

514 (iv) approval by at least five board members; and

515 (v) that the director has filed a copy of the rule and a rule analysis, stating the specific
516 reasons and justifications for its findings, with the Division of Administrative Rules and
517 notified interested parties as provided in Subsection 63-46a-4 (8).

518 (d) (i) The administration shall comply with Title 67, Chapter 19, Utah State Personnel
519 Management Act, except as provided in this Subsection (3)(d).

520 (ii) The board may approve, upon recommendation of the director, that exemption for
521 specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable
522 the administration to efficiently fulfill its responsibilities under the law. The director shall
523 consult with the executive director of the [~~Division~~] Department of Human Resource

524 Management prior to making such a recommendation.

525 (iii) The positions of director, deputy director, associate director, assistant director,
526 legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs
527 officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).

528 (iv) Salaries for exempted positions, except for the director, shall be set by the director,
529 after consultation with the executive director of the [~~Division~~] Department of Human Resource
530 Management, within ranges approved by the board. The board and director shall consider
531 salaries for similar positions in private enterprise and other public employment when setting
532 salary ranges.

533 (v) The board may create an annual incentive and bonus plan for the director and other
534 administration employees designated by the board, based upon the attainment of financial
535 performance goals and other measurable criteria defined and budgeted in advance by the board.

536 (e) The administration shall comply with Title 63, Chapter 56, Utah Procurement
537 Code, except where the board approves, upon recommendation of the director, exemption from
538 the Utah Procurement Code, and simultaneous adoption of rules under Title 63, Chapter 46a,
539 Utah Administrative Rulemaking Act, for procurement, which enable the administration to
540 efficiently fulfill its responsibilities under the law.

541 (f) (i) The board and director shall review the exceptions under this Subsection (3) and
542 make recommendations for any modification, if required, which the Legislature would be asked
543 to consider during its annual general session.

544 (ii) The board and director may include in their recommendations any other proposed
545 exceptions from the usual executive and legislative controls the board and director consider
546 necessary to accomplish the purpose of this title.

547 (4) The administration is managed by a director of school and institutional trust lands
548 appointed by a majority vote of the board of trustees with the consent of the governor.

549 (5) (a) The board of trustees shall provide policies for the management of the
550 administration and for the management of trust lands and assets.

551 (b) The board shall provide policies for the ownership and control of Native American
552 remains that are discovered or excavated on school and institutional trust lands in consultation
553 with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4,
554 Native American Grave Protection and Repatriation Act. The director may make rules in

555 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to implement
556 policies provided by the board regarding Native American remains.

557 (6) In connection with joint ventures for the development of trust lands and minerals
558 approved by the board under Sections 53C-1-303 and 53C-2-401, the administration may
559 become a member of a limited liability company under Title 48, Chapter 2c, Utah Revised
560 Limited Liability Company Act, and is considered a person under Section 48-2c-102.

561 Section 9. Section **54-1-6 (Effective 07/01/06)** is amended to read:

562 **54-1-6 (Effective 07/01/06). Employment of staff -- Status and compensation --**
563 **Employees not to be parties or witnesses and may not appeal commission decisions.**

564 (1) The annual budget of the Public Service Commission shall provide sufficient funds
565 for the commission to hire, develop, and organize an advisory staff to assist the commission in
566 performing the powers, duties, and functions committed to it by statute.

567 (a) The commission may hire:

568 (i) economists, accountants, engineers, statisticians, lawyers, law clerks, and other
569 professional and technical experts;

570 (ii) court reporters, transcribers of tape recordings, clerks, secretaries, and other
571 administrative and support staff;

572 (iii) additional experts as required for a particular matter; and

573 (iv) administrative law judges, who shall be members of the Utah State Bar, and
574 constitute a separate organizational unit reporting directly to the commission.

575 (b) The commission may provide for funds in the annual budget to acquire suitable
576 electronic recording equipment to maintain a verbatim record of proceedings before the
577 commission, any commissioner, or any administrative law judge.

578 (2) (a) With the exception of clerical workers in nonconfidential positions, all staff of
579 the Public Service Commission are exempt employees under the State Personnel Management
580 Act and serve at the pleasure of the commission.

581 (b) Administrative law judges are exempt employees under the State Personnel
582 Management Act and may only be removed from office upon due notice and by a unanimous
583 vote of the commission.

584 (c) (i) The [~~Division~~] Department of Human Resource Management shall determine
585 pay schedules using standard techniques for determining compensation.

586 (ii) The [~~Division~~] Department of Human Resource Management may make its
587 compensation determinations based upon compensation practices common to utility companies
588 throughout the United States.

589 (3) (a) The staff or other employees of the commission may not appear as parties or
590 witnesses in any proceeding before the commission, any commissioner, or any administrative
591 law judge.

592 (b) The staff or other employees of the commission may not appeal any finding, order,
593 or decision of the commission.

594 Section 10. Section **54-4a-3 (Effective 07/01/06)** is amended to read:

595 **54-4a-3 (Effective 07/01/06). Budget of division -- Employment of personnel.**

596 (1) The annual budget of the Division of Public Utilities shall provide sufficient funds
597 for the division to hire, develop, and organize a technical and professional staff to perform the
598 duties, powers, and responsibilities committed to it by statute.

599 (2) The division director may:

600 (a) hire economists, accountants, engineers, inspectors, statisticians, lawyers, law
601 clerks, and other technical and professional experts as may be required;

602 (b) retain additional experts as required for a particular matter, but only to the extent
603 that it is necessary to supplement division staff in order to fulfill its duties; and

604 (c) employ necessary administrative and support staff.

605 (3) (a) The [~~Division~~] Department of Human Resource Management shall determine
606 pay schedules using standard techniques for determining compensation.

607 (b) The [~~Division~~] Department of Human Resource Management may make its
608 compensation determinations based upon compensation common to utility companies
609 throughout the United States.

610 Section 11. Section **61-1-18 (Effective 07/01/06)** is amended to read:

611 **61-1-18 (Effective 07/01/06). Division of Securities established -- Director --**
612 **Appointment -- Functions -- Investigators.**

613 (1) (a) There is established within the Department of Commerce a Division of
614 Securities.

615 (b) The division shall be under the direction and control of a director, appointed by the
616 executive director with the governor's approval.

617 (c) The director shall be responsible for the administration and enforcement of this
618 chapter.

619 (d) The director shall hold office at the pleasure of the governor.

620 (2) The director, with the approval of the executive director, may employ such staff as
621 necessary to discharge the duties of the division at salaries to be fixed by the director according
622 to standards established by the [~~Division~~] Department of Human Resource Management.

623 (3) An investigator employed pursuant to Subsection (2) who meets the training
624 requirements of Subsection 53-13-105(3) may be designated a special function officer, as
625 defined in Section 53-13-105, by the director, but is not eligible for retirement benefits under
626 the Public Safety Employee's Retirement System.

627 Section 12. Section **62A-15-613 (Effective 07/01/06)** is amended to read:

628 **62A-15-613 (Effective 07/01/06). Appointment of superintendent -- Qualifications**
629 **-- Powers and responsibilities.**

630 (1) The director, with the advice and consent of the board and the approval of the
631 executive director, shall appoint a superintendent of the state hospital, who shall hold office at
632 the will of the director.

633 (2) The superintendent shall have a bachelor's degree from an accredited university or
634 college, be experienced in administration, and be knowledgeable in matters concerning mental
635 health.

636 (3) Subject to the rules of the board, the superintendent has general responsibility for
637 the buildings, grounds, and property of the state hospital. The superintendent shall appoint,
638 with the approval of the director, as many employees as necessary for the efficient and
639 economical care and management of the state hospital, and shall fix their compensation and
640 administer personnel functions according to the standards of the [~~Division~~] Department of
641 Human Resource Management.

642 Section 13. Section **63-5b-102 (Effective 07/01/06)** is amended to read:

643 **63-5b-102 (Effective 07/01/06). Definitions.**

644 (1) (a) "Absent" means:

645 (i) not physically present or not able to be communicated with for 48 hours; or

646 (ii) for local government officers, as defined by local ordinances.

647 (b) "Absent" does not include a person who can be communicated with via telephone,

648 radio, or telecommunications.

649 (2) "Attack" means a nuclear, conventional, biological, or chemical warfare action
650 against the United States of America or this state.

651 (3) "Department" means the Department of Administrative Services, the Department of
652 Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of
653 Commerce, the Department of Community and Culture, the Department of Corrections, the
654 Department of Environmental Quality, the Department of Financial Institutions, the
655 Department of Health, the Department of Human Resource Management, the Department of
656 Workforce Services, the Labor Commission, the National Guard, the Department of Insurance,
657 the Department of Natural Resources, the Department of Public Safety, the Public Service
658 Commission, the Department of Human Services, the State Tax Commission, ~~H~~→ **the Department**
658a **of Technology Services**, ←~~H~~ the Department
659 of Transportation, any other major administrative subdivisions of state government, the State
660 Board of Education, the State Board of Regents, the Utah Housing Corporation, the Workers'
661 Compensation Fund, the State Retirement Board, and each institution of higher education
662 within the system of higher education.

663 (4) "Disaster" means a situation causing, or threatening to cause, widespread damage,
664 social disruption, or injury or loss of life or property resulting from attack, internal disturbance,
665 natural phenomenon, or technological hazard.

666 (5) "Division" means the Division of Emergency Services and Homeland Security
667 established in Title 53, Chapter 2, Part 1, [~~Emergency Management~~] Emergency Services and
668 Homeland Security Act.

669 (6) "Emergency interim successor" means a person designated by this chapter to
670 exercise the powers and discharge the duties of an office when the person legally exercising the
671 powers and duties of the office is unavailable.

672 (7) "Executive director" means the person with ultimate responsibility for managing
673 and overseeing the operations of each department, however denominated.

674 (8) "Internal disturbance" means a riot, prison break, disruptive terrorism, or strike.

675 (9) "Natural phenomenon" means any earthquake, tornado, storm, flood, landslide,
676 avalanche, forest or range fire, drought, epidemic, or other catastrophic event.

677 (10) (a) "Office" includes all state and local offices, the powers and duties of which are
678 defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

679 (b) "Office" does not include the office of governor or the legislative or judicial offices.

680 (11) "Place of governance" means the physical location where the powers of an office
681 are being exercised.

682 (12) "Political subdivision" includes counties, cities, towns, townships, districts,
683 authorities, and other public corporations and entities whether organized and existing under
684 charter or general law.

685 (13) "Political subdivision officer" means a person holding an office in a political
686 subdivision.

687 (14) "State officer" means the attorney general, the state treasurer, the state auditor, and
688 the executive director of each department.

689 (15) "Technological hazard" means any hazardous materials accident, mine accident,
690 train derailment, air crash, radiation incident, pollution, structural fire, or explosion.

691 (16) "Unavailable" means:

692 (a) absent from the place of governance during a disaster that seriously disrupts normal
693 governmental operations, whether or not that absence or inability would give rise to a vacancy
694 under existing constitutional or statutory provisions; or

695 (b) as otherwise defined by local ordinance.

696 Section 14. Section **63-13-2 (Effective 07/01/06)** is amended to read:

697 **63-13-2 (Effective 07/01/06). Legal holidays -- Personal preference day --**
698 **Governor authorized to declare additional days.**

699 (1) (a) The following-named days are legal holidays in this state:

700 (i) every Sunday;

701 (ii) January 1, called New Year's Day;

702 (iii) the third Monday of January, called Dr. Martin Luther King, Jr. Day;

703 (iv) the third Monday of February, called Washington and Lincoln Day;

704 (v) the last Monday of May, called Memorial Day;

705 (vi) July 4, called Independence Day;

706 (vii) July 24, called Pioneer Day;

707 (viii) the first Monday of September, called Labor Day;

708 (ix) the second Monday of October, called Columbus Day;

709 (x) November 11, called Veterans' Day;

710 (xi) the fourth Thursday of November, called Thanksgiving Day;
711 (xii) December 25, called Christmas; and
712 (xiii) all days which may be set apart by the President of the United States, or the
713 governor of this state by proclamation as days of fast or thanksgiving.
714 (b) If any of the holidays under Subsection (1)(a), except the first mentioned, namely
715 Sunday, falls on Sunday, then the following Monday shall be the holiday.
716 (c) If any of the holidays under Subsection (1)(a) falls on Saturday the preceding Friday
717 shall be the holiday.
718 (d) Each employee may select one additional day, called Personal Preference Day, to
719 be scheduled pursuant to rules adopted by the ~~[Division]~~ Department of Human Resource
720 Management.
721 (2) (a) Whenever in his opinion extraordinary conditions exist justifying the action, the
722 governor may:
723 (i) declare, by proclamation, legal holidays in addition to those holidays under
724 Subsection (1); and
725 (ii) limit the holidays to certain classes of business and activities to be designated by
726 him.
727 (b) A holiday may not extend for a longer period than 60 consecutive days.
728 (c) Any holiday may be renewed for one or more periods not exceeding 30 days each as
729 the governor may consider necessary, and any holiday may, by like proclamation, be terminated
730 before the expiration of the period for which it was declared.
731 Section 15. Section **63-34-12 (Effective 07/01/06)** is amended to read:
732 **63-34-12 (Effective 07/01/06). Approval prerequisite to volunteer service -- Rules**
733 **and regulations.**
734 (1) Volunteers may not donate any service to the Department of Natural Resources or
735 its divisions unless and until the work program in which volunteers would serve has first been
736 approved, in writing, by the executive director of the Department of Natural Resources and the
737 ~~[director of the Division]~~ executive director of the Department of Human Resource
738 Management.
739 (2) Volunteer services shall comply with any rules adopted by the ~~[Division]~~
740 Department of Human Resource Management relating to that service that are not inconsistent

741 with the provisions of Sections 63-34-9 through 63-34-12.

