

30 listed divisions;

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

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

35 ▶ makes technical changes.

36 **Monies Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 This bill takes effect on July 1, 2006.

40 **Utah Code Sections Affected:**

41 AMENDS:

42 **13-1a-3 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

43 **35A-1-205 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

44 **49-14-201**, as last amended by Chapter 265, Laws of Utah 2005

45 **49-15-201**, as last amended by Chapter 265, Laws of Utah 2005

46 **49-20-401 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

47 **53-6-104 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

48 **53A-24-114 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

49 **53C-1-201 (Effective 07/01/06)**, as last amended by Chapters 48 and 181, Laws of

50 Utah 2005

51 **54-1-6 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

52 **54-4a-3 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

53 **61-1-18 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

54 **62A-15-613 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

55 **63-5b-102 (Effective 07/01/06)**, as last amended by Chapters 71, 148 and 181, Laws of

56 Utah 2005

57 **63-13-2 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

- 58 **63-34-12 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 59 **63A-1-109 (Effective 07/01/06)**, as last amended by Chapters 169 and 181, Laws of
- 60 Utah 2005
- 61 **63A-9-501 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 62 **63A-9-801 (Effective 07/01/06)**, as last amended by Chapters 148 and 181, Laws of
- 63 Utah 2005
- 64 **67-5-7 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 65 **67-5-9 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 66 **67-5-12 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 67 **67-8-3 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 68 **67-8-5 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 69 **67-19-3 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 70 **67-19-3.1 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 71 **67-19-5 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 72 **67-19-6 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 73 **67-19-6.1 (Effective 07/01/06)**, as enacted by Chapter 181, Laws of Utah 2005
- 74 **67-19-6.3**, as last amended by Chapter 4, Laws of Utah 2003
- 75 **67-19-6.7 (Effective 07/01/06)**, as last amended by Chapters 148 and 181, Laws of
- 76 Utah 2005
- 77 **67-19-11 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 78 **67-19-12 (Effective 07/01/06)**, as last amended by Chapters 114, 148 and 181, Laws of
- 79 Utah 2005
- 80 **67-19-12.2 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 81 **67-19-12.5 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 82 **67-19-12.7 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 83 **67-19-12.9 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 84 **67-19-13 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005
- 85 **67-19-14**, as last amended by Chapter 15, Laws of Utah 2005

86 **67-19-15 (Effective 07/01/06)**, as last amended by Chapters 148, 169 and 181, Laws of
87 Utah 2005

88 **67-19-15.1 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

89 **67-19-15.6**, as last amended by Chapter 44, Laws of Utah 1998

90 **67-19-16**, as last amended by Chapter 213, Laws of Utah 1997

91 **67-19-17**, as enacted by Chapter 139, Laws of Utah 1979

92 **67-19-18**, as last amended by Chapter 130, Laws of Utah 1995

93 **67-19-19 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

94 **67-19-31 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

95 **67-19-33 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

96 **67-19-34 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

97 **67-19-36 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

98 **67-19-37 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

99 **67-19-38 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

100 **67-19a-303 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

101 **67-19c-101 (Effective 07/01/06)**, as last amended by Chapters 148 and 181, Laws of

102 Utah 2005

103 **67-20-8 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

104 **67-22-2 (Effective 07/01/06)**, as last amended by Chapter 8, Laws of Utah 2005, First

105 Special Session

106 **72-1-203 (Effective 07/01/06)**, as last amended by Chapter 181, Laws of Utah 2005

107

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

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

110 **13-1a-3 (Effective 07/01/06). Employment and compensation of personnel --**

111 **Compensation of director.**

112 The director, with the approval of the executive director, may employ personnel
113 necessary to carry out the duties and responsibilities of the division at salaries established by

114 the executive director according to standards established by the [~~Division~~] Department of
115 Human Resource Management. The executive director shall establish the salary of the director
116 according to standards established by the [~~Division~~] Department of Human Resource
117 Management.

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

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

121 (1) There is created the Workforce Appeals Board within the department consisting of
122 one or more panels to hear and decide appeals from the decision of an administrative law
123 judge.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

152 (b) The chair shall be appointed by the governor to represent the public and may be
153 removed from that position at the will of the governor.

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

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

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

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

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

160 (7) The department shall provide the Workforce Appeals Board necessary staff
161 support, except, the board may employ, retain, or appoint legal counsel.

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

163 **49-14-201. System membership -- Eligibility.**

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

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

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

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

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

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

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

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

182 (3) The board may combine or segregate the actuarial experience of participating
183 employers in this system for the purpose of setting contribution rates.

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

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

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

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

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

197 (iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer

198 Standards and Training Council granting a position coverage under this system may only be
199 applied prospectively from the date of that decision.

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

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

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

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

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

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

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

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

222 (i) place the employee's life or personal safety at risk; and

223 (ii) complete training as provided in Section 53-13-103, 53-13-104, or 53-13-105.

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

226 employee to:

227 (i) perform duties that consist primarily of actively preventing or detecting crime and
228 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

229 (ii) perform duties that consist primarily of providing community protection; and

230 (iii) respond to situations involving threats to public safety and make emergency
231 decisions affecting the lives and health of others.

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

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

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

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

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

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

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

252 (iii) is irrevocable.

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

254 **49-15-201. System membership -- Eligibility.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

338 Procedures Act.

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

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

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

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

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

353 (iii) is irrevocable.

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

355 **49-20-401 (Effective 07/01/06). Program -- Powers and duties.**

356 (1) The program shall:

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

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

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

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

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

366 administration of the claims process;

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

369 (g) consult with the covered employers to evaluate employee benefit plans and develop
370 recommendations for benefit changes;

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

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

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

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

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

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

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

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

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

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

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

392 (p) perform the same functions established in Subsections (1)(a), (b), (e), and (h) for
393 the Department of Health if the program provides program benefits to children enrolled in the

394 Utah Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's
395 Health Insurance Act;

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

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

400 (s) take additional actions necessary or appropriate to carry out the purposes of this
401 chapter.

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

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

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

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

410 **53-6-104 (Effective 07/01/06). Appointment of director of division --**

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

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

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

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

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

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

421 (6) The director shall receive compensation as provided by Title 67, Chapter 19, Utah

422 State Personnel Management Act.

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

424 **53A-24-114 (Effective 07/01/06). Governor's Committee on Employment of**
425 **People with Disabilities.**

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

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

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

432 (i) business and industry;

433 (ii) individuals with disabilities and their advocates;

434 (iii) job training and placement;

435 (iv) administrative subunits of the state, such as the [~~Division~~] Department of Human
436 Resource Management, the Department of Workforce Services, Public Education, Higher
437 Education, and the Department of Human Services;

438 (v) labor;

439 (vi) veterans;

440 (vii) medical;

441 (viii) health;

442 (ix) insurance;

443 (x) media; and

444 (xi) the general public.

445 (c) (i) Except as provided in Subsection (2)(c)(ii), the State Board of Education shall
446 appoint committee members to serve four-year terms.

447 (ii) In making the initial appointments to the committee, the State Board of Education
448 shall appoint approximately 1/2 of the members to two-year terms and 1/2 of the members to
449 four-year terms.

450 (d) Committee members shall serve until their successors are appointed and qualified.

451 (e) The State Board of Education shall fill any vacancy that occurs on the committee
452 for any reason by appointing a person according to the procedures of this section for the
453 unexpired term of the vacated member.

454 (f) The State Board of Education shall select a chair from the membership.

455 (g) Seven members of the committee are a quorum for the transaction of business.

456 (3) (a) The committee shall:

457 (i) promote employment opportunities for individuals with disabilities;

458 (ii) serve as the designated state liaison to the President's Committee on Employment
459 of People with Disabilities;

460 (iii) provide training and technical assistance to employers in implementing the
461 Americans with Disabilities Act;

462 (iv) develop and disseminate appropriate information through workshops, meetings,
463 and other requests in response to needs to employers and others regarding employment of
464 individuals with disabilities;

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

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

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

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

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

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

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

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

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

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

487 **53C-1-201 (Effective 07/01/06). Creation of administration -- Purpose -- Director.**

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

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

493 (2) The administration is an independent state agency and not a division of any other
494 department.

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

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

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

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

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

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

- 510 (i) the changes in business opportunities affecting the assets of the trust;
- 511 (ii) the specific business opportunity arising out of those changes which may be lost
512 without the rule or changes to the rule;
- 513 (iii) the reasons the normal procedures under Section 63-46a-4 cannot be met without
514 causing the loss of the specific opportunity;
- 515 (iv) approval by at least five board members; and
- 516 (v) that the director has filed a copy of the rule and a rule analysis, stating the specific
517 reasons and justifications for its findings, with the Division of Administrative Rules and
518 notified interested parties as provided in Subsection 63-46a-4 (8).

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

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

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

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

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

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

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

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

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

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

552 (b) The board shall provide policies for the ownership and control of Native American
553 remains that are discovered or excavated on school and institutional trust lands in consultation
554 with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4,
555 Native American Grave Protection and Repatriation Act. The director may make rules in
556 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to implement
557 policies provided by the board regarding Native American remains.

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

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

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

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

568 (a) The commission may hire:

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

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

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

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

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

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

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

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

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

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

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

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

596 **54-4a-3 (Effective 07/01/06). Budget of division -- Employment of personnel.**

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

600 (2) The division director may:

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

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

605 (c) employ necessary administrative and support staff.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

644 **63-5b-102 (Effective 07/01/06). Definitions.**

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

646 (i) not physically present or not able to be communicated with for 48 hours; or
647 (ii) for local government officers, as defined by local ordinances.

648 (b) "Absent" does not include a person who can be communicated with via telephone,
649 radio, or telecommunications.

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

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

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

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

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

673 (7) "Executive director" means the person with ultimate responsibility for managing

674 and overseeing the operations of each department, however denominated.

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

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

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

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

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

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

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

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

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

692 (16) "Unavailable" means:

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

696 (b) as otherwise defined by local ordinance.