742 Section 16. Section **63A-1-109 (Effective 07/01/06)** is amended to read:

743 **63A-1-109 (Effective 07/01/06). Divisions of department -- Administration.**

744 (1) The department shall be composed of the following divisions:

745 (a) administrative rules;

746 (b) archives and records;

747 (c) facilities construction and management;

748 (d) finance;

749 (e) fleet operations;

750 (f) office of state debt collection;

751 (g) state purchasing and general services;

752 (h) risk management; and

753 (i) office of child welfare parental defense[~~;~~ and].

754 [~~(j) human resource management.~~]

755 (2) Each division shall be administered and managed by a division director.

756 Section 17. Section **63A-9-501 (Effective 07/01/06)** is amended to read:

757 **63A-9-501 (Effective 07/01/06). Complaints about misuse or illegal operation of**
758 **state vehicles -- Disposition.**

759 (1) The division shall refer complaints from the public about misuse or illegal
760 operation of state vehicles to the agency that is the owner or lessor of the vehicle.

761 (2) Each agency head or his designee shall investigate all complaints about misuse or
762 illegal operation of state vehicles and shall discipline each employee that is found to have
763 misused or illegally operated a vehicle by following the procedures set forth in the rules
764 adopted by the [~~Division~~] Department of Human Resource Management as authorized by
765 Section 67-19-18.

766 (3) (a) Each agency shall report the findings of each investigation conducted as well as
767 any action taken as a result of the investigation to the directors of the Divisions of Fleet
768 Operations and Risk Management.

769 (b) Misuse or illegal operation of state vehicles may result in suspension or revocation
770 of state vehicle driving privileges as governed in rule.

771 Section 18. Section **63A-9-801 (Effective 07/01/06)** is amended to read:

772 **63A-9-801 (Effective 07/01/06). State surplus property program -- Definitions --**
 773 **Administration.**

774 (1) As used in this section:

775 (a) "Agency" means:

776 (i) the Utah Departments of Administrative Services, Agriculture, Alcoholic Beverage
 777 Control, Commerce, Community and Culture, Corrections, Workforce Services, Health,
 778 Human Resource Management, Human Services, Insurance, Natural Resources, Public Safety,
 779 **H→ Technology Services, ←H** and Transportation and the Labor Commission;

780 (ii) the Utah Offices of the Auditor, Attorney General, Court Administrator, Crime
 781 Victim Reparations, Rehabilitation, and Treasurer;

782 (iii) the Public Service Commission and State Tax Commission;

783 (iv) the State Boards of Education, Pardons and Parole, and Regents;

784 (v) the Career Service Review Board;

785 (vi) other state agencies designated by the governor;

786 (vii) the legislative branch, the judicial branch, and the State Board of Regents; and

787 (viii) an institution of higher education, its president, and its board of trustees for
 788 purposes of Section 63A-9-802.

789 (b) "Division" means the Division of Fleet Operations.

790 (c) "Information technology equipment" means any equipment that is designed to
 791 electronically manipulate, store, or transfer any form of data.

792 (d) "Inventory property" means property in the possession of the division that is
 793 available for purchase by an agency or the public.

794 (e) "Judicial district" means the geographic districts established by Section 78-1-2.1.

795 (f) (i) "Surplus property" means property purchased by, seized by, or donated to, an
 796 agency that the agency wishes to dispose of.

797 (ii) "Surplus property" does not mean real property.

798 (g) "Transfer" means transfer of surplus property without cash consideration.

799 (2) (a) The division shall make rules establishing a state surplus property program that
 800 meets the requirements of this chapter by following the procedures and requirements of Title
 801 63, Chapter 46a, Utah Administrative Rulemaking Act.

802 (b) Those rules shall include:

- 803 (i) a requirement prohibiting the transfer of surplus property from one agency to
804 another agency without written approval from the division;
- 805 (ii) procedures and requirements governing division administration requirements that
806 an agency must follow;
- 807 (iii) requirements governing purchase priorities;
- 808 (iv) requirements governing accounting, reimbursement, and payment procedures;
- 809 (v) procedures for collecting bad debts;
- 810 (vi) requirements and procedures for disposing of firearms;
- 811 (vii) the elements of the rates or other charges assessed by the division for services and
812 handling;
- 813 (viii) procedures governing the timing and location of public sales of inventory
814 property; and
- 815 (ix) procedures governing the transfer of information technology equipment by state
816 agencies directly to public schools.
- 817 (c) The division shall report all transfers of information technology equipment by state
818 agencies to public schools to the Utah Technology Commission and to the Legislative Interim
819 Education Committee at the end of each fiscal year.
- 820 (3) In creating and administering the program, the division shall:
- 821 (a) when conditions, inventory, and demand permit:
- 822 (i) establish facilities to store inventory property at geographically dispersed locations
823 throughout the state; and
- 824 (ii) hold public sales of property at geographically dispersed locations throughout the
825 state;
- 826 (b) establish, after consultation with the agency requesting the sale of surplus property,
827 the price at which the surplus property shall be sold; and
- 828 (c) transfer proceeds arising from the sale of state surplus property to the agency
829 requesting the sale in accordance with Title 63, Chapter 38, Budgetary Procedures Act, less an
830 amount established by the division by rule to pay the costs of administering the surplus
831 property program.
- 832 (4) Unless specifically exempted from this chapter by explicit reference to this chapter,
833 each state agency shall dispose of and acquire surplus property only by participating in the

834 division's program.

835 Section 19. Section **67-5-7 (Effective 07/01/06)** is amended to read:

836 **67-5-7 (Effective 07/01/06). Establishment of career service system.**

837 (1) The purpose of this chapter is to establish a career service system for attorneys
838 employed by the Office of the Attorney General that will attract and retain attorneys of proven
839 ability and experience who will devote their full time to the service of the state.

840 (2) The Office of the Attorney General may adopt rules necessary to implement this
841 chapter, including personnel and work rules different from those promulgated by the [~~Division~~]
842 Department of Human Resource Management.

843 Section 20. Section **67-5-9 (Effective 07/01/06)** is amended to read:

844 **67-5-9 (Effective 07/01/06). Reassignment of career status attorneys -- Additional**
845 **compensation for managerial assignments -- Employment of special assistant attorneys**
846 **general -- Termination of attorneys -- Salary increases.**

847 This chapter does not affect the authority of the attorney general to:

848 (1) assign and reassign attorneys in a career status to different positions on his staff.
849 The salary of an attorney reassigned to a different position shall not be decreased by reason of
850 reassignment; except that if the attorney reassigned occupies the position of deputy attorney
851 general, the salary may be reduced by not more than 15% upon the assignment to a different
852 position;

853 (2) develop, with the assistance of the [~~Division~~] Department of Human Resource
854 Management, a plan for additional compensation for career status attorneys who accept
855 managerial assignments within the office. The provisions of Subsection (1) notwithstanding,
856 the attorney general may discontinue any additional compensation if the attorney no longer
857 holds a managerial assignment. Additional compensation provided under this section shall be
858 determined by the attorney general pursuant to the plan developed by the Office of the Attorney
859 General. At such time as the attorney no longer holds a managerial assignment, and the
860 attorney general decides to discontinue any additional compensation, the reduction may not
861 place the attorney at a salary below where the attorney would be through normal salary
862 increases if the attorney had not been in a managerial position;

863 (3) employ special assistant attorneys general, who shall not be subject to this chapter,
864 to represent the state in particular lawsuits or to handle particular legal matters for the state;

865 (4) terminate the employment of any attorney employed by the Office of the Attorney
866 General who is not in a career service status; or

867 (5) establish the salary or determine salary increases of any attorney under this chapter.

868 Section 21. Section **67-5-12 (Effective 07/01/06)** is amended to read:

869 **67-5-12 (Effective 07/01/06). Dismissal of career status attorneys -- Causes --**
870 **Procedure -- Retention roster -- Reappointment register.**

871 (1) (a) Attorneys in a career status may be dismissed only:

872 (i) to advance the good of public service;

873 (ii) where funds have expired or work no longer exists; or

874 (iii) for causes such as dishonesty, inefficiency, insubordination, disloyalty to the
875 orders of a superior, misfeasance, malfeasance, or nonfeasance in office.

876 (b) Attorneys in career status may not be dismissed for reasons of race, national origin,
877 religion, or political affiliation.

878 (2) Except in aggravated cases of misconduct, no attorney in a career status may be
879 demoted or dismissed without the following procedures:

880 (a) The attorney general shall notify the attorney of the reasons for demotion or
881 dismissal.

882 (b) The attorney shall have an opportunity to reply and have the reply considered by the
883 attorney general.

884 (c) The attorney shall have an opportunity to be heard by the attorney general or his
885 designated representatives.

886 (d) Following a hearing, an attorney may be demoted or dismissed if the attorney
887 general finds adequate reason.

888 (e) If the attorney general finds that retention of an attorney would endanger the peace
889 and safety of others or pose a grave threat to the public interest, the attorney may be summarily
890 suspended pending administrative hearings and a review by the Career Service Review Board.

891 (3) (a) An attorney in a career status who is aggrieved by a decision of the attorney
892 general to either dismiss or demote may appeal the decision to the Career Service Review
893 Board or its hearing officers by following the procedures in Title 67, Chapter 19a, Grievance
894 and Appeal Procedures.

895 (b) Matters other than dismissal or demotion may be appealed to and reviewed by the

896 attorney general or a designated representative whose decision is final with no right of appeal
897 to the Career Service Review Board or its hearing officers.

898 (4) Disciplinary actions shall be supported by credible evidence, but the normal rules
899 of evidence in courts of law do not apply in hearings before the attorney general or the Career
900 Service Review Board or its hearing officers.

901 (5) (a) Reductions in force required by reinstatement of an attorney under Section
902 67-5-11, inadequate funds, change of workload, or lack of work shall be governed by a
903 retention roster to be maintained by the executive director of the [~~Division~~] Department of
904 Human Resource Management and the requirements of this Subsection (5).

905 (b) Attorneys not in a career status shall be separated before any attorney in a career
906 status.

907 (c) Retention points for each attorney in a career status shall be based on the attorney's
908 seniority in service as an attorney in the Office of the Attorney General, including any military
909 service fulfilled subsequent to the attorney's original appointment.

910 (d) Attorneys in career status shall be separated in the order of their retention points,
911 the attorney with the lowest points to be discharged first.

912 (e) Those attorneys who are serving in other positions under Section 67-5-11 shall:

913 (i) have retention points determined as if they were working for the office; and
914 (ii) be separated in the order of the retention points as if they were working in the
915 Office of the Attorney General.

916 (f) An attorney in a career status who is separated by reason of a reduction in force
917 shall be:

918 (i) placed on a reappointment register kept by the executive director of the [~~Division~~]
919 Department of Human Resource Management for one year; and

920 (ii) offered reappointment to a position in the Office of the Attorney General before
921 any attorney not having a career status is appointed.

922 Section 22. Section **67-8-3 (Effective 07/01/06)** is amended to read:

923 **67-8-3 (Effective 07/01/06). Compensation plan for appointive officers --**

924 **Exceptions -- Legislative approval -- Career status attorneys.**

925 (1) (a) The executive director of the [~~Division~~] Department of Human Resource
926 Management, based upon recommendations of the Executive and Judicial Compensation

927 Commission shall, before October 31 of each year, recommend to the governor a compensation
928 plan for appointed officers of the state except those officers whose compensation is set under
929 Section 49-11-203, 53A-1-301, 53B-1-105, or 53C-1-301.