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

698 **63-13-2 (Effective 07/01/06). Legal holidays -- Personal preference day --**

699 **Governor authorized to declare additional days.**

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

701 (i) every Sunday;

- 702 (ii) January 1, called New Year's Day;
- 703 (iii) the third Monday of January, called Dr. Martin Luther King, Jr. Day;
- 704 (iv) the third Monday of February, called Washington and Lincoln Day;
- 705 (v) the last Monday of May, called Memorial Day;
- 706 (vi) July 4, called Independence Day;
- 707 (vii) July 24, called Pioneer Day;
- 708 (viii) the first Monday of September, called Labor Day;
- 709 (ix) the second Monday of October, called Columbus Day;
- 710 (x) November 11, called Veterans' Day;
- 711 (xi) the fourth Thursday of November, called Thanksgiving Day;
- 712 (xii) December 25, called Christmas; and
- 713 (xiii) all days which may be set apart by the President of the United States, or the
- 714 governor of this state by proclamation as days of fast or thanksgiving.
- 715 (b) If any of the holidays under Subsection (1)(a), except the first mentioned, namely
- 716 Sunday, falls on Sunday, then the following Monday shall be the holiday.
- 717 (c) If any of the holidays under Subsection (1)(a) falls on Saturday the preceding Friday
- 718 shall be the holiday.
- 719 (d) Each employee may select one additional day, called Personal Preference Day, to
- 720 be scheduled pursuant to rules adopted by the ~~[Division]~~ Department of Human Resource
- 721 Management.
- 722 (2) (a) Whenever in his opinion extraordinary conditions exist justifying the action, the
- 723 governor may:
- 724 (i) declare, by proclamation, legal holidays in addition to those holidays under
- 725 Subsection (1); and
- 726 (ii) limit the holidays to certain classes of business and activities to be designated by
- 727 him.
- 728 (b) A holiday may not extend for a longer period than 60 consecutive days.
- 729 (c) Any holiday may be renewed for one or more periods not exceeding 30 days each as

730 the governor may consider necessary, and any holiday may, by like proclamation, be terminated
731 before the expiration of the period for which it was declared.

732 Section 15. Section **63-34-12 (Effective 07/01/06)** is amended to read:

733 **63-34-12 (Effective 07/01/06). Approval prerequisite to volunteer service -- Rules**
734 **and regulations.**

735 (1) Volunteers may not donate any service to the Department of Natural Resources or
736 its divisions unless and until the work program in which volunteers would serve has first been
737 approved, in writing, by the executive director of the Department of Natural Resources and the
738 [~~director of the Division~~] executive director of the Department of Human Resource
739 Management.

740 (2) Volunteer services shall comply with any rules adopted by the [~~Division~~]
741 Department of Human Resource Management relating to that service that are not inconsistent
742 with the provisions of Sections 63-34-9 through 63-34-12.

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

744 **63A-1-109 (Effective 07/01/06). Divisions of department -- Administration.**

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

- 746 (a) administrative rules;
- 747 (b) archives and records;
- 748 (c) facilities construction and management;
- 749 (d) finance;
- 750 (e) fleet operations;
- 751 (f) office of state debt collection;
- 752 (g) state purchasing and general services;
- 753 (h) risk management; and
- 754 (i) office of child welfare parental defense[~~; and~~].
- 755 [~~(j) human resource management.~~]

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

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

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

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

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

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

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

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

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

775 (1) As used in this section:

776 (a) "Agency" means:

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

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

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

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

785 (v) the Career Service Review Board;

- 786 (vi) other state agencies designated by the governor;
- 787 (vii) the legislative branch, the judicial branch, and the State Board of Regents; and
- 788 (viii) an institution of higher education, its president, and its board of trustees for
- 789 purposes of Section 63A-9-802.
- 790 (b) "Division" means the Division of Fleet Operations.
- 791 (c) "Information technology equipment" means any equipment that is designed to
- 792 electronically manipulate, store, or transfer any form of data.
- 793 (d) "Inventory property" means property in the possession of the division that is
- 794 available for purchase by an agency or the public.
- 795 (e) "Judicial district" means the geographic districts established by Section 78-1-2.1.
- 796 (f) (i) "Surplus property" means property purchased by, seized by, or donated to, an
- 797 agency that the agency wishes to dispose of.
- 798 (ii) "Surplus property" does not mean real property.
- 799 (g) "Transfer" means transfer of surplus property without cash consideration.
- 800 (2) (a) The division shall make rules establishing a state surplus property program that
- 801 meets the requirements of this chapter by following the procedures and requirements of Title
- 802 63, Chapter 46a, Utah Administrative Rulemaking Act.
- 803 (b) Those rules shall include:
- 804 (i) a requirement prohibiting the transfer of surplus property from one agency to
- 805 another agency without written approval from the division;
- 806 (ii) procedures and requirements governing division administration requirements that
- 807 an agency must follow;
- 808 (iii) requirements governing purchase priorities;
- 809 (iv) requirements governing accounting, reimbursement, and payment procedures;
- 810 (v) procedures for collecting bad debts;
- 811 (vi) requirements and procedures for disposing of firearms;
- 812 (vii) the elements of the rates or other charges assessed by the division for services and
- 813 handling;

814 (viii) procedures governing the timing and location of public sales of inventory
815 property; and

816 (ix) procedures governing the transfer of information technology equipment by state
817 agencies directly to public schools.

818 (c) The division shall report all transfers of information technology equipment by state
819 agencies to public schools to the Utah Technology Commission and to the Legislative Interim
820 Education Committee at the end of each fiscal year.

821 (3) In creating and administering the program, the division shall:

822 (a) when conditions, inventory, and demand permit:

823 (i) establish facilities to store inventory property at geographically dispersed locations
824 throughout the state; and

825 (ii) hold public sales of property at geographically dispersed locations throughout the
826 state;

827 (b) establish, after consultation with the agency requesting the sale of surplus property,
828 the price at which the surplus property shall be sold; and

829 (c) transfer proceeds arising from the sale of state surplus property to the agency
830 requesting the sale in accordance with Title 63, Chapter 38, Budgetary Procedures Act, less an
831 amount established by the division by rule to pay the costs of administering the surplus
832 property program.

833 (4) Unless specifically exempted from this chapter by explicit reference to this chapter,
834 each state agency shall dispose of and acquire surplus property only by participating in the
835 division's program.

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

837 **67-5-7 (Effective 07/01/06). Establishment of career service system.**

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

841 (2) The Office of the Attorney General may adopt rules necessary to implement this

842 chapter, including personnel and work rules different from those promulgated by the [Division]
843 Department of Human Resource Management.

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

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

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

849 (1) assign and reassign attorneys in a career status to different positions on his staff.

850 The salary of an attorney reassigned to a different position shall not be decreased by reason of
851 reassignment; except that if the attorney reassigned occupies the position of deputy attorney
852 general, the salary may be reduced by not more than 15% upon the assignment to a different
853 position;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

896 (b) Matters other than dismissal or demotion may be appealed to and reviewed by the
897 attorney general or a designated representative whose decision is final with no right of appeal

898 to the Career Service Review Board or its hearing officers.

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

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

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

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

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

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

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

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

- 919 (i) placed on a reappointment register kept by the executive director of the [~~Division~~]
920 Department of Human Resource Management for one year; and
921 (ii) offered reappointment to a position in the Office of the Attorney General before
922 any attorney not having a career status is appointed.

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

924 **67-8-3 (Effective 07/01/06). Compensation plan for appointive officers --**
925 **Exceptions -- Legislative approval -- Career status attorneys.**

926 (1) (a) The executive director of the [~~Division~~] Department of Human Resource
927 Management, based upon recommendations of the Executive and Judicial Compensation
928 Commission shall, before October 31 of each year, recommend to the governor a compensation
929 plan for appointed officers of the state except those officers whose compensation is set under
930 Section 49-11-203, 53A-1-301, 53B-1-105, or 53C-1-301.

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

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

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

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

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

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

946 **67-8-5 (Effective 07/01/06). Duties of commission -- Salary recommendations.**

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

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

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

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

954 State Officer Compensation.

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

958 (a) the governor, the lieutenant governor, the attorney general, the state auditor, and the
959 state treasurer;

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

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

965 (3) The commission shall:

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

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

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

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

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

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

988 (d) conduct a comprehensive review of judicial salary levels and make
989 recommendations for judicial salaries in a report to the president of the Senate, the speaker of
990 the House of Representatives, and the governor by November 1, prior to the convening of the
991 general session of the Legislature in each odd-numbered year.

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

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

999 (5) The Judicial Council shall cooperate with the commission in providing information
1000 on the judicial branch of government and on the individual levels of court as requested. The
1001 director of personnel from the Office of the Court Administrator shall provide the salary
1002 comparison data referred to in this section to the legislative fiscal analyst and shall provide
1003 other staff assistance and support as requested by the legislative fiscal analyst.

1004 Section 24. Section **67-19-3 (Effective 07/01/06)** is amended to read:

1005 **67-19-3 (Effective 07/01/06). Definitions.**

1006 As used in this chapter:

1007 (1) "Agency" means any department or unit of Utah state government with authority to
1008 employ personnel.

1009 (2) "Career service" means positions under Schedule B as defined in Section 67-19-15.

1010 (3) "Career service employee" means an employee who has successfully completed a
1011 probationary period of service in a position covered by the career service.

1012 (4) "Career service status" means status granted to employees who successfully
1013 complete probationary periods for competitive career service positions.

1014 (5) "Classified service" means those positions subject to the classification and
1015 compensation provisions of Section 67-19-12.

1016 (6) "Controlled substance" means controlled substance as defined in Section 58-37-2.

1017 (7) (a) "Demotion" means a disciplinary action resulting in a reduction of an
1018 employee's current actual wage.

1019 (b) "Demotion" does not mean:

1020 (i) a nondisciplinary movement of an employee to another position without a reduction
1021 in the current actual wage; or

1022 (ii) a reclassification of an employee's position under the provisions of Subsection
1023 67-19-12(3) and rules made by the department.

1024 (8) "Department" means the Department of Human Resource Management.

1025 ~~[(7) "Director" means the director of the Division of Human Resource Management.]~~

1026 ~~[(8)]~~ (9) "Disability" means a physical or mental disability as defined and protected
1027 under the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq.

1028 ~~[(9) "Division" means the Division of Human Resource Management.]~~

1029 ~~[(10)]~~ (10) "Employee" means any individual in a paid status covered by the career
1030 service or classified service provisions of this chapter.

1031 ~~[(11)]~~ (11) "Examining instruments" means written or other types of proficiency tests.

1032 ~~[(12)]~~ (12) "Executive director," except where otherwise specified, means the
1033 executive director of the Department of [Administrative Services] Human Resource
1034 Management.

1035 (13) "Human resource function" means those duties and responsibilities specified:

1036 (a) under Section 67-19-6;

1037 (b) under rules of the department; and

1038 (c) under other state or federal statute.

1039 ~~[(13)]~~ (14) "Market comparability adjustment" means a salary range adjustment
1040 determined necessary through a market survey of salary ranges of a reasonable cross section of
1041 comparable benchmark positions in private and public employment.

1042 ~~[(14)]~~ (15) "Probationary employee" means an employee serving a probationary period
1043 in a career service position but who does not have career service status.

1044 ~~[(15)]~~ (16) "Probationary period" means that period of time determined by the
1045 department that an employee serves in a career service position as part of the hiring process
1046 before career service status is granted to the employee.

1047 ~~[(16)]~~ (17) "Probationary status" means the status of an employee between the
1048 employee's hiring and the granting of career service status.

1049 (18) "Temporary employee" means career service exempt employees on schedule AJ,
1050 AI, or AL under Section 67-19-15.

1051 ~~[(17)]~~ (19) "Total compensation" means salaries and wages, bonuses, paid leave, group
1052 insurance plans, retirement, and all other benefits offered to state employees as inducements to
1053 work for the state.

1054 Section 25. Section **67-19-3.1 (Effective 07/01/06)** is amended to read:

1055 **67-19-3.1 (Effective 07/01/06). Principles guiding interpretation of chapter and**
1056 **adoption of rules.**

1057 (1) The ~~[division]~~ department shall establish a career service system designed in a
1058 manner that will provide for the effective implementation of the following merit principles:

1059 (a) recruiting, selecting, and advancing employees on the basis of their relative ability,
1060 knowledge, and skills, including open consideration of qualified applicants for initial
1061 appointment;

1062 (b) providing for equitable and competitive compensation;

1063 (c) training employees as needed to assure high-quality performance;

1064 (d) retaining employees on the basis of the adequacy of their performance and
1065 separating employees whose inadequate performance cannot be corrected;

1066 (e) fair treatment of applicants and employees in all aspects of human resource
1067 administration without regard to race, color, religion, sex, national origin, political affiliation,
1068 age, or disability, and with proper regard for their privacy and constitutional rights as citizens;

1069 (f) providing information to employees regarding their political rights and the
1070 prohibited practices under the Hatch Act; and

1071 (g) providing a formal procedure for processing the appeals and grievances of
1072 employees without discrimination, coercion, restraint, or reprisal.

1073 (2) The principles in Subsection (1) shall govern interpretation and implementation of
1074 this chapter.

1075 Section 26. Section **67-19-5 (Effective 07/01/06)** is amended to read:

1076 **67-19-5 (Effective 07/01/06). Department of Human Resource Management**
1077 **created -- Executive director -- Compensation -- Staff.**

1078 (1) There is created the [~~Division~~] Department of Human Resource Management
1079 [~~within the Department of Administrative Services~~].

1080 (2) (a) The [~~division~~] department shall be administered by [~~a~~] an executive director
1081 appointed by the governor with the consent of the Senate.

1082 (b) The executive director shall be a person with experience in human resource
1083 management and shall be accountable to the [~~executive director~~] governor for [~~his~~] the
1084 executive director's performance in office.

1085 (3) The executive director may:

1086 (a) appoint a personal secretary and [~~with the approval of the executive director,~~] a
1087 deputy director, both of whom shall be exempt from career service[~~;~~]; and

1088 (b) appoint division directors and program managers who may be career service
1089 exempt.

1090 (4) (a) The executive director shall have full responsibility and accountability for the
1091 administration of the statewide human resource management system.

1092 (b) Except as provided in Section 67-19-6.1, an agency may not perform human
1093 resource functions without the consent of the executive director.

1094 (5) Statewide human resource management rules adopted by the [~~Division~~] Department
1095 of Human Resource Management in accordance with Title 63, Chapter 46a, Utah
1096 Administrative Rulemaking Act, shall take precedence if there is a conflict with [~~department~~]
1097 agency rules, policies, or practices.

1098 (6) The department may operate as an internal service fund agency in accordance with
1099 Section 63-38-3.5 for the human resource functions the department provides.

1100 Section 27. Section **67-19-6 (Effective 07/01/06)** is amended to read:

1101 **67-19-6 (Effective 07/01/06). Responsibilities of the executive director.**

1102 (1) The executive director shall:

1103 (a) develop, implement, and administer a statewide program of human resource
1104 management that will:

1105 (i) aid in the efficient execution of public policy;

1106 (ii) foster careers in public service for qualified employees; and

1107 (iii) render assistance to state agencies in performing their missions;

1108 (b) design and administer the state pay plan;

1109 (c) design and administer the state classification system and procedures for determining
1110 schedule assignments;

1111 (d) design and administer the state recruitment and selection system;

1112 (e) [~~monitor~~] administer agency human resource practices [~~to determine~~] and ensure
1113 compliance with federal law, state law, and state human resource rules, including equal
1114 employment opportunity;

1115 (f) consult with agencies on decisions concerning employee corrective action and
1116 discipline;

1117 [~~(f)~~] (g) maintain central personnel records;

1118 [~~(g)~~] (h) perform those functions necessary to implement this chapter unless otherwise
1119 assigned or prohibited;

1120 [~~(h)~~] (i) perform duties assigned by the governor or statute;

1121 [~~(i)~~] (j) adopt rules for human resource management according to the procedures of

1122 Title 63, Chapter 46a, Utah Administrative Rulemaking Act;

1123 ~~[(j)]~~ (k) establish and maintain a management information system that will furnish the

1124 governor, the Legislature, and agencies with current information on authorized positions,

1125 payroll, and related matters concerning state human resources;

1126 ~~[(k)]~~ (l) conduct research and planning activities to:

1127 (i) determine and prepare for future state human resource needs;

1128 (ii) develop methods for improving public human resource management; and

1129 (iii) propose needed policy changes to the governor;

1130 ~~[(h)]~~ (m) study the character, causes, and extent of discrimination in state employment

1131 and develop plans for its elimination through programs consistent with federal and state laws

1132 governing equal employment opportunity in employment;

1133 ~~[(m)]~~ (n) when requested by counties, municipalities, and other political subdivisions

1134 of the state, provide technical service and advice on human resource management at a charge

1135 determined by the executive director;

1136 ~~[(n)]~~ (o) establish compensation policies and procedures for early voluntary retirement;

1137 ~~[(o)]~~ (p) confer with the heads of other agencies about human resource policies and

1138 procedures;

1139 ~~[(p)]~~ (q) submit an annual report to the governor and the Legislature; and

1140 ~~[(q)]~~ (r) (i) develop a procedure by which each agency will:

1141 (A) identify funded vacant positions; and

1142 (B) report those funded vacant positions to the ~~[division]~~ department;

1143 (ii) identify all funded employee positions in each agency that have been vacant for

1144 more than 180 consecutive days during the 18-month period prior to July 1 of each year; and

1145 (iii) by no later than September 1 of each year, provide a report of all funded employee

1146 positions in each agency identified in Subsections (1)~~[(q)]~~(r)(i) and (ii) to:

1147 (A) the Governor's Office of Planning and Budget; and

1148 (B) the Office of the Legislative Fiscal Analyst.

1149 (2) (a) After consultation with the governor and the heads of other agencies, the

1150 executive director shall establish and coordinate statewide training programs.

1151 (b) The programs developed under this Subsection (2) shall have application to more
1152 than one agency.

1153 (c) The [~~division~~] department may not establish training programs that train employees
1154 to perform highly specialized or technical jobs and tasks.

1155 (3) (a) (i) The [~~division~~] department may collect fees for training as authorized by this
1156 Subsection (3).

1157 (ii) Training funded from General Fund appropriations shall be treated as a separate
1158 program within the [~~division~~] department budget.

1159 (iii) All money received from fees under this section will be accounted for by the
1160 [~~division~~] department as a separate user driven training program.

1161 (iv) The user training program includes the costs of developing, procuring, and
1162 presenting training and development programs, and other associated costs for these programs.

1163 (b) (i) Funds remaining at the end of the fiscal year in the user training program are
1164 nonlapsing.

1165 (ii) Each year, as part of the appropriations process, the Legislature shall review the
1166 amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require
1167 the [~~division~~] department to lapse a portion of the funds.

1168 Section 28. Section **67-19-6.1 (Effective 07/01/06)** is amended to read:

1169 **67-19-6.1 (Effective 07/01/06). Department field offices.**

1170 (1) [~~After consulting with an agency head, the~~] The executive director of the [~~Division~~]
1171 Department of Human Resource Management may establish a field office in [~~that~~] an agency.

1172 (2) The executive director [~~shall~~] may assign an employee of the [~~division~~] department
1173 to act as field office [~~director~~] staff.

1174 (3) [~~Before establishing a field office, the~~] The executive director and agency head
1175 shall sign an agreement, to be [~~approved by the governor~~] reviewed annually, that specifies:

1176 [~~(a) the scope of responsibility of the field office director and staff;~~]

1177 [~~(b)~~] (a) the services to be provided by the [~~field office director and staff~~] department;

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

1206 state career service employees described in Section 67-19-15.

1207 (3) The Legislature shall review the equal employment opportunity plan required by
1208 this section before it may be implemented.

1209 (4) Nothing in this section requires the establishment of hiring quotas or preferential
1210 treatment of any identifiable group.

1211 Section 30. Section **67-19-6.7 (Effective 07/01/06)** is amended to read:

1212 **67-19-6.7 (Effective 07/01/06). Overtime policies for state employees.**

1213 (1) As used in this section:

1214 (a) "Accrued overtime hours" means:

1215 (i) for nonexempt employees, overtime hours earned during a fiscal year that, at the end
1216 of the fiscal year, have not been paid and have not been taken as time off by the nonexempt
1217 state employee who accrued them; and

1218 (ii) for exempt employees, overtime hours earned during an overtime year.