930 (b) The plan shall include salaries and wages, paid leave, group insurance plans,
931 retirement programs, and any other benefits that may be offered to state officers.

932 (2) The governor shall include in each annual budget proposal to the Legislature
933 specific recommendations on compensation for those appointed state officers in Subsection (1).

934 (3) (a) After consultation with the attorney general, the executive director of the
935 [~~Division~~] Department of Human Resource Management shall place career status attorneys on
936 a state salary schedule at a range comparable with salaries paid attorneys in private and other
937 public employment.

938 (b) The attorney general and the executive director shall take into consideration the
939 experience of the attorney, length of service with the Office of the Attorney General, quality of
940 performance, and responsibility involved in legal assignments.

941 (c) The attorney general and the executive director shall periodically adjust the salary
942 levels for attorneys in a career status to reasonably compensate them for full-time employment
943 and the restrictions placed on the private practice of law.

944 Section 23. Section **67-8-5 (Effective 07/01/06)** is amended to read:

945 **67-8-5 (Effective 07/01/06). Duties of commission -- Salary recommendations.**

946 (1) (a) The commission shall recommend to the Legislature salaries for:

947 (i) the governor, the lieutenant governor, the attorney general, the state auditor, and the
948 state treasurer; and

949 (ii) justices of the Supreme Court and judges of the constitutional and statutory courts
950 of record.

951 (b) The commission shall recommend to the Legislature salary ranges for the other
952 state officers referred to in Article VII, Section 18, and enumerated in Title 67, Chapter 22,
953 State Officer Compensation.

954 (2) As used in this section and for the purposes of compensation in Title 67, Chapter
955 22, State Officer Compensation, "state officer" means an individual at the executive level in
956 state government. The term includes:

957 (a) the governor, the lieutenant governor, the attorney general, the state auditor, and the

958 state treasurer;

959 (b) justices of the Supreme Court and judges of all constitutional and statutory courts
960 of record; and

961 (c) full-time commissioners and executive directors of executive branch departments
962 appointed by the governor or with his approval, who report directly to the governor, and who
963 are enumerated in Section 67-22-2.

964 (3) The commission shall:

965 (a) make studies and formulate recommendations concerning the wage and salary
966 classification plan based upon factors such as educational requirements, experience,
967 responsibility, accountability for funds and staff, comparisons with wages paid in other
968 comparable public and private employment within this state, and other states similarly situated,
969 and any other factors generally used in similar comprehensive wage and salary classification
970 plans so that the plan and its administration reflect current conditions at all times;

971 (b) consult and advise with, and make recommendation to, the ~~[Division]~~ Department
972 of Human Resource Management regarding the plan, its administration, and the position of any
973 officer covered by the plan;

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

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

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

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

987 (d) conduct a comprehensive review of judicial salary levels and make
988 recommendations for judicial salaries in a report to the president of the Senate, the speaker of

989 the House of Representatives, and the governor by November 1, prior to the convening of the
990 general session of the Legislature in each odd-numbered year.

991 (4) (a) The recommendation under Subsection (3)(d) shall be based upon consultation
992 with the Judicial Council and upon consideration for the career status of judges. It shall be
993 based upon comparisons with salaries paid in other states and in comparable public and private
994 employment within this state.

995 (b) In even-numbered years, the commission shall update its prior report, based upon
996 the Consumer Price Index and other relevant factors, and shall forward its updated
997 recommendations as prescribed in this section.

998 (5) The Judicial Council shall cooperate with the commission in providing information
999 on the judicial branch of government and on the individual levels of court as requested. The
1000 director of personnel from the Office of the Court Administrator shall provide the salary
1001 comparison data referred to in this section to the legislative fiscal analyst and shall provide
1002 other staff assistance and support as requested by the legislative fiscal analyst.

1003 Section 24. Section **67-19-3 (Effective 07/01/06)** is amended to read:

1004 **67-19-3 (Effective 07/01/06). Definitions.**

1005 As used in this chapter:

1006 (1) "Agency" means any department or unit of Utah state government with authority to
1007 employ personnel.

1008 (2) "Career service" means positions under Schedule B as defined in Section 67-19-15.

1009 (3) "Career service employee" means an employee who has successfully completed a
1010 probationary period of service in a position covered by the career service.

1011 (4) "Career service status" means status granted to employees who successfully
1012 complete probationary periods for competitive career service positions.

1013 (5) "Classified service" means those positions subject to the classification and
1014 compensation provisions of Section 67-19-12.

1015 (6) "Controlled substance" means controlled substance as defined in Section 58-37-2.

1016 (7) (a) "Demotion" means a disciplinary action resulting in a reduction of an
1017 employee's current actual wage.

1018 (b) "Demotion" does not mean:

1019 (i) a nondisciplinary movement of an employee to another position without a reduction

- 1020 in the current actual wage; or
- 1021 (ii) a reclassification of an employee's position under the provisions of Subsection
- 1022 67-19-12(3) and rules made by the department.
- 1023 (8) "Department" means the Department of Human Resource Management.
- 1024 [~~(7)~~ "Director" means the director of the Division of Human Resource Management.]
- 1025 [~~(8)~~ (9) "Disability" means a physical or mental disability as defined and protected
- 1026 under the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq.
- 1027 [~~(9)~~ "Division" means the Division of Human Resource Management.]
- 1028 [~~(10)~~ (10) "Employee" means any individual in a paid status covered by the career
- 1029 service or classified service provisions of this chapter.
- 1030 [~~(11)~~ (11) "Examining instruments" means written or other types of proficiency tests.
- 1031 [~~(12)~~ (12) "Executive director," except where otherwise specified, means the
- 1032 executive director of the Department of [~~Administrative Services~~] Human Resource
- 1033 Management.
- 1034 (13) "Human resource function" means those duties and responsibilities specified:
- 1035 (a) under Section 67-19-6;
- 1036 (b) under rules of the department; and
- 1037 (c) under other state or federal statute.
- 1038 [~~(13)~~ (14) "Market comparability adjustment" means a salary range adjustment
- 1039 determined necessary through a market survey of salary ranges of a reasonable cross section of
- 1040 comparable benchmark positions in private and public employment.
- 1041 [~~(14)~~ (15) "Probationary employee" means an employee serving a probationary period
- 1042 in a career service position but who does not have career service status.
- 1043 [~~(15)~~ (16) "Probationary period" means that period of time determined by the
- 1044 department that an employee serves in a career service position as part of the hiring process
- 1045 before career service status is granted to the employee.
- 1046 [~~(16)~~ (17) "Probationary status" means the status of an employee between the
- 1047 employee's hiring and the granting of career service status.
- 1048 (18) "Temporary employee" means career service exempt employees on schedule AJ,
- 1049 AI, or AL under Section 67-19-15.
- 1050 [~~(17)~~ (19) "Total compensation" means salaries and wages, bonuses, paid leave, group

1051 insurance plans, retirement, and all other benefits offered to state employees as inducements to
1052 work for the state.

1053 Section 25. Section **67-19-3.1 (Effective 07/01/06)** is amended to read:

1054 **67-19-3.1 (Effective 07/01/06). Principles guiding interpretation of chapter and**
1055 **adoption of rules.**

1056 (1) The [~~division~~] department shall establish a career service system designed in a
1057 manner that will provide for the effective implementation of the following merit principles:

1058 (a) recruiting, selecting, and advancing employees on the basis of their relative ability,
1059 knowledge, and skills, including open consideration of qualified applicants for initial
1060 appointment;

1061 (b) providing for equitable and competitive compensation;

1062 (c) training employees as needed to assure high-quality performance;

1063 (d) retaining employees on the basis of the adequacy of their performance and
1064 separating employees whose inadequate performance cannot be corrected;

1065 (e) fair treatment of applicants and employees in all aspects of human resource
1066 administration without regard to race, color, religion, sex, national origin, political affiliation,
1067 age, or disability, and with proper regard for their privacy and constitutional rights as citizens;

1068 (f) providing information to employees regarding their political rights and the
1069 prohibited practices under the Hatch Act; and

1070 (g) providing a formal procedure for processing the appeals and grievances of
1071 employees without discrimination, coercion, restraint, or reprisal.

1072 (2) The principles in Subsection (1) shall govern interpretation and implementation of
1073 this chapter.

1074 Section 26. Section **67-19-5 (Effective 07/01/06)** is amended to read:

1075 **67-19-5 (Effective 07/01/06). Department of Human Resource Management**
1076 **created -- Executive director -- Compensation -- Staff.**

1077 (1) There is created the [~~Division~~] Department of Human Resource Management
1078 [~~within the Department of Administrative Services~~].

1079 (2) (a) The [~~division~~] department shall be administered by [~~a~~] an executive director
1080 appointed by the governor with the consent of the Senate.

1081 (b) The executive director shall be a person with experience in human resource

1082 management and shall be accountable to the ~~[executive director]~~ governor for ~~[his]~~ the
1083 executive director's performance in office.

1084 (3) The executive director may:

1085 (a) appoint a personal secretary and~~[-, with the approval of the executive director,]~~ a
1086 deputy director, both of whom shall be exempt from career service~~[-];~~ and

1087 (b) appoint division directors and program managers who may be career service
1088 exempt.

1089 (4) (a) The executive director shall have full responsibility and accountability for the
1090 administration of the statewide human resource management system.

1091 (b) Except as provided in Section 67-19-6.1, an agency may not perform human
1092 resource functions without the consent of the executive director.

1093 (5) Statewide human resource management rules adopted by the ~~[Division]~~ Department
1094 of Human Resource Management in accordance with Title 63, Chapter 46a, Utah
1095 Administrative Rulemaking Act, shall take precedence if there is a conflict with ~~[department]~~
1096 agency rules, policies, or practices.

1097 (6) The department may operate as an internal service fund agency in accordance with
1098 Section 63-38-3.5 for the human resource functions the department provides.

1099 Section 27. Section **67-19-6 (Effective 07/01/06)** is amended to read:

1100 **67-19-6 (Effective 07/01/06). Responsibilities of the executive director.**

1101 (1) The executive director shall:

1102 (a) develop, implement, and administer a statewide program of human resource
1103 management that will:

1104 (i) aid in the efficient execution of public policy;

1105 (ii) foster careers in public service for qualified employees; and

1106 (iii) render assistance to state agencies in performing their missions;

1107 (b) design and administer the state pay plan;

1108 (c) design and administer the state classification system and procedures for determining
1109 schedule assignments;

1110 (d) design and administer the state recruitment and selection system;

1111 (e) ~~[monitor]~~ administer agency human resource practices ~~[to determine]~~ and ensure
1112 compliance with federal law, state law, and state human resource rules, including equal

1113 employment opportunity;

1114 (f) consult with agencies on decisions concerning employee corrective action and

1115 discipline;

1116 [~~f~~] (g) maintain central personnel records;

1117 [~~g~~] (h) perform those functions necessary to implement this chapter unless otherwise

1118 assigned or prohibited;

1119 [~~h~~] (i) perform duties assigned by the governor or statute;

1120 [~~i~~] (j) adopt rules for human resource management according to the procedures of

1121 Title 63, Chapter 46a, Utah Administrative Rulemaking Act;

1122 [~~j~~] (k) establish and maintain a management information system that will furnish the

1123 governor, the Legislature, and agencies with current information on authorized positions,

1124 payroll, and related matters concerning state human resources;

1125 [~~k~~] (l) conduct research and planning activities to:

1126 (i) determine and prepare for future state human resource needs;

1127 (ii) develop methods for improving public human resource management; and

1128 (iii) propose needed policy changes to the governor;

1129 [~~l~~] (m) study the character, causes, and extent of discrimination in state employment

1130 and develop plans for its elimination through programs consistent with federal and state laws

1131 governing equal employment opportunity in employment;

1132 [~~m~~] (n) when requested by counties, municipalities, and other political subdivisions

1133 of the state, provide technical service and advice on human resource management at a charge

1134 determined by the executive director;

1135 [~~n~~] (o) establish compensation policies and procedures for early voluntary retirement;

1136 [~~o~~] (p) confer with the heads of other agencies about human resource policies and

1137 procedures;

1138 [~~p~~] (q) submit an annual report to the governor and the Legislature; and

1139 [~~q~~] (r) (i) develop a procedure by which each agency will:

1140 (A) identify funded vacant positions; and

1141 (B) report those funded vacant positions to the [~~division~~] department;

1142 (ii) identify all funded employee positions in each agency that have been vacant for

1143 more than 180 consecutive days during the 18-month period prior to July 1 of each year; and

1144 (iii) by no later than September 1 of each year, provide a report of all funded employee
1145 positions in each agency identified in Subsections (1)~~(c)~~(r)(i) and (ii) to:

1146 (A) the Governor's Office of Planning and Budget; and

1147 (B) the Office of the Legislative Fiscal Analyst.