1219 (b) "Appointed official" means:

1220 (i) each department executive director and deputy director, each division director, and
1221 each member of a board or commission; and

1222 (ii) any other person employed by a department who is appointed by, or whose
1223 appointment is required by law to be approved by, the governor and who:

1224 (A) is paid a salary by the state; and

1225 (B) who exercises managerial, policy-making, or advisory responsibility.

1226 (c) "Department" means the Department of Administrative Services, the Department of
1227 Corrections, the Department of Financial Institutions, the Department of Alcoholic Beverage
1228 Control, the Insurance Department, the Public Service Commission, the Labor Commission,
1229 the Department of Agriculture and Food, the Department of Human Services, the State Board
1230 of Education, the Department of Natural Resources, the Department of Technology Services,
1231 the Department of Transportation, the Department of Commerce, the Department of Workforce
1232 Services, the State Tax Commission, the Department of Community and Culture, the
1233 Department of Health, the National Guard, the Department of Environmental Quality, the

1234 Department of Public Safety, the Department of Human Resource Management, the
1235 Commission on Criminal and Juvenile Justice, all merit employees except attorneys in the
1236 Office of the Attorney General, merit employees in the Office of the State Treasurer, and merit
1237 employees in the Office of the State Auditor.

1238 (d) "Elected official" means any person who is an employee of the state because he was
1239 elected by the registered voters of Utah to a position in state government.

1240 (e) "Exempt employee" means a state employee who is exempt as defined by the Fair
1241 Labor Standards Act of 1978, 29 U.S.C. Section 201 et seq.

1242 (f) "FLSA" means the Fair Labor Standards Act of 1978, 29 U.S.C. Section 201 et seq.

1243 (g) "FLSA agreement" means the agreement authorized by the Fair Labor Standards
1244 Act of 1978, 29 U.S.C. Section 201 et seq., by which a nonexempt employee elects the form of
1245 compensation he will receive for overtime.

1246 (h) "Nonexempt employee" means a state employee who is nonexempt as defined by
1247 the ~~[Division]~~ Department of Human Resource Management applying FLSA requirements.

1248 (i) "Overtime" means actual time worked in excess of the employee's defined work
1249 period.

1250 (j) "Overtime year" means the year determined by a department under Subsection
1251 (4)(b) at the end of which an exempt employee's accrued overtime lapses.

1252 (k) (i) "State employee" means every person employed by a department who is not an
1253 appointed official or an elected official.

1254 (ii) "State employee" does not mean:

1255 (A) certificated employees of the State Board of Education; and

1256 (B) employees of the Department of Community and Culture or the Governor's Office
1257 of Economic Development, whose positions are designated as schedule AM exempt employees
1258 under Section 67-19-15.

1259 (l) "Uniform annual date" means the date when an exempt employee's accrued
1260 overtime lapses.

1261 (m) "Work period" means:

1262 (i) for all nonexempt employees, except law enforcement and hospital employees, a
1263 consecutive seven day 24 hour work period of 40 hours;

1264 (ii) for all exempt employees, a 14 day, 80 hour payroll cycle; and

1265 (iii) for nonexempt law enforcement and hospital employees, the period established by
1266 each department by rule for those employees according to the requirements of the Fair Labor
1267 Standards Act of 1978, 29 U.S.C. Section 201 et seq.

1268 (2) Each department shall compensate each state employee who works overtime by
1269 complying with the requirements of this section.

1270 (3) (a) Each department shall negotiate and obtain a signed FLSA agreement from each
1271 nonexempt employee.

1272 (b) In the FLSA agreement, the nonexempt employee shall elect either to be
1273 compensated for overtime by:

1274 (i) taking time off work at the rate of one and one-half hour off for each overtime hour
1275 worked; or

1276 (ii) being paid for the overtime worked at the rate of one and one-half times the rate per
1277 hour that the state employee receives for nonovertime work.

1278 (c) Any nonexempt employee who elects to take time off under this Subsection (3)
1279 shall be paid for any overtime worked in excess of the cap established by the ~~[Division]~~
1280 Department of Human Resource Management.

1281 (d) Before working any overtime, each nonexempt employee shall obtain authorization
1282 to work overtime from the employee's immediate supervisor.

1283 (e) Each department shall:

1284 (i) for employees who elect to be compensated with time off for overtime, allow
1285 overtime earned during a fiscal year to be accumulated; and

1286 (ii) for employees who elect to be paid for overtime worked, pay them for overtime
1287 worked in the paycheck for the pay period in which the employee worked the overtime.

1288 (f) If the department pays a nonexempt employee for overtime, the department shall
1289 charge that payment to the department's budget.

1290 (g) At the end of each fiscal year, the Division of Finance shall total all the accrued
1291 overtime hours for nonexempt employees and charge that total against the appropriate fund or
1292 subfund.

1293 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), each department shall
1294 compensate exempt employees who work overtime by granting them time off at the rate of one
1295 hour off for each hour of overtime worked.

1296 (ii) The executive director of the [~~Division~~] Department of Human Resource
1297 Management may grant limited exceptions to this requirement, where work circumstances
1298 dictate, by authorizing a department to pay employees for overtime worked at the rate per hour
1299 that the employee receives for nonovertime work, if the department has funds available.

1300 (b) (i) Each department shall:

1301 (A) establish in its written human resource policies a uniform annual date for each
1302 division that is at the end of any pay period; and

1303 (B) communicate the uniform annual date to its employees.

1304 (ii) If any department fails to establish a uniform annual date as required by this
1305 Subsection (4), the executive director of the [~~Division~~] Department of Human Resource
1306 Management, in conjunction with the director of the Division of Finance, shall establish the
1307 date for that department.

1308 (c) (i) Any overtime earned under this Subsection (4) is not an entitlement, is not a
1309 benefit, and is not a vested right.

1310 (ii) A court may not construe the overtime for exempt employees authorized by this
1311 Subsection (4) as an entitlement, a benefit, or as a vested right.

1312 (d) At the end of the overtime year, upon transfer to another department at any time,
1313 and upon termination, retirement, or other situations where the employee will not return to
1314 work before the end of the overtime year:

1315 (i) any of an exempt employee's overtime that is more than the maximum established
1316 by the [~~Division~~] Department of Human Resource Management rule lapses; and

1317 (ii) unless authorized by the executive director of the [~~Division~~] Department of Human

1318 Resource Management under Subsection (4)(a)(ii), a department may not compensate the
1319 exempt employee for that lapsed overtime by paying the employee for the overtime or by
1320 granting the employee time off for the lapsed overtime.

1321 (e) Before working any overtime, each exempt employee shall obtain authorization to
1322 work overtime from the exempt employee's immediate supervisor.

1323 (f) If the department pays an exempt employee for overtime under authorization from
1324 the executive director of the [~~Division~~] Department of Human Resource Management, the
1325 department shall charge that payment to the department's budget in the pay period earned.

1326 (5) The [~~Division~~] Department of Human Resource Management shall:

1327 (a) ensure that the provisions of the FLSA and this section are implemented throughout
1328 state government;

1329 (b) determine, for each state employee, whether that employee is exempt, nonexempt,
1330 law enforcement, or has some other status under the FLSA;

1331 (c) in coordination with modifications to the systems operated by the Division of
1332 Finance, make rules:

1333 (i) establishing procedures for recording overtime worked that comply with FLSA
1334 requirements;

1335 (ii) establishing requirements governing overtime worked while traveling and
1336 procedures for recording that overtime that comply with FLSA requirements;

1337 (iii) establishing requirements governing overtime worked if the employee is "on call"
1338 and procedures for recording that overtime that comply with FLSA requirements;

1339 (iv) establishing requirements governing overtime worked while an employee is being
1340 trained and procedures for recording that overtime that comply with FLSA requirements;

1341 (v) subject to the FLSA, establishing the maximum number of hours that a nonexempt
1342 employee may accrue before a department is required to pay the employee for the overtime
1343 worked;

1344 (vi) subject to the FLSA, establishing the maximum number of overtime hours for an
1345 exempt employee that do not lapse; and

1346 (vii) establishing procedures for adjudicating appeals of any FLSA determinations
 1347 made by the ~~[Division]~~ Department of Human Resource Management as required by this
 1348 section;

1349 (d) monitor departments for compliance with the FLSA; and

1350 (e) recommend to the Legislature and the governor any statutory changes necessary
 1351 because of federal government action.

1352 (6) In coordination with the procedures for recording overtime worked established in
 1353 rule by the ~~[Division]~~ Department of Human Resource Management, the Division of Finance
 1354 shall modify its payroll and human resource systems to accommodate those procedures.

1355 (a) Notwithstanding the procedures and requirements of Title 63, Chapter 46b,
 1356 Administrative Procedures Act, Section 67-19-31, and Section 67-19a-301, any employee who
 1357 is aggrieved by the FLSA designation made by the ~~[Division]~~ Department of Human Resource
 1358 Management as required by this section may appeal that determination to the executive director
 1359 of the ~~[Division]~~ Department of Human Resource Management by following the procedures
 1360 and requirements established in ~~[Division]~~ Department of Human Resource Management rule.

1361 (b) Upon receipt of an appeal under this section, the executive director shall notify the
 1362 executive director of the employee's department that the appeal has been filed.

1363 (c) If the employee is aggrieved by the decision of the executive director of the
 1364 ~~[Division]~~ Department of Human Resource Management, he shall appeal that determination to
 1365 the Department of Labor, Wage and Hour Division, according to the procedures and
 1366 requirements of federal law.

1367 Section 31. Section **67-19-11 (Effective 07/01/06)** is amended to read:

1368 **67-19-11 (Effective 07/01/06). Use of department facilities -- Field office facilities**
 1369 **cost allocation -- Funding for department.**

1370 (1) (a) All officers and employees of the state and its political subdivisions shall allow
 1371 the ~~[division]~~ department to use public buildings under their control, and furnish heat, light,
 1372 and furniture, for any examination, hearing, or investigation authorized by this chapter.

1373 ~~[(b) (i) Allocation of the cost for any facilities, equipment, or supplies furnished by an~~

1374 agency for use as a field office of the division shall be governed by the field office agreement
1375 established in Section 67-19-6.1.]

1376 ~~[(ii) If the field office agreement does not specifically provide for the allocation of a~~
1377 ~~cost for the division's use of the agency's facilities, equipment, or supplies, the agency shall pay~~
1378 ~~the cost of those facilities, equipment, and supplies.]~~

1379 (b) The cost of the department's use of facilities shall be paid by the agency housing a
1380 field office staff.

1381 (2) The executive director shall:

1382 (a) prepare an annual budget request for the [~~division, which is subject to the executive~~
1383 ~~director's approval; and~~] department;

1384 (b) submit the budget request to the governor and the Legislature[-]; and

1385 (c) except for fiscal year 2007, before charging a fee for services provided by the
1386 department's internal service fund to an executive branch agency, the executive director shall:

1387 (i) submit the proposed rates, fees, and cost analysis to the Rate Committee established
1388 under Subsection (3); and

1389 (ii) obtain the approval of the Legislature as required under Section 63-38-3.5.

1390 (3) (a) There is created a Rate Committee which shall consist of:

1391 (i) the director of the Governor's Office of Planning and Budget, or a designee;

1392 (ii) the executive directors of three state agencies that use services and pay rates to one
1393 of the department internal service funds, or their designee, appointed by the governor for a
1394 two-year term;

1395 (iii) the director of the Division of Finance, or a designee; and

1396 (iv) the executive director of the Department of Human Resource Management, or a
1397 designee.

1398 (b) (i) The committee shall elect a chair from its members.

1399 (ii) Members of the committee who are state government employees and who do not
1400 receive salary, per diem, or expenses from their agency for their service on the committee shall
1401 receive no compensation, benefits, per diem, or expenses for the members' service on the

1402 committee.

1403 (c) The Department of Human Resource Management shall provide staff services to the
1404 committee.

1405 (4) (a) The department shall submit to the committee a proposed rate and fee schedule
1406 for services rendered.

1407 (b) The committee shall:

1408 (i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings
1409 Act;

1410 (ii) review the proposed rate and fee schedules and may approve, increase, or decrease
1411 the rate and fee;

1412 (iii) recommend a proposed rate and fee schedule for the internal service fund to:

1413 (A) the Governor's Office of Planning and Budget; and

1414 (B) the legislative appropriations subcommittees that, in accordance with Section
1415 63-38-3.5, approve the internal service fund rates, fees, and budget; and

1416 (iv) review and approve, increase or decrease an interim rate, fee, or amount when the
1417 department begins a new service or introduces a new product between annual general sessions
1418 of the Legislature.

1419 (c) The committee may in accordance with Subsection 63-38-3.5(4) decrease a rate,
1420 fee, or amount that has been approved by the Legislature.

1421 Section 32. Section **67-19-12 (Effective 07/01/06)** is amended to read:

1422 **67-19-12 (Effective 07/01/06). State pay plans -- Applicability of section --**

1423 **Exemptions -- Duties of the executive director.**

1424 (1) (a) This section, and the rules adopted by the [~~division~~] department to implement
1425 this section, apply to each career and noncareer employee not specifically exempted under
1426 Subsection (2).

1427 (b) If not exempted under Subsection (2), an employee is considered to be in classified
1428 service.

1429 (2) The following employees are exempt from this section:

- 1430 (a) members of the Legislature and legislative employees;
- 1431 (b) members of the judiciary and judicial employees;
- 1432 (c) elected members of the executive branch and their direct staff who meet career
- 1433 service exempt criteria as defined in Subsection 67-19-15(1)(k);
- 1434 (d) certificated employees of the State Board of Education;
- 1435 (e) officers, faculty, and other employees of state institutions of higher education;
- 1436 (f) employees in any position that is determined by statute to be exempt from this
- 1437 Subsection (2);
- 1438 (g) attorneys in the Office of the Attorney General;
- 1439 (h) department heads and other persons appointed by the governor pursuant to statute;
- 1440 (i) employees of the Department of Community and Culture whose positions are
- 1441 designated as executive/professional positions by the executive director of the Department of
- 1442 Community and Culture with the concurrence of the executive director;
- 1443 (j) employees of the Governor's Office of Economic Development whose positions are
- 1444 designated as executive/professional positions by the director of the office; and
- 1445 (k) employees of the Medical Education Council.
- 1446 (3) (a) The executive director shall prepare, maintain, and revise a position
- 1447 classification plan for each employee position not exempted under Subsection (2) to provide
- 1448 equal pay for equal work.
- 1449 (b) Classification of positions shall be based upon similarity of duties performed and
- 1450 responsibilities assumed, so that the same job requirements and the same salary range may be
- 1451 applied equitably to each position in the same class.
- 1452 (c) The executive director shall allocate or reallocate the position of each employee in
- 1453 classified service to one of the classes in the classification plan.
- 1454 (d) (i) The [~~division~~] department shall conduct periodic studies and desk audits to
- 1455 provide that the classification plan remains reasonably current and reflects the duties and
- 1456 responsibilities assigned to and performed by employees.
- 1457 (ii) The executive director shall determine the schedule for studies and desk audits after

1458 considering factors such as changes in duties and responsibilities of positions or agency
1459 reorganizations.

1460 (4) (a) With the approval of the governor, the executive director shall develop and
1461 adopt pay plans for each position in classified service.

1462 (b) The executive director shall design each pay plan to achieve, to the degree that
1463 funds permit, comparability of state salary ranges to salary ranges used by private enterprise
1464 and other public employment for similar work.

1465 (c) The executive director shall adhere to the following in developing each pay plan:

1466 (i) Each pay plan shall consist of sufficient salary ranges to permit adequate salary
1467 differential among the various classes of positions in the classification plan.

1468 (ii) (A) The executive director shall assign each class of positions in the classification
1469 plan to a salary range and shall set the width of the salary range to reflect the normal growth
1470 and productivity potential of employees in that class.

1471 (B) The width of the ranges need not be uniform for all classes of positions in the plan,
1472 but each range shall contain merit steps in increments of 2.75% salary increases.

1473 (iii) (A) The executive director shall issue rules for the administration of pay plans.

1474 (B) The rules may provide for exceptional performance increases and for a program of
1475 incentive awards for cost-saving suggestions and other commendable acts of employees.

1476 (C) The executive director shall issue rules providing for salary adjustments.

1477 (iv) Merit step increases shall be granted, if funds are available, to employees who
1478 receive a rating of "successful" or higher in an annual evaluation of their productivity and
1479 performance.

1480 (v) By October 31 of each year, the executive director shall submit market
1481 comparability adjustments to the director of the Governor's Office of Planning and Budget for
1482 consideration to be included as part of the affected agency's base budgets.

1483 (vi) By October 31 of each year, the executive director shall recommend a
1484 compensation package to the governor.

1485 (vii) (A) Adjustments shall incorporate the results of a total compensation market

1486 survey of salary ranges and benefits of a reasonable cross section of comparable benchmark
1487 positions in private and public employment in the state.

1488 (B) The survey may also study comparable unusual positions requiring recruitment in
1489 other states.

1490 (C) The executive director may cooperate with other public and private employers in
1491 conducting the survey.

1492 (viii) (A) The executive director shall establish criteria to assure the adequacy and
1493 accuracy of the survey and shall use methods and techniques similar to and consistent with
1494 those used in private sector surveys.

1495 (B) Except as provided under Section 67-19-12.3, the survey shall include a reasonable
1496 cross section of employers.

1497 (C) The executive director may cooperate with or participate in any survey conducted
1498 by other public and private employers.

1499 (D) The executive director shall obtain information for the purpose of constructing the
1500 survey from the Division of Workforce Information and Payment Services and shall include
1501 employer name, number of persons employed by the employer, employer contact information
1502 and job titles, county code, and salary if available.

1503 (E) The department shall acquire and protect the needed records in compliance with the
1504 provisions of Section 35A-4-312.

1505 (ix) The establishing of a salary range is a nondelegable activity and is not appealable
1506 under the grievance procedures of Sections 67-19-30 through 67-19-32, Title 67, Chapter 19a,
1507 Grievance and Appeal Procedures, or otherwise.

1508 (x) The governor shall:

1509 (A) consider salary adjustments recommended under Subsection (4)(c)(vi) in preparing
1510 the executive budget and shall recommend the method of distributing the adjustments;

1511 (B) submit compensation recommendations to the Legislature; and

1512 (C) support the recommendation with schedules indicating the cost to individual
1513 departments and the source of funds.

1514 (xi) If funding is approved by the Legislature in a general appropriations act, the
1515 adjustments take effect on the July 1 following the enactment.

1516 (5) (a) The executive director shall regularly evaluate the total compensation program
1517 of state employees in the classified service.

1518 (b) The [~~division~~] department shall determine if employee benefits are comparable to
1519 those offered by other private and public employers using information from:

1520 (i) the most recent edition of the Employee Benefits Survey Data conducted by the U.S.
1521 Chamber of Commerce Research Center; or

1522 (ii) the most recent edition of a nationally recognized benefits survey.

1523 (6) (a) The executive director shall submit proposals for a state employee
1524 compensation plan to the governor by October 31 of each year, setting forth findings and
1525 recommendations affecting employee compensation.

1526 (b) The governor shall consider the executive director's proposals in preparing budget
1527 recommendations for the Legislature.

1528 (c) The governor's budget proposals to the Legislature shall include a specific
1529 recommendation on employee compensation.

1530 Section 33. Section **67-19-12.2 (Effective 07/01/06)** is amended to read:

1531 **67-19-12.2 (Effective 07/01/06). Education benefit plan for law enforcement and**
1532 **correctional officers.**

1533 (1) As used in this section, "law enforcement officer" has the same meaning as in
1534 Section 53-13-103 and "correctional officer" has the same meaning as in Section 53-13-104.

1535 (2) The executive director shall establish a plan authorizing any agency to implement
1536 an educational compensation program for law enforcement officers and correctional officers
1537 employed by that agency.

1538 (3) The program shall provide that in order for a law enforcement officer or
1539 correctional officer to qualify for education benefits for college or university education, the law
1540 enforcement officer or correctional officer shall:

1541 (a) provide a certified transcript of grades, demonstrating a grade point average of 3.0

1542 or greater, from an accredited college or university; and

1543 (b) have successfully completed the probationary employment period with the
1544 employing agency.