1148 (2) (a) After consultation with the governor and the heads of other agencies, the
1149 executive director shall establish and coordinate statewide training programs.

1150 (b) The programs developed under this Subsection (2) shall have application to more
1151 than one agency.

1152 (c) The ~~[division]~~ department may not establish training programs that train employees
1153 to perform highly specialized or technical jobs and tasks.

1154 (3) (a) (i) The ~~[division]~~ department may collect fees for training as authorized by this
1155 Subsection (3).

1156 (ii) Training funded from General Fund appropriations shall be treated as a separate
1157 program within the ~~[division]~~ department budget.

1158 (iii) All money received from fees under this section will be accounted for by the
1159 ~~[division]~~ department as a separate user driven training program.

1160 (iv) The user training program includes the costs of developing, procuring, and
1161 presenting training and development programs, and other associated costs for these programs.

1162 (b) (i) Funds remaining at the end of the fiscal year in the user training program are
1163 nonlapsing.

1164 (ii) Each year, as part of the appropriations process, the Legislature shall review the
1165 amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require
1166 the ~~[division]~~ department to lapse a portion of the funds.

1167 Section 28. Section **67-19-6.1 (Effective 07/01/06)** is amended to read:

1168 **67-19-6.1 (Effective 07/01/06). Department field offices.**

1169 (1) ~~[After consulting with an agency head, the]~~ The executive director of the ~~[Division]~~
1170 Department of Human Resource Management may establish a field office in ~~[that]~~ an agency.

1171 (2) The executive director ~~[shall]~~ may assign an employee of the ~~[division]~~ department
1172 to act as field office ~~[director]~~ staff.

1173 (3) ~~[Before establishing a field office, the]~~ The executive director and agency head
1174 shall sign an agreement, to be ~~[approved by the governor]~~ reviewed annually, that specifies:

- 1175 ~~[(a) the scope of responsibility of the field office director and staff;]~~
 1176 ~~[(b)]~~ (a) the services to be provided by the ~~[field office director and staff]~~ department;
 1177 ~~[(c) the relationship between the field office director and agency management;]~~
 1178 ~~[(d) the facilities, equipment, supplies, and budget to be provided for the field office by~~
 1179 ~~the agency and the allocation of the cost of those facilities, equipment, and supplies;]~~
 1180 ~~[(e) staff size;]~~
 1181 (b) the use of agency facilities and equipment by the field office;
 1182 ~~[(f)]~~ (c) protocols to resolve discrepancies between agency practice and ~~[Division]~~
 1183 Department of Human Resource Management policy; and
 1184 ~~[(g) the date that the agreement shall terminate if not previously terminated or renewed;~~
 1185 ~~and]~~
 1186 ~~[(h)]~~ (d) any other issue necessary for the proper functioning of the field office ~~[within~~
 1187 ~~the agency].~~
 1188 (4) Unless otherwise provided for in the field office agreement, the agency shall:
 1189 (a) obtain field office approval for the final selection of qualified applicants for
 1190 appointment and promotion to vacant positions;
 1191 (b) assign responsibilities and duties to its employees;
 1192 ~~[(b)]~~ (c) conduct performance appraisals;
 1193 ~~[(c)]~~ (d) discipline its employees in consultation with the department; and
 1194 ~~[(d)]~~ (e) maintain individual personnel records.
 1195 ~~[(5) Any field office agreement shall be subject to termination by the director with the~~
 1196 ~~approval of the governor.]~~
 1197 Section 29. Section **67-19-6.3** is amended to read:
 1198 **67-19-6.3. Equal employment opportunity plan.**
 1199 (1) In conjunction with the director's duties under Section 67-19-6, and
 1200 notwithstanding the general prohibition in Subsection 34A-5-106(3)(c), the executive director
 1201 shall prepare an equal employment opportunity plan for state employment consistent with the
 1202 guidelines provided in federal equal employment opportunity laws and in related federal
 1203 regulations.
 1204 (2) The equal employment opportunity plan required by this section applies only to
 1205 state career service employees described in Section 67-19-15.

1206 (3) The Legislature shall review the equal employment opportunity plan required by
1207 this section before it may be implemented.

1208 (4) Nothing in this section requires the establishment of hiring quotas or preferential
1209 treatment of any identifiable group.

1210 Section 30. Section **67-19-6.7 (Effective 07/01/06)** is amended to read:

1211 **67-19-6.7 (Effective 07/01/06). Overtime policies for state employees.**

1212 (1) As used in this section:

1213 (a) "Accrued overtime hours" means:

1214 (i) for nonexempt employees, overtime hours earned during a fiscal year that, at the end
1215 of the fiscal year, have not been paid and have not been taken as time off by the nonexempt
1216 state employee who accrued them; and

1217 (ii) for exempt employees, overtime hours earned during an overtime year.

1218 (b) "Appointed official" means:

1219 (i) each department executive director and deputy director, each division director, and
1220 each member of a board or commission; and

1221 (ii) any other person employed by a department who is appointed by, or whose
1222 appointment is required by law to be approved by, the governor and who:

1223 (A) is paid a salary by the state; and

1224 (B) who exercises managerial, policy-making, or advisory responsibility.

1225 (c) "Department" means the Department of Administrative Services, the Department of
1226 Corrections, the Department of Financial Institutions, the Department of Alcoholic Beverage
1227 Control, the Insurance Department, the Public Service Commission, the Labor Commission,
1228 the Department of Agriculture and Food, the Department of Human Services, the State Board
1229 of Education, the Department of Natural Resources, ~~H~~→ **the Department of Technology**
1229a **Services**, ←~~H~~ the Department of Transportation, the
1230 Department of Commerce, the Department of Workforce Services, the State Tax Commission,
1231 the Department of Community and Culture, the Department of Health, the National Guard, the
1232 Department of Environmental Quality, the Department of Public Safety, the Department of
1233 Human Resource Management, the Commission on Criminal and Juvenile Justice, all merit
1234 employees except attorneys in the Office of the Attorney General, merit employees in the
1235 Office of the State Treasurer, and merit employees in the Office of the State Auditor.

1236 (d) "Elected official" means any person who is an employee of the state because he was

1237 elected by the registered voters of Utah to a position in state government.

1238 (e) "Exempt employee" means a state employee who is exempt as defined by the Fair
1239 Labor Standards Act of 1978, 29 U.S.C. Section 201 et seq.

1240 (f) "FLSA" means the Fair Labor Standards Act of 1978, 29 U.S.C. Section 201 et seq.

1241 (g) "FLSA agreement" means the agreement authorized by the Fair Labor Standards
1242 Act of 1978, 29 U.S.C. Section 201 et seq., by which a nonexempt employee elects the form of
1243 compensation he will receive for overtime.

1244 (h) "Nonexempt employee" means a state employee who is nonexempt as defined by
1245 the ~~[Division]~~ Department of Human Resource Management applying FLSA requirements.

1246 (i) "Overtime" means actual time worked in excess of the employee's defined work
1247 period.

1248 (j) "Overtime year" means the year determined by a department under Subsection
1249 (4)(b) at the end of which an exempt employee's accrued overtime lapses.

1250 (k) (i) "State employee" means every person employed by a department who is not an
1251 appointed official or an elected official.

1252 (ii) "State employee" does not mean:

1253 (A) certificated employees of the State Board of Education; and

1254 (B) employees of the Department of Community and Culture or the Governor's Office
1255 of Economic Development, whose positions are designated as schedule AM exempt employees
1256 under Section 67-19-15.

1257 (l) "Uniform annual date" means the date when an exempt employee's accrued
1258 overtime lapses.

1259 (m) "Work period" means:

1260 (i) for all nonexempt employees, except law enforcement and hospital employees, a
1261 consecutive seven day 24 hour work period of 40 hours;

1262 (ii) for all exempt employees, a 14 day, 80 hour payroll cycle; and

1263 (iii) for nonexempt law enforcement and hospital employees, the period established by
1264 each department by rule for those employees according to the requirements of the Fair Labor
1265 Standards Act of 1978, 29 U.S.C. Section 201 et seq.

1266 (2) Each department shall compensate each state employee who works overtime by
1267 complying with the requirements of this section.

1268 (3) (a) Each department shall negotiate and obtain a signed FLSA agreement from each
1269 nonexempt employee.

1270 (b) In the FLSA agreement, the nonexempt employee shall elect either to be
1271 compensated for overtime by:

1272 (i) taking time off work at the rate of one and one-half hour off for each overtime hour
1273 worked; or

1274 (ii) being paid for the overtime worked at the rate of one and one-half times the rate per
1275 hour that the state employee receives for nonovertime work.

1276 (c) Any nonexempt employee who elects to take time off under this Subsection (3)
1277 shall be paid for any overtime worked in excess of the cap established by the [~~Division~~]
1278 Department of Human Resource Management.

1279 (d) Before working any overtime, each nonexempt employee shall obtain authorization
1280 to work overtime from the employee's immediate supervisor.

1281 (e) Each department shall:

1282 (i) for employees who elect to be compensated with time off for overtime, allow
1283 overtime earned during a fiscal year to be accumulated; and

1284 (ii) for employees who elect to be paid for overtime worked, pay them for overtime
1285 worked in the paycheck for the pay period in which the employee worked the overtime.

1286 (f) If the department pays a nonexempt employee for overtime, the department shall
1287 charge that payment to the department's budget.

1288 (g) At the end of each fiscal year, the Division of Finance shall total all the accrued
1289 overtime hours for nonexempt employees and charge that total against the appropriate fund or
1290 subfund.

1291 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), each department shall
1292 compensate exempt employees who work overtime by granting them time off at the rate of one
1293 hour off for each hour of overtime worked.

1294 (ii) The executive director of the [~~Division~~] Department of Human Resource
1295 Management may grant limited exceptions to this requirement, where work circumstances
1296 dictate, by authorizing a department to pay employees for overtime worked at the rate per hour
1297 that the employee receives for nonovertime work, if the department has funds available.

1298 (b) (i) Each department shall:

1299 (A) establish in its written human resource policies a uniform annual date for each
1300 division that is at the end of any pay period; and

1301 (B) communicate the uniform annual date to its employees.

1302 (ii) If any department fails to establish a uniform annual date as required by this
1303 Subsection (4), the executive director of the [~~Division~~] Department of Human Resource
1304 Management, in conjunction with the director of the Division of Finance, shall establish the
1305 date for that department.

1306 (c) (i) Any overtime earned under this Subsection (4) is not an entitlement, is not a
1307 benefit, and is not a vested right.

1308 (ii) A court may not construe the overtime for exempt employees authorized by this
1309 Subsection (4) as an entitlement, a benefit, or as a vested right.

1310 (d) At the end of the overtime year, upon transfer to another department at any time,
1311 and upon termination, retirement, or other situations where the employee will not return to
1312 work before the end of the overtime year:

1313 (i) any of an exempt employee's overtime that is more than the maximum established
1314 by the [~~Division~~] Department of Human Resource Management rule lapses; and

1315 (ii) unless authorized by the executive director of the [~~Division~~] Department of Human
1316 Resource Management under Subsection (4)(a)(ii), a department may not compensate the
1317 exempt employee for that lapsed overtime by paying the employee for the overtime or by
1318 granting the employee time off for the lapsed overtime.

1319 (e) Before working any overtime, each exempt employee shall obtain authorization to
1320 work overtime from the exempt employee's immediate supervisor.

1321 (f) If the department pays an exempt employee for overtime under authorization from
1322 the executive director of the [~~Division~~] Department of Human Resource Management, the
1323 department shall charge that payment to the department's budget in the pay period earned.

1324 (5) The [~~Division~~] Department of Human Resource Management shall:

1325 (a) ensure that the provisions of the FLSA and this section are implemented throughout
1326 state government;

1327 (b) determine, for each state employee, whether that employee is exempt, nonexempt,
1328 law enforcement, or has some other status under the FLSA;

1329 (c) in coordination with modifications to the systems operated by the Division of

1330 Finance, make rules:

1331 (i) establishing procedures for recording overtime worked that comply with FLSA
1332 requirements;

1333 (ii) establishing requirements governing overtime worked while traveling and
1334 procedures for recording that overtime that comply with FLSA requirements;

1335 (iii) establishing requirements governing overtime worked if the employee is "on call"
1336 and procedures for recording that overtime that comply with FLSA requirements;

1337 (iv) establishing requirements governing overtime worked while an employee is being
1338 trained and procedures for recording that overtime that comply with FLSA requirements;

1339 (v) subject to the FLSA, establishing the maximum number of hours that a nonexempt
1340 employee may accrue before a department is required to pay the employee for the overtime
1341 worked;

1342 (vi) subject to the FLSA, establishing the maximum number of overtime hours for an
1343 exempt employee that do not lapse; and

1344 (vii) establishing procedures for adjudicating appeals of any FLSA determinations
1345 made by the [~~Division~~] Department of Human Resource Management as required by this
1346 section;

1347 (d) monitor departments for compliance with the FLSA; and

1348 (e) recommend to the Legislature and the governor any statutory changes necessary
1349 because of federal government action.