1545 (4) The program shall also provide that the agency may consider a law enforcement
1546 officer or correctional officer to receive additional compensation as follows for higher
1547 education degrees earned on or after April 30, 2001, in a subject area directly related to the law
1548 enforcement officer's or correctional officer's employment with the agency:

1549 (a) two steps for an associate's degree;

1550 (b) two steps for a bachelor's degree; and

1551 (c) two steps for a master's degree.

1552 (5) Expenses incurred by an agency to provide additional compensation under this
1553 section may be only from the agency's existing budget.

1554 Section 34. Section **67-19-12.5 (Effective 07/01/06)** is amended to read:

1555 **67-19-12.5 (Effective 07/01/06). Creation of Flexible Benefit Program --**

1556 **Rulemaking power granted to establish program.**

1557 (1) The [~~division~~] department shall establish for calendar year 1990 and thereafter a
1558 Flexible Benefit Program under Section 125 of the Internal Revenue Code of 1986.

1559 (2) The [~~division~~] department shall establish accounts for all employees eligible for
1560 benefits which meet the nondiscrimination requirements of the Internal Revenue Code of 1986.

1561 (3) (a) Each account established under this section shall include employee paid
1562 premiums for health and dental services.

1563 (b) The account may also include, at the option of the employee, out-of-pocket
1564 employee medical and dependent care expenses.

1565 (c) Accounts may also include other expenses allowed under the Internal Revenue
1566 Code of 1986.

1567 (4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1568 [~~division~~] department may make rules to implement the program established under this section.

1569 Section 35. Section **67-19-12.7 (Effective 07/01/06)** is amended to read:

1570 **67-19-12.7 (Effective 07/01/06). Accumulated annual leave -- Conversion to**
1571 **deferred compensation plan.**

1572 (1) The [~~division~~] department shall implement a program whereby an employee may,
1573 upon termination of employment or retirement, elect to convert any unused annual leave into
1574 any of the employee's designated deferred compensation accounts that:

1575 (a) are sponsored by the Utah State Retirement Board; and

1576 (b) are qualified under Section 401(k) or Section 457 of the Internal Revenue Code.

1577 (2) Any annual leave converted under Subsection (1) shall be converted into the
1578 employee's deferred compensation account at the employee's pay rate at the time of termination
1579 or retirement.

1580 (3) No employee may convert hours of accrued annual leave to the extent that any
1581 hours so converted would exceed the maximum amount authorized by the Internal Revenue
1582 Code for each calendar year.

1583 Section 36. Section **67-19-12.9 (Effective 07/01/06)** is amended to read:

1584 **67-19-12.9 (Effective 07/01/06). Accumulated annual leave -- Annual conversion**
1585 **to deferred compensation plan.**

1586 (1) If the Legislature in an annual appropriations act with accompanying intent
1587 language specifically authorizes and fully funds the estimated costs of this use, the [~~division~~]
1588 department shall implement a program that allows an employee, in the approved calendar year,
1589 to elect to convert up to 20 hours of annual leave, in whole hour increments not to exceed \$250
1590 in value, into any of the employee's designated deferred compensation accounts that:

1591 (a) are sponsored by the Utah State Retirement Board; and

1592 (b) are qualified under Section 401(k) or Section 457 of the Internal Revenue Code.

1593 (2) Any annual leave converted under Subsection (1) shall be:

1594 (a) converted into the employee's deferred compensation account at the employee's pay
1595 rate at the time of conversion; and

1596 (b) calculated in the last pay period of the leave year as determined by the Division of
1597 Finance.

1598 (3) An employee may not convert hours of accrued annual leave to the extent that any
1599 hours converted would:

1600 (a) exceed the maximum amount authorized by the Internal Revenue Code for the
1601 calendar year; or

1602 (b) cause the employee's balance of accumulated annual leave to drop below the
1603 maximum accrual limit provided by rule.

1604 Section 37. Section **67-19-13 (Effective 07/01/06)** is amended to read:

1605 **67-19-13 (Effective 07/01/06). Examination of payrolls and certification of**
1606 **employee eligibility by the executive director.**

1607 (1) The executive director may examine payrolls at any time to determine conformity
1608 with this chapter and the regulations.

1609 (2) No new employee shall be hired in a position covered by this chapter, and no
1610 employee shall be changed in pay, title or status, nor shall any employee be paid unless
1611 certified by the executive director as eligible under the provisions of or regulations
1612 promulgated pursuant to this chapter.

1613 Section 38. Section **67-19-14** is amended to read:

1614 **67-19-14. Sick leave -- Definitions -- Unused sick days retirement programs --**
1615 **Rulemaking.**

1616 (1) As used in Sections 67-19-14 through 67-19-14.4:

1617 (a) "Continuing medical and life insurance benefits" means the state provided policy of
1618 medical insurance and the state provided portion of a policy of life insurance, each offered at
1619 the same:

1620 (i) benefit level and the same proportion of state/member participation in the total
1621 premium costs as an active member as defined in Section 49-11-102; and

1622 (ii) coverage level for a member, two person, or family policy as provided to the
1623 member at the time of retirement.

1624 (b) "Converted sick leave" means leave that has been converted from unused sick leave
1625 in accordance with Section 67-19-14.1 which may be used by an employee in the same manner

1626 as:

1627 (i) annual leave;

1628 (ii) sick leave; or

1629 (iii) unused accumulated sick leave after the employee's retirement for the purchase of
1630 continuing medical and life insurance benefits under Sections 67-19-14.2, 67-19-14.3, and
1631 67-19-14.4.

1632 (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1633 executive director shall make rules for the procedures to implement the provisions of Sections
1634 67-19-14 through 67-19-14.4.

1635 (3) For purposes of Sections 67-19-14 through 67-19-14.4 the most recently earned
1636 converted sick leave or sick leave hours shall be used first when an employee uses converted
1637 sick leave or sick leave hours.

1638 (4) The Division of Finance shall develop and maintain a system of accounting for
1639 employee sick leave and converted sick leave as necessary to implement the provisions of
1640 Sections 67-19-14 through 67-19-14.4.

1641 Section 39. Section **67-19-15 (Effective 07/01/06)** is amended to read:

1642 **67-19-15 (Effective 07/01/06). Career service -- Exempt positions -- Schedules for**
1643 **civil service positions -- Coverage of career service provisions.**

1644 (1) Except as otherwise provided by law or by rules and regulations established for
1645 federally aided programs, the following positions are exempt from the career service provisions
1646 of this chapter:

1647 (a) the governor, members of the Legislature, and all other elected state officers,
1648 designated as Schedule AA;

1649 (b) the agency heads enumerated in Section 67-22-2, and commissioners designated as
1650 Schedule AB;

1651 (c) all employees and officers in the office and at the residence of the governor,
1652 designated as Schedule AC;

1653 (d) employees who are in a confidential relationship to an agency head or

- 1654 commissioner and who report directly to, and are supervised by, a department head,
1655 commissioner, or deputy director of an agency or its equivalent, designated as Schedule AD;
- 1656 (e) unskilled employees in positions requiring little or no specialized skill or training,
1657 designated as Schedule AE;
- 1658 (f) part-time professional noncareer persons who are paid for any form of medical and
1659 other professional service and who are not engaged in the performance of administrative duties,
1660 designated as Schedule AF;
- 1661 (g) attorneys in the attorney general's office who are under their own career service pay
1662 plan, designated as Schedule AG;
- 1663 (h) teaching staff of all state institutions and patients and inmates employed in state
1664 institutions, designated as Schedule AH;
- 1665 (i) persons appointed to a position vacated by an employee who has a right to return
1666 under federal or state law or policy, designated as Schedule AI;
- 1667 (j) noncareer employees compensated for their services on a seasonal or contractual
1668 basis who are hired for limited periods of less than nine consecutive months or who are
1669 employed on less than 1/2 time basis, designated as Schedule AJ;
- 1670 (k) those employees in a personal and confidential relationship to elected officials,
1671 designated as Schedule AK;
- 1672 (l) employees appointed to perform work of a limited duration not exceeding two years
1673 or to perform work with time-limited funding, designated as Schedule AL;
- 1674 (m) employees of the Department of Community and Culture whose positions are
1675 designated as executive/professional positions by the executive director of the Department of
1676 Community and Culture with the concurrence of the executive director, and employees of the
1677 Governor's Office of Economic Development whose positions are designated as
1678 executive/professional positions by the director of the office, designated as Schedule AM;
- 1679 (n) employees of the Legislature, designated as Schedule AN;
- 1680 (o) employees of the judiciary, designated as Schedule AO;
- 1681 (p) all judges in the judiciary, designated as Schedule AP;

1682 (q) members of state and local boards and councils appointed by the governor and
1683 governing bodies of agencies, other local officials serving in an ex officio capacity, officers,
1684 faculty, and other employees of state universities and other state institutions of higher
1685 education, designated as Schedule AQ;

1686 (r) employees who make statewide policy, designated as Schedule AR;

1687 (s) any other employee whose appointment is required by statute to be career service
1688 exempt, designated as Schedule AS; and

1689 (t) employees of the Department of Technology Services, designated as
1690 executive/professional positions by the executive director of the Department of Technology
1691 Services with the concurrence of the executive director, designated as Schedule AT.

1692 (2) The civil service shall consist of two schedules as follows:

1693 (a) (i) Schedule A is the schedule consisting of positions exempted by Subsection (1).

1694 (ii) Removal from any appointive position under Schedule A, unless otherwise
1695 regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

1696 (b) Schedule B is the competitive career service schedule, consisting of all positions
1697 filled through competitive selection procedures as defined by the executive director.

1698 (3) (a) The executive director, after consultation with the heads of concerned executive
1699 branch departments and agencies and with the approval of the governor, shall allocate positions
1700 to the appropriate schedules under this section.

1701 (b) Agency heads shall make requests and obtain approval from the executive director
1702 before changing the schedule assignment and tenure rights of any position.

1703 (c) Unless the executive director's decision is reversed by the governor, when the
1704 executive director denies an agency's request, the executive director's decision is final.

1705 (4) (a) Compensation for employees of the Legislature shall be established by the
1706 directors of the legislative offices in accordance with Section 36-12-7.

1707 (b) Compensation for employees of the judiciary shall be established by the state court
1708 administrator in accordance with Section 78-3-24.

1709 (c) Compensation for officers, faculty, and other employees of state universities and

1710 institutions of higher education shall be established as provided in Title 53B, Chapters 1,
1711 Governance, Powers, Rights, and Responsibilities, and 2, Institutions of Higher Education.

1712 (d) Unless otherwise provided by law, compensation for all other Schedule A
1713 employees shall be established by their appointing authorities, within ranges approved by, and
1714 after consultation with the executive director of the [~~Division~~] Department of Human Resource
1715 Management.

1716 (5) All employees of the Office of State Auditor, the Office of State Treasurer, the
1717 Office of the Attorney General, excluding attorneys who are under their own career service
1718 system, and employees who are not exempt under this section are covered by the career service
1719 provisions of this chapter.

1720 Section 40. Section **67-19-15.1 (Effective 07/01/06)** is amended to read:

1721 **67-19-15.1 (Effective 07/01/06). Implementation of exempt status for Schedule AD**
1722 **and AR employees.**

1723 (1) As used in this section, "appointee" means:

1724 (a) a deputy director;

1725 (b) a division director;

1726 (c) any assistant directors and administrative assistants who report directly to a
1727 department head, deputy director, or their equivalent; and

1728 (d) any other person whose appointment is required by law to be approved by the
1729 governor.

1730 (2) After the effective date of this chapter, any new appointee is a merit exempt
1731 employee.

1732 (3) Notwithstanding the requirements of this chapter, any appointee who is currently a
1733 nonexempt employee does not lose that nonexempt status because of this chapter.

1734 (4) The [~~Division~~] Department of Human Resource Management shall develop
1735 financial and other incentives to encourage appointees who are nonexempt to voluntarily
1736 convert to merit exempt status.

1737 Section 41. Section **67-19-15.6** is amended to read:

1738 **67-19-15.6. Longevity salary increases.**

1739 (1) Except for those employees subject to the Executive and Judicial Compensation
1740 Commission or Citizen's Salary Commission, any employee shall receive an increase in salary
1741 of 2.75% if that employee:

1742 (a) holds a position under Schedule A or B as defined in Section 67-19-15;

1743 (b) has reached the final step in salary range in the position classification;

1744 (c) has been employed with the state for eight years; and

1745 (d) is rated eligible in job performance under guidelines established by the executive
1746 director.

1747 (2) Any employee who meets the criteria defined in Subsection (1) is entitled to the
1748 same increase in salary for each additional three years of employment so long as the employee
1749 maintains the eligibility standards established by the department.

1750 Section 42. Section **67-19-16** is amended to read:

1751 **67-19-16. Appointments to Schedule B positions -- Examinations -- Hiring lists --**
1752 **Probationary service -- Dismissal.**

1753 (1) Each appointment to a position under Schedule B shall be made from hiring lists of
1754 applicants who have been selected by competitive procedures as defined by the executive
1755 director.

1756 (2) The executive director shall publicly announce information regarding career service
1757 positions:

1758 (a) for periods of time to be determined by the executive director; and

1759 (b) in a manner designed to attract the highest number of qualified applicants.

1760 (3) The executive director shall make rules establishing standards for the development,
1761 approval, and implementation of examining instruments.

1762 (4) Applicants for employment to Schedule B positions shall be eligible for
1763 appointment based upon rules established by the executive director.

1764 (5) (a) The agency head shall make appointments to fill vacancies from hiring lists for
1765 probationary periods as defined by rule.

1766 (b) The executive director shall make rules establishing probationary periods.

1767 (6) A person serving a probationary period may not use the grievance procedures
1768 provided in this chapter and in Title 67, Chapter 19a, Grievance and Appeal Procedures, and
1769 may be dismissed at any time by the appointing officer without hearing or appeal.

1770 (7) Career service status shall be granted upon the successful completion of the
1771 probationary period.

1772 Section 43. Section **67-19-17** is amended to read:

1773 **67-19-17. Reappointment of employees not retained in exempt position.**

1774 (1) Any career service employee accepting an appointment to an exempt position who
1775 is not retained by the appointing officer, unless discharged for cause as provided by this [~~act~~]
1776 chapter or by regulation, shall:

1777 [(+) (a) be appointed to any career service position for which the employee qualifies in
1778 a pay grade comparable to the employee's last position in the career service provided an
1779 opening exists; or

1780 [(2) (b) be appointed to any lesser career service position for which the employee
1781 qualifies pending the opening of a position described in Subsection (1) [~~of this section~~].

1782 (2) The executive director shall maintain a reappointment register for this purpose and
1783 it shall have precedence over other registers.

1784 Section 44. Section **67-19-18** is amended to read:

1785 **67-19-18. Dismissals and demotions -- Grounds -- Disciplinary action --**
1786 **Procedure -- Reductions in force.**

1787 (1) Career service employees may be dismissed or demoted:

1788 (a) to advance the good of the public service; or

1789 (b) for just causes such as inefficiency, incompetency, failure to maintain skills or
1790 adequate performance levels, insubordination, disloyalty to the orders of a superior,
1791 misfeasance, malfeasance, or nonfeasance in office.

1792 (2) Employees may not be dismissed because of race, sex, age, disability, national
1793 origin, religion, political affiliation, or other nonmerit factor including the exercise of rights

1794 under this chapter.

1795 (3) The executive director shall establish rules governing the procedural and
1796 documentary requirements of disciplinary dismissals and demotions.

1797 (4) If an agency head finds that a career service employee is charged with aggravated
1798 misconduct or that retention of a career service employee would endanger the peace and safety
1799 of others or pose a grave threat to the public interest, the employee may be suspended pending
1800 the administrative appeal to the department head as provided in Subsection (5).

1801 (5) (a) A career service employee may not be demoted or dismissed unless the
1802 department head or designated representative has complied with this subsection.

1803 (b) The department head or designated representative notifies the employee in writing
1804 of the reasons for the dismissal or demotion.

1805 (c) The employee has no less than five working days to reply and have the reply
1806 considered by the department head.

1807 (d) The employee has an opportunity to be heard by the department head or designated
1808 representative.

1809 (e) Following the hearing, the employee may be dismissed or demoted if the
1810 department head finds adequate cause or reason.

1811 (6) (a) Reductions in force required by inadequate funds, change of workload, or lack
1812 of work are governed by retention rosters established by the executive director.

1813 (b) Under those circumstances:

1814 (i) The agency head shall designate the category of work to be eliminated, subject to
1815 review by the executive director.

1816 (ii) Temporary and probationary employees shall be separated before any career service
1817 employee.

1818 (iii) (A) Career service employees shall be separated in the order of their retention
1819 points, the employee with the lowest points to be discharged first.

1820 (B) Retention points for each career service employee shall be computed according to
1821 rules established by the executive director, allowing appropriate consideration for proficiency

1822 and for seniority in state government, including any active duty military service fulfilled
1823 subsequent to original state appointment.

1824 (iv) A career service employee who is separated in a reduction in force shall be:

1825 (A) placed on the reappointment roster provided for in Subsection 67-19-17 (2); and

1826 (B) reappointed without examination to any vacancy for which the employee is
1827 qualified which occurs within one year of the date of the separation.

1828 (c) (i) An employee separated due to a reduction in force may appeal to the department
1829 head for an administrative review.

1830 (ii) The notice of appeal must be submitted within 20 working days after the
1831 employee's receipt of written notification of separation.

1832 (iii) The employee may appeal the decision of the department head according to the
1833 grievance and appeals procedure of this act.

1834 Section 45. Section **67-19-19 (Effective 07/01/06)** is amended to read:

1835 **67-19-19 (Effective 07/01/06). Political activity of employees -- Rules and**
1836 **regulations -- Highway patrol -- Hatch Act.**

1837 Except as otherwise provided by law or by rules promulgated under this section for
1838 federally aided programs, the following provisions apply with regard to political activity of
1839 career service employees in all grades and positions.

1840 (1) Career service employees may voluntarily participate in political activity subject to
1841 the following provisions:

1842 (a) if any career service employee is elected to any partisan or full-time nonpartisan
1843 political office, that employee shall be granted a leave of absence without pay for times when
1844 monetary compensation is received for service in political office;

1845 (b) no officer or employee in career service may engage in any political activity during
1846 the hours of employment, nor may any person solicit political contributions from employees of
1847 the executive branch during hours of employment for political purposes; and

1848 (c) partisan political activity may not be a basis for employment, promotion, demotion,
1849 or dismissal, except that the executive director shall adopt rules providing for the discipline or

1850 punishment of a state officer or employee who violates any provision of this section.

1851 (2) (a) Notwithstanding any other provision of this section, no member of the Utah
1852 Highway Patrol may use his official authority or influence for the purpose of interfering with
1853 an election or affecting the results of an election.

1854 (b) No person may induce or attempt to induce any member of the Utah Highway
1855 Patrol to participate in any activity prohibited by this Subsection (2).

1856 (3) Nothing contained in this section may be construed to:

1857 (a) preclude voluntary contributions by an employee to the party or candidate of the
1858 officer's or employee's choice; or

1859 (b) permit partisan political activity by any employee who is prevented or restricted
1860 from engaging in the political activity by the provisions of the federal Hatch Act.

1861 Section 46. Section **67-19-31 (Effective 07/01/06)** is amended to read:

1862 **67-19-31 (Effective 07/01/06). Position classification grievances -- Scope --**
1863 **Procedure.**

1864 (1) (a) For the purpose of position classification grievances, the process that culminates
1865 in assigning a career service position to an appropriate class specification is a matter of position
1866 classification and may be grieved.

1867 (b) The process that culminates in assigning a salary range to the class specification is
1868 not a position classification and may not be grieved as a classification grievance.

1869 (2) (a) Upon receipt of a position classification grievance, the executive director shall
1870 refer the grievance to a classification panel of three or more impartial persons trained in state
1871 classification procedures.