1350 (6) In coordination with the procedures for recording overtime worked established in
1351 rule by the [~~Division~~] Department of Human Resource Management, the Division of Finance
1352 shall modify its payroll and human resource systems to accommodate those procedures.

1353 (a) Notwithstanding the procedures and requirements of Title 63, Chapter 46b,
1354 Administrative Procedures Act, Section 67-19-31, and Section 67-19a-301, any employee who
1355 is aggrieved by the FLSA designation made by the [~~Division~~] Department of Human Resource
1356 Management as required by this section may appeal that determination to the executive director
1357 of the [~~Division~~] Department of Human Resource Management by following the procedures
1358 and requirements established in [~~Division~~] Department of Human Resource Management rule.

1359 (b) Upon receipt of an appeal under this section, the executive director shall notify the
1360 executive director of the employee's department that the appeal has been filed.

1361 (c) If the employee is aggrieved by the decision of the executive director of the
 1362 [~~Division~~] Department of Human Resource Management, he shall appeal that determination to
 1363 the Department of Labor, Wage and Hour Division, according to the procedures and
 1364 requirements of federal law.

1365 Section 31. Section **67-19-11 (Effective 07/01/06)** is amended to read:

1366 **67-19-11 (Effective 07/01/06). Use of department facilities -- Field office facilities**
 1367 **cost allocation -- Funding for department.**

1368 (1) (a) All officers and employees of the state and its political subdivisions shall allow
 1369 the [~~division~~] department to use public buildings under their control, and furnish heat, light,
 1370 and furniture, for any examination, hearing, or investigation authorized by this chapter.

1371 [~~(b) (i) Allocation of the cost for any facilities, equipment, or supplies furnished by an~~
 1372 ~~agency for use as a field office of the division shall be governed by the field office agreement~~
 1373 ~~established in Section 67-19-6.1.]~~

1374 [~~(ii) If the field office agreement does not specifically provide for the allocation of a~~
 1375 ~~cost for the division's use of the agency's facilities, equipment, or supplies, the agency shall pay~~
 1376 ~~the cost of those facilities, equipment, and supplies.]~~

1377 (b) The cost of the department's use of facilities shall be paid by the agency housing a
 1378 field office staff.

1379 (2) The executive director shall:

1380 (a) prepare an annual budget request for the [~~division, which is subject to the executive~~
 1381 ~~director's approval; and~~] department;

1382 (b) submit the budget request to the governor and the Legislature[-]; and

1383 (c) except for fiscal year 2007, before charging a fee for services provided by the
 1384 department's internal service fund to an executive branch agency, the executive director shall:

1385 (i) submit the proposed rates, fees, and cost analysis to the Rate Committee established
 1386 under Subsection (3); and

1387 (ii) obtain the approval of the Legislature as required under Section 63-38-3.5.

1388 (3) (a) There is created a Rate Committee which shall consist of:

1389 (i) the director of the Governor's Office of Planning and Budget, or a designee;

1390 (ii) the executive directors of three state agencies that use services and pay rates to one
 1391 of the department internal service funds, or their designee, appointed by the governor for a

1392 two-year term;

1393 (iii) the director of the Division of Finance, or a designee; and

1394 (iv) the executive director of the Department of Human Resource Management, or a
1395 designee.

1396 (b) (i) The committee shall elect a chair from its members.

1397 (ii) Members of the committee who are state government employees and who do not
1398 receive salary, per diem, or expenses from their agency for their service on the committee shall
1399 receive no compensation, benefits, per diem, or expenses for the members' service on the
1400 committee.

1401 (c) The Department of Human Resource Management shall provide staff services to the
1402 committee.

1403 (4) (a) The department shall submit to the committee a proposed rate and fee schedule
1404 for services rendered.

1405 (b) The committee shall:

1406 (i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public
1407 Meetings;

1408 (ii) review the proposed rate and fee schedules and may approve, increase, or decrease
1409 the rate and fee;

1410 (iii) recommend a proposed rate and fee schedule for the internal service fund to:

1411 (A) the Governor's Office of Planning and Budget; and

1412 (B) the legislative appropriations subcommittees that, in accordance with Section
1413 63-38-3.5, approve the internal service fund rates, fees, and budget; and

1414 (iv) review and approve, increase or decrease an interim rate, fee, or amount when the
1415 department begins a new service or introduces a new product between annual general sessions
1416 of the Legislature.

1417 (c) The committee may in accordance with Subsection 63-38-3.5(4) decrease a rate,
1418 fee, or amount that has been approved by the Legislature.

1419 Section 32. Section **67-19-12 (Effective 07/01/06)** is amended to read:

1420 **67-19-12 (Effective 07/01/06). State pay plans -- Applicability of section --**
1421 **Exemptions -- Duties of the executive director.**

1422 (1) (a) This section, and the rules adopted by the [~~division~~] department to implement

1423 this section, apply to each career and noncareer employee not specifically exempted under
1424 Subsection (2).

1425 (b) If not exempted under Subsection (2), an employee is considered to be in classified
1426 service.

1427 (2) The following employees are exempt from this section:

1428 (a) members of the Legislature and legislative employees;

1429 (b) members of the judiciary and judicial employees;

1430 (c) elected members of the executive branch and their direct staff who meet career
1431 service exempt criteria as defined in Subsection 67-19-15(1)(k);

1432 (d) certificated employees of the State Board of Education;

1433 (e) officers, faculty, and other employees of state institutions of higher education;

1434 (f) employees in any position that is determined by statute to be exempt from this

1435 Subsection (2);

1436 (g) attorneys in the Office of the Attorney General;

1437 (h) department heads and other persons appointed by the governor pursuant to statute;

1438 (i) employees of the Department of Community and Culture whose positions are
1439 designated as executive/professional positions by the executive director of the Department of
1440 Community and Culture with the concurrence of the executive director;

1441 (j) employees of the Governor's Office of Economic Development whose positions are
1442 designated as executive/professional positions by the director of the office; and

1443 (k) employees of the Medical Education Council.

1444 (3) (a) The executive director shall prepare, maintain, and revise a position
1445 classification plan for each employee position not exempted under Subsection (2) to provide
1446 equal pay for equal work.

1447 (b) Classification of positions shall be based upon similarity of duties performed and
1448 responsibilities assumed, so that the same job requirements and the same salary range may be
1449 applied equitably to each position in the same class.

1450 (c) The executive director shall allocate or reallocate the position of each employee in
1451 classified service to one of the classes in the classification plan.

1452 (d) (i) The [~~division~~] department shall conduct periodic studies and desk audits to
1453 provide that the classification plan remains reasonably current and reflects the duties and

1454 responsibilities assigned to and performed by employees.

1455 (ii) The executive director shall determine the schedule for studies and desk audits after
1456 considering factors such as changes in duties and responsibilities of positions or agency
1457 reorganizations.

1458 (4) (a) With the approval of the governor, the executive director shall develop and
1459 adopt pay plans for each position in classified service.

1460 (b) The executive director shall design each pay plan to achieve, to the degree that
1461 funds permit, comparability of state salary ranges to salary ranges used by private enterprise
1462 and other public employment for similar work.

1463 (c) The executive director shall adhere to the following in developing each pay plan:

1464 (i) Each pay plan shall consist of sufficient salary ranges to permit adequate salary
1465 differential among the various classes of positions in the classification plan.

1466 (ii) (A) The executive director shall assign each class of positions in the classification
1467 plan to a salary range and shall set the width of the salary range to reflect the normal growth
1468 and productivity potential of employees in that class.

1469 (B) The width of the ranges need not be uniform for all classes of positions in the plan,
1470 but each range shall contain merit steps in increments of 2.75% salary increases.

1471 (iii) (A) The executive director shall issue rules for the administration of pay plans.

1472 (B) The rules may provide for exceptional performance increases and for a program of
1473 incentive awards for cost-saving suggestions and other commendable acts of employees.

1474 (C) The executive director shall issue rules providing for salary adjustments.

1475 (iv) Merit step increases shall be granted, if funds are available, to employees who
1476 receive a rating of "successful" or higher in an annual evaluation of their productivity and
1477 performance.

1478 (v) By October 31 of each year, the executive director shall submit market
1479 comparability adjustments to the director of the Governor's Office of Planning and Budget for
1480 consideration to be included as part of the affected agency's base budgets.

1481 (vi) By October 31 of each year, the executive director shall recommend a
1482 compensation package to the governor.

1483 (vii) (A) Adjustments shall incorporate the results of a total compensation market
1484 survey of salary ranges and benefits of a reasonable cross section of comparable benchmark

1485 positions in private and public employment in the state.

1486 (B) The survey may also study comparable unusual positions requiring recruitment in
1487 other states.

1488 (C) The executive director may cooperate with other public and private employers in
1489 conducting the survey.

1490 (viii) (A) The executive director shall establish criteria to assure the adequacy and
1491 accuracy of the survey and shall use methods and techniques similar to and consistent with
1492 those used in private sector surveys.

1493 (B) Except as provided under Section 67-19-12.3, the survey shall include a reasonable
1494 cross section of employers.

1495 (C) The executive director may cooperate with or participate in any survey conducted
1496 by other public and private employers.

1497 (D) The executive director shall obtain information for the purpose of constructing the
1498 survey from the Division of Workforce Information and Payment Services and shall include
1499 employer name, number of persons employed by the employer, employer contact information
1500 and job titles, county code, and salary if available.

1501 (E) The department shall acquire and protect the needed records in compliance with the
1502 provisions of Section 35A-4-312.

1503 (ix) The establishing of a salary range is a nondelegable activity and is not appealable
1504 under the grievance procedures of Sections 67-19-30 through 67-19-32, Title 67, Chapter 19a,
1505 Grievance and Appeal Procedures, or otherwise.

1506 (x) The governor shall:

1507 (A) consider salary adjustments recommended under Subsection (4)(c)(vi) in preparing
1508 the executive budget and shall recommend the method of distributing the adjustments;

1509 (B) submit compensation recommendations to the Legislature; and

1510 (C) support the recommendation with schedules indicating the cost to individual
1511 departments and the source of funds.

1512 (xi) If funding is approved by the Legislature in a general appropriations act, the
1513 adjustments take effect on the July 1 following the enactment.

1514 (5) (a) The executive director shall regularly evaluate the total compensation program
1515 of state employees in the classified service.

1516 (b) The [~~division~~] department shall determine if employee benefits are comparable to
1517 those offered by other private and public employers using information from:

1518 (i) the most recent edition of the Employee Benefits Survey Data conducted by the U.S.
1519 Chamber of Commerce Research Center; or

1520 (ii) the most recent edition of a nationally recognized benefits survey.

1521 (6) (a) The executive director shall submit proposals for a state employee
1522 compensation plan to the governor by October 31 of each year, setting forth findings and
1523 recommendations affecting employee compensation.

1524 (b) The governor shall consider the executive director's proposals in preparing budget
1525 recommendations for the Legislature.

1526 (c) The governor's budget proposals to the Legislature shall include a specific
1527 recommendation on employee compensation.

1528 Section 33. Section **67-19-12.2 (Effective 07/01/06)** is amended to read:

1529 **67-19-12.2 (Effective 07/01/06). Education benefit plan for law enforcement and**
1530 **correctional officers.**

1531 (1) As used in this section, "law enforcement officer" has the same meaning as in
1532 Section 53-13-103 and "correctional officer" has the same meaning as in Section 53-13-104.

1533 (2) The executive director shall establish a plan authorizing any agency to implement
1534 an educational compensation program for law enforcement officers and correctional officers
1535 employed by that agency.

1536 (3) The program shall provide that in order for a law enforcement officer or
1537 correctional officer to qualify for education benefits for college or university education, the law
1538 enforcement officer or correctional officer shall:

1539 (a) provide a certified transcript of grades, demonstrating a grade point average of 3.0
1540 or greater, from an accredited college or university; and

1541 (b) have successfully completed the probationary employment period with the
1542 employing agency.

1543 (4) The program shall also provide that the agency may consider a law enforcement
1544 officer or correctional officer to receive additional compensation as follows for higher
1545 education degrees earned on or after April 30, 2001, in a subject area directly related to the law
1546 enforcement officer's or correctional officer's employment with the agency:

- 1547 (a) two steps for an associate's degree;
1548 (b) two steps for a bachelor's degree; and
1549 (c) two steps for a master's degree.
1550 (5) Expenses incurred by an agency to provide additional compensation under this
1551 section may be only from the agency's existing budget.