1872 (b) The classification panel shall determine whether or not the classification
1873 assignment for career service positions was appropriate by applying the statutes, rules, and
1874 procedures adopted by the department that were in effect at the time of the classification
1875 change.

1876 (c) The classification panel may:

1877 (i) obtain access to previous audits, classification decisions, and reports;

1878 (ii) request new or additional audits by human resource analysts; and

1879 (iii) consider new or additional information.

1880 (d) The classification panel may sustain or modify the original decision and, if
1881 applicable, recommend a new classification.

1882 (e) The classification panel shall report its recommendation to the executive director,
1883 who shall make the classification decision and notify the grievant.

1884 (3) (a) Either party may appeal the executive director's decision to an impartial hearing
1885 officer trained in state classification procedures selected through a public bid process by a
1886 panel consisting of the following members:

1887 (i) the executive director of the [~~Division~~] Department of Human Resource
1888 Management;

1889 (ii) two department executive directors;

1890 (iii) a private sector human resources executive appointed by the governor; and

1891 (iv) a representative of the Utah Public Employees Association.

1892 (b) The successful bid shall serve under contract for no more than three years. At the
1893 end of that time, the [~~Division~~] Department of Human Resource Management shall reissue the
1894 bid.

1895 (c) The hearing officer shall review the classification and make the final decision. The
1896 final decision is subject to judicial review pursuant to the provisions of Section 63-46b-15.

1897 Section 47. Section **67-19-33 (Effective 07/01/06)** is amended to read:

1898 **67-19-33 (Effective 07/01/06). Controlled substances and alcohol use prohibited.**

1899 An employee may not:

1900 (1) manufacture, dispense, possess, use, distribute, or be under the influence of a
1901 controlled substance or alcohol during work hours or on state property except where legally
1902 permissible;

1903 (2) manufacture, dispense, possess, use, or distribute a controlled substance or alcohol
1904 if the activity prevents:

1905 (a) state agencies from receiving federal grants or performing under federal contracts of

1906 \$25,000 or more; or

1907 (b) the employee to perform his services or work for state government effectively as
1908 regulated by the rules of the executive director in accordance with Section 67-19-34; or

1909 (3) refuse to submit to a drug or alcohol test under Section 67-19-36.

1910 Section 48. Section **67-19-34 (Effective 07/01/06)** is amended to read:

1911 **67-19-34 (Effective 07/01/06). Rulemaking power to executive director.**

1912 In accordance with this chapter and Title 63, Chapter 46a, Utah Administrative
1913 Rulemaking Act, the executive director shall make rules regulating:

1914 (1) disciplinary actions for employees subject to discipline under Section 67-19-37;

1915 (2) the testing of employees for the use of controlled substances or alcohol as provided
1916 in Section 67-19-36;

1917 (3) the confidentiality of drug testing and test results performed under Section
1918 67-19-36 in accordance with Title 63, Chapter 2, Government Records Access and
1919 Management Act; and

1920 (4) minimum blood levels of alcohol or drug content for work effectiveness of an
1921 employee.

1922 Section 49. Section **67-19-36 (Effective 07/01/06)** is amended to read:

1923 **67-19-36 (Effective 07/01/06). Drug testing of state employees.**

1924 (1) Except as provided in Subsection (2), when there is reasonable suspicion that an
1925 employee is using a controlled substance or alcohol unlawfully during work hours, an
1926 employee may be required to submit to medically accepted testing procedures for a
1927 determination of whether the employee is using a controlled substance or alcohol in violation
1928 of this part.

1929 (2) In highly sensitive positions, as identified in [~~division~~] department class
1930 specifications, random drug testing of employees may be conducted by an agency in
1931 accordance with the rules of the executive director.

1932 (3) All drug or alcohol testing shall be:

1933 (a) conducted by a federally certified and licensed physician, a federally certified and

1934 licensed medical clinic, or testing facility federally certified and licensed to conduct medically
1935 accepted drug testing;

1936 (b) conducted in accordance with the rules of the executive director made under
1937 Section 67-19-34; and

1938 (c) kept confidential in accordance with the rules of the executive director made in
1939 accordance with Section 67-19-34.

1940 (4) A physician, medical clinic, or testing facility may not be held liable in any civil
1941 action brought by a party for:

1942 (a) performing or failing to perform a test under this section;

1943 (b) issuing or failing to issue a test result under this section; or

1944 (c) acting or omitting to act in any other way in good faith under this section.

1945 Section 50. Section **67-19-37 (Effective 07/01/06)** is amended to read:

1946 **67-19-37 (Effective 07/01/06). Discipline of employees.**

1947 An employee shall be subject to the rules of discipline of the executive director made in
1948 accordance with Section 67-19-34, if the employee:

1949 (1) refuses to submit to testing procedures provided in Section 67-19-36;

1950 (2) refuses to complete a drug rehabilitation program in accordance with Subsection
1951 67-19-38(3);

1952 (3) is convicted under a federal or state criminal statute regulating the manufacture,
1953 distribution, dispensation, possession, or use of a controlled substance; or

1954 (4) manufactures, dispenses, possesses, uses, or distributes a controlled substance in
1955 violation of state or federal law during work hours or on state property.

1956 Section 51. Section **67-19-38 (Effective 07/01/06)** is amended to read:

1957 **67-19-38 (Effective 07/01/06). Violations and penalties.**

1958 In addition to other criminal penalties provided by law, an employee who:

1959 (1) fails to notify the employee's director under Section 67-19-35 is subject to
1960 disciplinary proceedings as established by the executive director by rule in accordance with
1961 Section 67-19-34;

1962 (2) refuses to submit to testing procedures provided for in Section 67-19-36, may be
1963 suspended immediately without pay pending further disciplinary action as set forth in the rules
1964 of the executive director in accordance with Section 67-19-34; or

1965 (3) tests positive for the presence of unlawfully used controlled substances or alcohol
1966 may be required, as part of the employee's disciplinary treatment, to complete a drug
1967 rehabilitation program at the employee's expense within 60 days after receiving the positive test
1968 results or be subject to further disciplinary procedures established by rule of the executive
1969 director in accordance with Section 67-19-34.

1970 Section 52. Section **67-19a-303 (Effective 07/01/06)** is amended to read:

1971 **67-19a-303 (Effective 07/01/06). Employees' rights in grievance and appeals**
1972 **procedure.**

1973 (1) For the purpose of processing a grievance, a career service employee may:

1974 (a) obtain assistance by a representative of the employee's choice to act as an advocate
1975 at any level of the grievance procedure;

1976 (b) request a reasonable amount of time during work hours to confer with the
1977 representative and prepare the grievance; and

1978 (c) call other employees as witnesses at a grievance hearing.

1979 (2) The state shall allow employees to attend and testify at the grievance hearing as
1980 witnesses if the employee has given reasonable advance notice to the employee's immediate
1981 supervisor.

1982 (3) No person may take any reprisals against any career service employee for use of
1983 grievance procedures specified in this chapter.

1984 (4) (a) The employing agency of an employee who files a grievance may not place
1985 grievance forms, grievance materials, correspondence about the grievance, agency and
1986 department replies to the grievance, or other documents relating to the grievance in the
1987 employee's personnel file.

1988 (b) The employing agency of an employee who files a grievance may place records of
1989 disciplinary action in the employee's personnel file.

1990 (c) If any disciplinary action against an employee is rescinded through the grievance
1991 procedures established in this chapter, the agency and the [~~Division~~] Department of Human
1992 Resource Management shall remove the record of the disciplinary action from the employee's
1993 agency personnel file and central personnel file.

1994 (d) An agency may maintain a separate grievance file relating to an employee's
1995 grievance, but shall discard the file after three years.

1996 Section 53. Section **67-19c-101 (Effective 07/01/06)** is amended to read:

1997 **67-19c-101 (Effective 07/01/06). Department award program.**

1998 (1) As used in this section:

1999 (a) "Department" means the Department of Administrative Services, the Department of
2000 Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of
2001 Commerce, the Department of Community and Culture, the Department of Corrections, the
2002 Department of Workforce Services, the Department of Environmental Quality, the Department
2003 of Financial Institutions, the Department of Health, the Department of Human Resource
2004 Management, the Department of Human Services, the Insurance Department, the National
2005 Guard, the Department of Natural Resources, the Department of Public Safety, the Public
2006 Service Commission, the Labor Commission, the State Board of Education, the State Board of
2007 Regents, the State Tax Commission, the Department of Technology Services, and the
2008 Department of Transportation.

2009 (b) "Department head" means the individual or body of individuals in whom the
2010 ultimate legal authority of the department is vested by law.

2011 (2) There is created a department awards program to award an outstanding employee in
2012 each department of state government.

2013 (3) (a) By April 1 of each year, each department head shall solicit nominations for
2014 outstanding employee of the year for his department from the employees in his department.

2015 (b) By July 1 of each year, the department head shall:

2016 (i) select a person from the department to receive the outstanding employee of the year
2017 award using the criteria established in Subsection (3)(c); and

2018 (ii) announce the recipient of the award to his employees.
2019 (c) Department heads shall make the award to a person who demonstrates:
2020 (i) extraordinary competence in performing his function;
2021 (ii) creativity in identifying problems and devising workable, cost-effective solutions to
2022 them;
2023 (iii) excellent relationships with the public and other employees;
2024 (iv) a commitment to serving the public as the client; and
2025 (v) a commitment to economy and efficiency in government.
2026 (4) (a) The [~~Division~~] Department of Human Resource Management shall divide any
2027 appropriation for outstanding department employee awards that it receives from the Legislature
2028 equally among the departments.
2029 (b) If the department receives monies from the [~~Division~~] Department of Human
2030 Resource Management or if the department budget allows, the department head shall provide
2031 the employee with a bonus, a plaque, or some other suitable acknowledgement of the award.
2032 (5) (a) The department head may name the award after an exemplary present or former
2033 employee of the department.
2034 (b) A department head may not name the award for himself or for any relative as
2035 defined in Section 52-3-1.
2036 (c) Any awards or award programs existing in any department as of May 3, 1993, shall
2037 be modified to conform to the requirements of this section.
2038 Section 54. Section **67-20-8 (Effective 07/01/06)** is amended to read:
2039 **67-20-8 (Effective 07/01/06). Volunteer experience credit.**
2