1552 Section 34. Section **67-19-12.5 (Effective 07/01/06)** is amended to read:

1553 **67-19-12.5 (Effective 07/01/06). Creation of Flexible Benefit Program --**
1554 **Rulemaking power granted to establish program.**

1555 (1) The [~~division~~] department shall establish for calendar year 1990 and thereafter a
1556 Flexible Benefit Program under Section 125 of the Internal Revenue Code of 1986.

1557 (2) The [~~division~~] department shall establish accounts for all employees eligible for
1558 benefits which meet the nondiscrimination requirements of the Internal Revenue Code of 1986.

1559 (3) (a) Each account established under this section shall include employee paid
1560 premiums for health and dental services.

1561 (b) The account may also include, at the option of the employee, out-of-pocket
1562 employee medical and dependent care expenses.

1563 (c) Accounts may also include other expenses allowed under the Internal Revenue
1564 Code of 1986.

1565 (4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1566 [~~division~~] department may make rules to implement the program established under this section.

1567 Section 35. Section **67-19-12.7 (Effective 07/01/06)** is amended to read:

1568 **67-19-12.7 (Effective 07/01/06). Accumulated annual leave -- Conversion to**
1569 **deferred compensation plan.**

1570 (1) The [~~division~~] department shall implement a program whereby an employee may,
1571 upon termination of employment or retirement, elect to convert any unused annual leave into
1572 any of the employee's designated deferred compensation accounts that:

1573 (a) are sponsored by the Utah State Retirement Board; and

1574 (b) are qualified under Section 401(k) or Section 457 of the Internal Revenue Code.

1575 (2) Any annual leave converted under Subsection (1) shall be converted into the
1576 employee's deferred compensation account at the employee's pay rate at the time of termination
1577 or retirement.

1578 (3) No employee may convert hours of accrued annual leave to the extent that any
1579 hours so converted would exceed the maximum amount authorized by the Internal Revenue
1580 Code for each calendar year.

1581 Section 36. Section **67-19-12.9 (Effective 07/01/06)** is amended to read:

1582 **67-19-12.9 (Effective 07/01/06). Accumulated annual leave -- Annual conversion**
1583 **to deferred compensation plan.**

1584 (1) If the Legislature in an annual appropriations act with accompanying intent
1585 language specifically authorizes and fully funds the estimated costs of this use, the [~~division~~]
1586 department shall implement a program that allows an employee, in the approved calendar year,
1587 to elect to convert up to 20 hours of annual leave, in whole hour increments not to exceed \$250
1588 in value, into any of the employee's designated deferred compensation accounts that:

1589 (a) are sponsored by the Utah State Retirement Board; and

1590 (b) are qualified under Section 401(k) or Section 457 of the Internal Revenue Code.

1591 (2) Any annual leave converted under Subsection (1) shall be:

1592 (a) converted into the employee's deferred compensation account at the employee's pay
1593 rate at the time of conversion; and

1594 (b) calculated in the last pay period of the leave year as determined by the Division of
1595 Finance.

1596 (3) An employee may not convert hours of accrued annual leave to the extent that any
1597 hours converted would:

1598 (a) exceed the maximum amount authorized by the Internal Revenue Code for the
1599 calendar year; or

1600 (b) cause the employee's balance of accumulated annual leave to drop below the
1601 maximum accrual limit provided by rule.

1602 Section 37. Section **67-19-13 (Effective 07/01/06)** is amended to read:

1603 **67-19-13 (Effective 07/01/06). Examination of payrolls and certification of**
1604 **employee eligibility by the executive director.**

1605 (1) The executive director may examine payrolls at any time to determine conformity
1606 with this chapter and the regulations.

1607 (2) No new employee shall be hired in a position covered by this chapter, and no
1608 employee shall be changed in pay, title or status, nor shall any employee be paid unless

1609 certified by the executive director as eligible under the provisions of or regulations
1610 promulgated pursuant to this chapter.

1611 Section 38. Section **67-19-14** is amended to read:

1612 **67-19-14. Sick leave -- Definitions -- Unused sick days retirement programs --**
1613 **Rulemaking.**

1614 (1) As used in Sections 67-19-14 through 67-19-14.4:

1615 (a) "Continuing medical and life insurance benefits" means the state provided policy of
1616 medical insurance and the state provided portion of a policy of life insurance, each offered at
1617 the same:

1618 (i) benefit level and the same proportion of state/member participation in the total
1619 premium costs as an active member as defined in Section 49-11-102; and

1620 (ii) coverage level for a member, two person, or family policy as provided to the
1621 member at the time of retirement.

1622 (b) "Converted sick leave" means leave that has been converted from unused sick leave
1623 in accordance with Section 67-19-14.1 which may be used by an employee in the same manner
1624 as:

1625 (i) annual leave;

1626 (ii) sick leave; or

1627 (iii) unused accumulated sick leave after the employee's retirement for the purchase of
1628 continuing medical and life insurance benefits under Sections 67-19-14.2, 67-19-14.3, and
1629 67-19-14.4.

1630 (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1631 executive director shall make rules for the procedures to implement the provisions of Sections
1632 67-19-14 through 67-19-14.4.

1633 (3) For purposes of Sections 67-19-14 through 67-19-14.4 the most recently earned
1634 converted sick leave or sick leave hours shall be used first when an employee uses converted
1635 sick leave or sick leave hours.

1636 (4) The Division of Finance shall develop and maintain a system of accounting for
1637 employee sick leave and converted sick leave as necessary to implement the provisions of
1638 Sections 67-19-14 through 67-19-14.4.

1639 Section 39. Section **67-19-15 (Effective 07/01/06)** is amended to read:

1640 **67-19-15 (Effective 07/01/06). Career service -- Exempt positions -- Schedules for**
1641 **civil service positions -- Coverage of career service provisions.**

1642 (1) Except as otherwise provided by law or by rules and regulations established for
1643 federally aided programs, the following positions are exempt from the career service provisions
1644 of this chapter:

1645 (a) the governor, members of the Legislature, and all other elected state officers,
1646 designated as Schedule AA;

1647 (b) the agency heads enumerated in Section 67-22-2, and commissioners designated as
1648 Schedule AB;

1649 (c) all employees and officers in the office and at the residence of the governor,
1650 designated as Schedule AC;

1651 (d) employees who are in a confidential relationship to an agency head or
1652 commissioner and who report directly to, and are supervised by, a department head,
1653 commissioner, or deputy director of an agency or its equivalent, designated as Schedule AD;

1654 (e) unskilled employees in positions requiring little or no specialized skill or training,
1655 designated as Schedule AE;

1656 (f) part-time professional noncareer persons who are paid for any form of medical and
1657 other professional service and who are not engaged in the performance of administrative duties,
1658 designated as Schedule AF;

1659 (g) attorneys in the attorney general's office who are under their own career service pay
1660 plan, designated as Schedule AG;

1661 (h) teaching staff of all state institutions and patients and inmates employed in state
1662 institutions, designated as Schedule AH;

1663 (i) persons appointed to a position vacated by an employee who has a right to return
1664 under federal or state law or policy, designated as Schedule AI;

1665 (j) noncareer employees compensated for their services on a seasonal or contractual
1666 basis who are hired for limited periods of less than nine consecutive months or who are
1667 employed on less than 1/2 time basis, designated as Schedule AJ;

1668 (k) those employees in a personal and confidential relationship to elected officials,
1669 designated as Schedule AK;

1670 (l) employees appointed to perform work of a limited duration not exceeding two years

- 1671 or to perform work with time-limited funding, designated as Schedule AL;
- 1672 (m) employees of the Department of Community and Culture whose positions are
1673 designated as executive/professional positions by the executive director of the Department of
1674 Community and Culture with the concurrence of the executive director, and employees of the
1675 Governor's Office of Economic Development whose positions are designated as
1676 executive/professional positions by the director of the office, designated as Schedule AM;
- 1677 (n) employees of the Legislature, designated as Schedule AN;
- 1678 (o) employees of the judiciary, designated as Schedule AO;
- 1679 (p) all judges in the judiciary, designated as Schedule AP;
- 1680 (q) members of state and local boards and councils appointed by the governor and
1681 governing bodies of agencies, other local officials serving in an ex officio capacity, officers,
1682 faculty, and other employees of state universities and other state institutions of higher
1683 education, designated as Schedule AQ;
- 1684 (r) employees who make statewide policy, designated as Schedule AR;
- 1685 (s) any other employee whose appointment is required by statute to be career service
1686 exempt, designated as Schedule AS; and
- 1687 (t) employees of the Department of Technology Services, designated as
1688 executive/professional positions by the executive director of the Department of Technology
1689 Services with the concurrence of the executive director, designated as Schedule AT.
- 1690 (2) The civil service shall consist of two schedules as follows:
- 1691 (a) (i) Schedule A is the schedule consisting of positions exempted by Subsection (1).
1692 (ii) Removal from any appointive position under Schedule A, unless otherwise
1693 regulated by statute, is at the pleasure of the appointing officers without regard to tenure.
- 1694 (b) Schedule B is the competitive career service schedule, consisting of all positions
1695 filled through competitive selection procedures as defined by the executive director.
- 1696 (3) (a) The executive director, after consultation with the heads of concerned executive
1697 branch departments and agencies and with the approval of the governor, shall allocate positions
1698 to the appropriate schedules under this section.
- 1699 (b) Agency heads shall make requests and obtain approval from the executive director
1700 before changing the schedule assignment and tenure rights of any position.
- 1701 (c) Unless the executive director's decision is reversed by the governor, when the

1702 executive director denies an agency's request, the executive director's decision is final.

1703 (4) (a) Compensation for employees of the Legislature shall be established by the
1704 directors of the legislative offices in accordance with Section 36-12-7.

1705 (b) Compensation for employees of the judiciary shall be established by the state court
1706 administrator in accordance with Section 78-3-24.

1707 (c) Compensation for officers, faculty, and other employees of state universities and
1708 institutions of higher education shall be established as provided in Title 53B, Chapters 1,
1709 Governance, Powers, Rights, and Responsibilities, and 2, Institutions of Higher Education.

1710 (d) Unless otherwise provided by law, compensation for all other Schedule A
1711 employees shall be established by their appointing authorities, within ranges approved by, and
1712 after consultation with the executive director of the [~~Division~~] Department of Human Resource
1713 Management.

1714 (5) All employees of the Office of State Auditor, the Office of State Treasurer, the
1715 Office of the Attorney General, excluding attorneys who are under their own career service
1716 system, and employees who are not exempt under this section are covered by the career service
1717 provisions of this chapter.

1718 Section 40. Section **67-19-15.1 (Effective 07/01/06)** is amended to read:

1719 **67-19-15.1 (Effective 07/01/06). Implementation of exempt status for Schedule AD**
1720 **and AR employees.**

1721 (1) As used in this section, "appointee" means:

1722 (a) a deputy director;

1723 (b) a division director;

1724 (c) any assistant directors and administrative assistants who report directly to a
1725 department head, deputy director, or their equivalent; and

1726 (d) any other person whose appointment is required by law to be approved by the
1727 governor.

1728 (2) After the effective date of this chapter, any new appointee is a merit exempt
1729 employee.

1730 (3) Notwithstanding the requirements of this chapter, any appointee who is currently a
1731 nonexempt employee does not lose that nonexempt status because of this chapter.

1732 (4) The [~~Division~~] Department of Human Resource Management shall develop

1733 financial and other incentives to encourage appointees who are nonexempt to voluntarily
1734 convert to merit exempt status.

1735 Section 41. Section **67-19-15.6** is amended to read:

1736 **67-19-15.6. Longevity salary increases.**

1737 (1) Except for those employees subject to the Executive and Judicial Compensation
1738 Commission or Citizen's Salary Commission, any employee shall receive an increase in salary
1739 of 2.75% if that employee:

1740 (a) holds a position under Schedule A or B as defined in Section 67-19-15;

1741 (b) has reached the final step in salary range in the position classification;

1742 (c) has been employed with the state for eight years; and

1743 (d) is rated eligible in job performance under guidelines established by the executive
1744 director.

1745 (2) Any employee who meets the criteria defined in Subsection (1) is entitled to the
1746 same increase in salary for each additional three years of employment so long as the employee
1747 maintains the eligibility standards established by the department.

1748 Section 42. Section **67-19-16** is amended to read:

1749 **67-19-16. Appointments to Schedule B positions -- Examinations -- Hiring lists --**
1750 **Probationary service -- Dismissal.**

1751 (1) Each appointment to a position under Schedule B shall be made from hiring lists of
1752 applicants who have been selected by competitive procedures as defined by the executive
1753 director.

1754 (2) The executive director shall publicly announce information regarding career service
1755 positions:

1756 (a) for periods of time to be determined by the executive director; and

1757 (b) in a manner designed to attract the highest number of qualified applicants.

1758 (3) The executive director shall make rules establishing standards for the development,
1759 approval, and implementation of examining instruments.

1760 (4) Applicants for employment to Schedule B positions shall be eligible for
1761 appointment based upon rules established by the executive director.

1762 (5) (a) The agency head shall make appointments to fill vacancies from hiring lists for
1763 probationary periods as defined by rule.

1764 (b) The executive director shall make rules establishing probationary periods.

1765 (6) A person serving a probationary period may not use the grievance procedures
1766 provided in this chapter and in Title 67, Chapter 19a, Grievance and Appeal Procedures, and
1767 may be dismissed at any time by the appointing officer without hearing or appeal.

1768 (7) Career service status shall be granted upon the successful completion of the
1769 probationary period.

1770 Section 43. Section **67-19-17** is amended to read:

1771 **67-19-17. Reappointment of employees not retained in exempt position.**

1772 (1) Any career service employee accepting an appointment to an exempt position who
1773 is not retained by the appointing officer, unless discharged for cause as provided by this [~~act~~]
1774 chapter or by regulation, shall:

1775 [~~(+)~~] (a) be appointed to any career service position for which the employee qualifies in
1776 a pay grade comparable to the employee's last position in the career service provided an
1777 opening exists; or

1778 [~~(2)~~] (b) be appointed to any lesser career service position for which the employee
1779 qualifies pending the opening of a position described in Subsection (1) [~~of this section~~].

1780 (2) The executive director shall maintain a reappointment register for this purpose and
1781 it shall have precedence over other registers.

1782 Section 44. Section **67-19-18** is amended to read:

1783 **67-19-18. Dismissals and demotions -- Grounds -- Disciplinary action --**
1784 **Procedure -- Reductions in force.**

1785 (1) Career service employees may be dismissed or demoted:

1786 (a) to advance the good of the public service; or

1787 (b) for just causes such as inefficiency, incompetency, failure to maintain skills or
1788 adequate performance levels, insubordination, disloyalty to the orders of a superior,
1789 misfeasance, malfeasance, or nonfeasance in office.

1790 (2) Employees may not be dismissed because of race, sex, age, disability, national
1791 origin, religion, political affiliation, or other nonmerit factor including the exercise of rights
1792 under this chapter.

1793 (3) The executive director shall establish rules governing the procedural and
1794 documentary requirements of disciplinary dismissals and demotions.

1795 (4) If an agency head finds that a career service employee is charged with aggravated
1796 misconduct or that retention of a career service employee would endanger the peace and safety
1797 of others or pose a grave threat to the public interest, the employee may be suspended pending
1798 the administrative appeal to the department head as provided in Subsection (5).

1799 (5) (a) A career service employee may not be demoted or dismissed unless the
1800 department head or designated representative has complied with this subsection.

1801 (b) The department head or designated representative notifies the employee in writing
1802 of the reasons for the dismissal or demotion.

1803 (c) The employee has no less than five working days to reply and have the reply
1804 considered by the department head.

1805 (d) The employee has an opportunity to be heard by the department head or designated
1806 representative.

1807 (e) Following the hearing, the employee may be dismissed or demoted if the
1808 department head finds adequate cause or reason.

1809 (6) (a) Reductions in force required by inadequate funds, change of workload, or lack
1810 of work are governed by retention rosters established by the executive director.

1811 (b) Under those circumstances:

1812 (i) The agency head shall designate the category of work to be eliminated, subject to
1813 review by the executive director.

1814 (ii) Temporary and probationary employees shall be separated before any career service
1815 employee.

1816 (iii) (A) Career service employees shall be separated in the order of their retention
1817 points, the employee with the lowest points to be discharged first.

1818 (B) Retention points for each career service employee shall be computed according to
1819 rules established by the executive director, allowing appropriate consideration for proficiency
1820 and for seniority in state government, including any active duty military service fulfilled
1821 subsequent to original state appointment.

1822 (iv) A career service employee who is separated in a reduction in force shall be:

1823 (A) placed on the reappointment roster provided for in Subsection 67-19-17 (2); and

1824 (B) reappointed without examination to any vacancy for which the employee is
1825 qualified which occurs within one year of the date of the separation.

1826 (c) (i) An employee separated due to a reduction in force may appeal to the department
1827 head for an administrative review.

1828 (ii) The notice of appeal must be submitted within 20 working days after the
1829 employee's receipt of written notification of separation.

1830 (iii) The employee may appeal the decision of the department head according to the
1831 grievance and appeals procedure of this act.

1832 Section 45. Section **67-19-19 (Effective 07/01/06)** is amended to read:

1833 **67-19-19 (Effective 07/01/06). Political activity of employees -- Rules and**
1834 **regulations -- Highway patrol -- Hatch Act.**

1835 Except as otherwise provided by law or by rules promulgated under this section for
1836 federally aided programs, the following provisions apply with regard to political activity of
1837 career service employees in all grades and positions.

1838 (1) Career service employees may voluntarily participate in political activity subject to
1839 the following provisions:

1840 (a) if any career service employee is elected to any partisan or full-time nonpartisan
1841 political office, that employee shall be granted a leave of absence without pay for times when
1842 monetary compensation is received for service in political office;

1843 (b) no officer or employee in career service may engage in any political activity during
1844 the hours of employment, nor may any person solicit political contributions from employees of
1845 the executive branch during hours of employment for political purposes; and

1846 (c) partisan political activity may not be a basis for employment, promotion, demotion,
1847 or dismissal, except that the executive director shall adopt rules providing for the discipline or
1848 punishment of a state officer or employee who violates any provision of this section.

1849 (2) (a) Notwithstanding any other provision of this section, no member of the Utah
1850 Highway Patrol may use his official authority or influence for the purpose of interfering with
1851 an election or affecting the results of an election.

1852 (b) No person may induce or attempt to induce any member of the Utah Highway
1853 Patrol to participate in any activity prohibited by this Subsection (2).

1854 (3) Nothing contained in this section may be construed to:

1855 (a) preclude voluntary contributions by an employee to the party or candidate of the
1856 officer's or employee's choice; or

1857 (b) permit partisan political activity by any employee who is prevented or restricted
1858 from engaging in the political activity by the provisions of the federal Hatch Act.

1859 Section 46. Section **67-19-31 (Effective 07/01/06)** is amended to read:

1860 **67-19-31 (Effective 07/01/06). Position classification grievances -- Scope --**

1861 **Procedure.**

1862 (1) (a) For the purpose of position classification grievances, the process that culminates
1863 in assigning a career service position to an appropriate class specification is a matter of position
1864 classification and may be grieved.

1865 (b) The process that culminates in assigning a salary range to the class specification is
1866 not a position classification and may not be grieved as a classification grievance.

1867 (2) (a) Upon receipt of a position classification grievance, the executive director shall
1868 refer the grievance to a classification panel of three or more impartial persons trained in state
1869 classification procedures.

1870 (b) The classification panel shall determine whether or not the classification
1871 assignment for career service positions was appropriate by applying the statutes, rules, and
1872 procedures adopted by the department that were in effect at the time of the classification
1873 change.

1874 (c) The classification panel may:

1875 (i) obtain access to previous audits, classification decisions, and reports;

1876 (ii) request new or additional audits by human resource analysts; and

1877 (iii) consider new or additional information.

1878 (d) The classification panel may sustain or modify the original decision and, if
1879 applicable, recommend a new classification.

1880 (e) The classification panel shall report its recommendation to the executive director,
1881 who shall make the classification decision and notify the grievant.

1882 (3) (a) Either party may appeal the executive director's decision to an impartial hearing
1883 officer trained in state classification procedures selected through a public bid process by a
1884 panel consisting of the following members:

1885 (i) the executive director of the [~~Division~~] Department of Human Resource
1886 Management;

1887 (ii) two department executive directors;

1888 (iii) a private sector human resources executive appointed by the governor; and
1889 (iv) a representative of the Utah Public Employees Association.

1890 (b) The successful bid shall serve under contract for no more than three years. At the
1891 end of that time, the [~~Division~~] Department of Human Resource Management shall reissue the
1892 bid.

1893 (c) The hearing officer shall review the classification and make the final decision. The
1894 final decision is subject to judicial review pursuant to the provisions of Section 63-46b-15.

1895 Section 47. Section **67-19-33 (Effective 07/01/06)** is amended to read:

1896 **67-19-33 (Effective 07/01/06). Controlled substances and alcohol use prohibited.**

1897 An employee may not:

1898 (1) manufacture, dispense, possess, use, distribute, or be under the influence of a
1899 controlled substance or alcohol during work hours or on state property except where legally
1900 permissible;

1901 (2) manufacture, dispense, possess, use, or distribute a controlled substance or alcohol
1902 if the activity prevents:

1903 (a) state agencies from receiving federal grants or performing under federal contracts of
1904 \$25,000 or more; or

1905 (b) the employee to perform his services or work for state government effectively as
1906 regulated by the rules of the executive director in accordance with Section 67-19-34; or

1907 (3) refuse to submit to a drug or alcohol test under Section 67-19-36.

1908 Section 48. Section **67-19-34 (Effective 07/01/06)** is amended to read:

1909 **67-19-34 (Effective 07/01/06). Rulemaking power to executive director.**

1910 In accordance with this chapter and Title 63, Chapter 46a, Utah Administrative
1911 Rulemaking Act, the executive director shall make rules regulating:

1912 (1) disciplinary actions for employees subject to discipline under Section 67-19-37;

1913 (2) the testing of employees for the use of controlled substances or alcohol as provided
1914 in Section 67-19-36;

1915 (3) the confidentiality of drug testing and test results performed under Section
1916 67-19-36 in accordance with Title 63, Chapter 2, Government Records Access and
1917 Management Act; and

1918 (4) minimum blood levels of alcohol or drug content for work effectiveness of an

1919 employee.

1920 Section 49. Section **67-19-36 (Effective 07/01/06)** is amended to read:

1921 **67-19-36 (Effective 07/01/06). Drug testing of state employees.**

1922 (1) Except as provided in Subsection (2), when there is reasonable suspicion that an
1923 employee is using a controlled substance or alcohol unlawfully during work hours, an
1924 employee may be required to submit to medically accepted testing procedures for a
1925 determination of whether the employee is using a controlled substance or alcohol in violation
1926 of this part.

1927 (2) In highly sensitive positions, as identified in [~~division~~] department class
1928 specifications, random drug testing of employees may be conducted by an agency in
1929 accordance with the rules of the executive director.

1930 (3) All drug or alcohol testing shall be:

1931 (a) conducted by a federally certified and licensed physician, a federally certified and
1932 licensed medical clinic, or testing facility federally certified and licensed to conduct medically
1933 accepted drug testing;

1934 (b) conducted in accordance with the rules of the executive director made under
1935 Section 67-19-34; and

1936 (c) kept confidential in accordance with the rules of the executive director made in
1937 accordance with Section 67-19-34.

1938 (4) A physician, medical clinic, or testing facility may not be held liable in any civil
1939 action brought by a party for:

1940 (a) performing or failing to perform a test under this section;

1941 (b) issuing or failing to issue a test result under this section; or

1942 (c) acting or omitting to act in any other way in good faith under this section.

1943 Section 50. Section **67-19-37 (Effective 07/01/06)** is amended to read:

1944 **67-19-37 (Effective 07/01/06). Discipline of employees.**

1945 An employee shall be subject to the rules of discipline of the executive director made in
1946 accordance with Section 67-19-34, if the employee:

1947 (1) refuses to submit to testing procedures provided in Section 67-19-36;

1948 (2) refuses to complete a drug rehabilitation program in accordance with Subsection
1949 67-19-38(3);

1950 (3) is convicted under a federal or state criminal statute regulating the manufacture,
1951 distribution, dispensation, possession, or use of a controlled substance; or

1952 (4) manufactures, dispenses, possesses, uses, or distributes a controlled substance in
1953 violation of state or federal law during work hours or on state property.

1954 Section 51. Section **67-19-38 (Effective 07/01/06)** is amended to read:

1955 **67-19-38 (Effective 07/01/06). Violations and penalties.**

1956 In addition to other criminal penalties provided by law, an employee who:

1957 (1) fails to notify the employee's director under Section 67-19-35 is subject to
1958 disciplinary proceedings as established by the executive director by rule in accordance with
1959 Section 67-19-34;

1960 (2) refuses to submit to testing procedures provided for in Section 67-19-36, may be
1961 suspended immediately without pay pending further disciplinary action as set forth in the rules
1962 of the executive director in accordance with Section 67-19-34; or

1963 (3) tests positive for the presence of unlawfully used controlled substances or alcohol
1964 may be required, as part of the employee's disciplinary treatment, to complete a drug
1965 rehabilitation program at the employee's expense within 60 days after receiving the positive test
1966 results or be subject to further disciplinary procedures established by rule of the executive
1967 director in accordance with Section 67-19-34.

1968 Section 52. Section **67-19a-303 (Effective 07/01/06)** is amended to read:

1969 **67-19a-303 (Effective 07/01/06). Employees' rights in grievance and appeals**
1970 **procedure.**

1971 (1) For the purpose of processing a grievance, a career service employee may:

1972 (a) obtain assistance by a representative of the employee's choice to act as an advocate
1973 at any level of the grievance procedure;

1974 (b) request a reasonable amount of time during work hours to confer with the
1975 representative and prepare the grievance; and

1976 (c) call other employees as witnesses at a grievance hearing.

1977 (2) The state shall allow employees to attend and testify at the grievance hearing as
1978 witnesses if the employee has given reasonable advance notice to the employee's immediate
1979 supervisor.

1980 (3) No person may take any reprisals against any career service employee for use of

1981 grievance procedures specified in this chapter.

1982 (4) (a) The employing agency of an employee who files a grievance may not place
1983 grievance forms, grievance materials, correspondence about the grievance, agency and
1984 department replies to the grievance, or other documents relating to the grievance in the
1985 employee's personnel file.

1986 (b) The employing agency of an employee who files a grievance may place records of
1987 disciplinary action in the employee's personnel file.

1988 (c) If any disciplinary action against an employee is rescinded through the grievance
1989 procedures established in this chapter, the agency and the [~~Division~~] Department of Human
1990 Resource Management shall remove the record of the disciplinary action from the employee's
1991 agency personnel file and central personnel file.

1992 (d) An agency may maintain a separate grievance file relating to an employee's
1993 grievance, but shall discard the file after three years.

1994 Section 53. Section **67-19c-101 (Effective 07/01/06)** is amended to read:

1995 **67-19c-101 (Effective 07/01/06). Department award program.**

1996 (1) As used in this section:

1997 (a) "Department" means the Department of Administrative Services, the Department of
1998 Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of
1999 Commerce, the Department of Community and Culture, the Department of Corrections, the
2000 Department of Workforce Services, the Department of Environmental Quality, the Department
2001 of Financial Institutions, the Department of Health, the Department of Human Resource
2002 Management, the Department of Human Services, the Insurance Department, the National
2003 Guard, the Department of Natural Resources, the Department of Public Safety, the Public
2004 Service Commission, the Labor Commission, the State Board of Education, the State Board of
2005 Regents, the State Tax Commission, ~~H~~→ **the Department of Technology Services**, ~~H~~
2005a and the Department of Transportation.

2006 (b) "Department head" means the individual or body of individuals in whom the
2007 ultimate legal authority of the department is vested by law.

2008 (2) There is created a department awards program to award an outstanding employee in
2009 each department of state government.

2010 (3) (a) By April 1 of each year, each department head shall solicit nominations for
2011 outstanding employee of the year for his department from the employees in his department.

2012 (b) By July 1 of each year, the department head shall:
2013 (i) select a person from the department to receive the outstanding employee of the year
2014 award using the criteria established in Subsection (3)(c); and
2015 (ii) announce the recipient of the award to his employees.
2016 (c) Department heads shall make the award to a person who demonstrates:
2017 (i) extraordinary competence in performing his function;
2018 (ii) creativity in identifying problems and devising workable, cost-effective solutions to
2019 them;
2020 (iii) excellent relationships with the public and other employees;
2021 (iv) a commitment to serving the public as the client; and
2022 (v) a commitment to economy and efficiency in government.
2023 (4) (a) The [~~Division~~] Department of Human Resource Management shall divide any
2024 appropriation for outstanding department employee awards that it receives from the Legislature
2025 equally among the departments.
2026 (b) If the department receives monies from the [~~Division~~] Department of Human
2027 Resource Management or if the department budget allows, the department head shall provide
2028 the employee with a bonus, a plaque, or some other suitable acknowledgement of the award.
2029 (5) (a) The department head may name the award after an exemplary present or former
2030 employee of the department.
2031 (b) A department head may not name the award for himself or for any relative as
2032 defined in Section 52-3-1.
2033 (c) Any awards or award programs existing in any department as of May 3, 1993, shall
2034 be modified to conform to the requirements of this section.
2035 Section 54. Section **67-20-8 (Effective 07/01/06)** is amended to read:
2036 **67-20-8 (Effective 07/01/06). Volunteer experience credit.**
2037 (1) State agencies shall designate positions for which approved volunteer experience
2038 satisfies the job requirements for purposes of employment.
2039 (2) When evaluating applicants for those designated positions, state agencies shall
2040 consider documented approved volunteer experience in the same manner as similar paid
2041 employment.
2042 (3) The [~~Division~~] Department of Human Resource Management shall make statewide

2043 rules governing the:

2044 (a) designation of volunteer positions; and

2045 (b) a uniform process to document the approval, use, and hours worked by volunteers.

2046 Section 55. Section **67-22-2 (Effective 07/01/06)** is amended to read:

2047 **67-22-2 (Effective 07/01/06). Compensation -- Other state officers.**

2048 (1) The governor shall establish salaries for the following state officers within the

2049 following salary ranges fixed by the Legislature:

2050	State Officer	Salary Range
2051	Commissioner of Agriculture and Food	\$66,800 - \$90,600
2052	Commissioner of Insurance	\$66,800 - \$90,600
2053	Commissioner of the Labor Commission	\$66,800 - \$90,600
2054	Director, Alcoholic Beverage Control	
2055	Commission	\$66,800 - \$90,600
2056	Commissioner, Department of	
2057	Financial Institutions	\$66,800 - \$90,600
2058	Members, Board of Pardons and Parole	\$66,800 - \$90,600
2059	Executive Director, Department	
2060	of Commerce	\$66,800 - \$90,600
2061	Executive Director, Commission on	
2062	Criminal and Juvenile Justice	\$66,800 - \$90,600
2063	Adjutant General	\$66,800 - \$90,600
2064	Chair, Tax Commission	\$72,400 - \$97,600
2065	Commissioners, Tax Commission	\$72,400 - \$97,600
2066	Executive Director, Department of	
2067	Community and Culture	\$72,400 - \$97,600
2068	Executive Director, Tax Commission	\$72,400 - \$97,600
2069	Chair, Public Service Commission	\$72,400 - \$97,600
2070	Commissioners, Public Service	
2071	Commission	\$72,400 - \$97,600
2072	Executive Director, Department	
2073	of Corrections	\$78,700 - \$106,200

2074	Commissioner, Department of Public Safety	\$78,700 - \$106,200
2075	Executive Director, Department of	
2076	Natural Resources	\$78,700 - \$106,200
2077	Director, Governor's Office of Planning	
2078	and Budget	\$78,700 - \$106,200
2079	Executive Director, Department of	
2080	Administrative Services	\$78,700 - \$106,200
2081	<u>Executive Director, Department of</u>	
2082	<u>Human Resource Management</u>	<u>\$78,000 - \$106,200</u>
2083	Executive Director, Department of	
2084	Environmental Quality	\$78,700 - \$106,200
2085	Director, Governor's Office	
2086	of Economic Development	\$78,700 - \$106,200
2087	Executive Director, Department of	
2088	Workforce Services	\$85,700 - \$115,700
2089	Executive Director, Department of	
2090	Health	\$85,700 - \$115,700
2091	Executive Director, Department	
2092	of Human Services	\$85,700 - \$115,700
2093	Executive Director, Department	
2094	of Transportation	\$85,700 - \$115,700
2095	Executive Director, Department	
2096	of Information Technology	
2097	Services	\$85,700 - \$115,700

2098 (2) (a) The Legislature fixes benefits for the state [~~offices~~] officers outlined in
 2099 Subsection (1) as follows:

2100 (i) the option of participating in a state retirement system established by Title 49, Utah
 2101 State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered
 2102 by the State Retirement Office in accordance with the Internal Revenue Code and its
 2103 accompanying rules and regulations;

2104 (ii) health insurance;

- 2105 (iii) dental insurance;
- 2106 (iv) basic life insurance;
- 2107 (v) unemployment compensation;
- 2108 (vi) workers' compensation;
- 2109 (vii) required employer contribution to Social Security;
- 2110 (viii) long-term disability income insurance;
- 2111 (ix) the same additional state-paid life insurance available to other noncareer service
- 2112 employees;
- 2113 (x) the same severance pay available to other noncareer service employees;
- 2114 (xi) the same leave, holidays, and allowances granted to Schedule B state employees as
- 2115 follows:
- 2116 (A) sick leave[;];
- 2117 (B) converted sick leave[;] if accrued prior to January 1, 2014;
- 2118 (C) educational allowances[~~;~~and];
- 2119 (D) holidays [~~granted to Schedule B state employees, and the same~~]; and
- 2120 (E) annual leave [~~granted to Schedule B state employees with more than ten years of~~
- 2121 ~~state service~~] except that annual leave shall be accrued at the maximum rate provided to
- 2122 Schedule B state employees;
- 2123 (xii) the option to convert accumulated sick leave to cash or insurance benefits as
- 2124 provided by law or rule upon resignation or retirement according to the same criteria and
- 2125 procedures applied to Schedule B state employees;
- 2126 (xiii) the option to purchase additional life insurance at group insurance rates according
- 2127 to the same criteria and procedures applied to Schedule B state employees; and
- 2128 (xiv) professional memberships if being a member of the professional organization is a
- 2129 requirement of the position.
- 2130 (b) Each department shall pay the cost of additional state-paid life insurance for its
- 2131 executive director from its existing budget.
- 2132 (3) The Legislature fixes the following additional benefits:
- 2133 (a) for the executive director of the State Tax Commission a vehicle for official and
- 2134 personal use;
- 2135 (b) for the executive director of the Department of Transportation a vehicle for official

2136 and personal use;

2137 (c) for the executive director of the Department of Natural Resources a vehicle for
2138 commute and official use;

2139 (d) for the Commissioner of Public Safety:

2140 (i) an accidental death insurance policy if POST certified; and

2141 (ii) a public safety vehicle for official and personal use;

2142 (e) for the executive director of the Department of Corrections:

2143 (i) an accidental death insurance policy if POST certified; and

2144 (ii) a public safety vehicle for official and personal use;

2145 (f) for the Adjutant General a vehicle for official and personal use; and

2146 (g) for each member of the Board of Pardons and Parole a vehicle for commute and
2147 official use.

2148 (4) (a) The governor has the discretion to establish a specific salary for each office
2149 listed in Subsection (1), and, within that discretion, may provide salary increases within the
2150 range fixed by the Legislature.

2151 (b) The governor shall apply the same overtime regulations applicable to other FLSA
2152 exempt positions.

2153 (c) The governor may develop standards and criteria for reviewing the performance of
2154 the state officers listed in Subsection (1).

2155 (5) Salaries for other Schedule A employees, as defined in Section 67-19-15, which are
2156 not provided for in this chapter, or in Title 67, Chapter 8, Utah Executive and Judicial Salary
2157 Act, shall be established as provided in Section 67-19-15.

2158 Section 56. Section **72-1-203 (Effective 07/01/06)** is amended to read:

2159 **72-1-203 (Effective 07/01/06). Deputy director -- Appointment -- Qualifications --**
2160 **Other assistants and advisers -- Salaries.**

2161 (1) The executive director shall appoint a deputy director, who shall be a registered
2162 professional engineer in the state and shall serve at the discretion of the executive director.

2163 (2) The deputy director is the chief engineer of the department. The deputy director
2164 shall assist the executive director and is responsible for:

2165 (a) program and project development; and

2166 (b) operation and maintenance of the state transportation systems.

2167 (3) The executive director may also appoint assistants to administer the divisions of the
2168 department. These assistants shall serve at the discretion of the executive director.

2169 (4) In addition, the executive director may employ other assistants and advisers as the
2170 executive director finds necessary and fix salaries in accordance with the salary standards
2171 adopted by the [~~Division~~] Department of Human Resource Management.

2172 Section 57. **Effective date.**

2173 This bill takes effect on July 1, 2006.

Legislative Review Note
as of 1-10-06 1:46 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note**Human Resource Management Amendments***19-Jan-06***Bill Number: HB0269***11:49 AM*

State Impact

Provisions of this bill can be implemented within existing budgets.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst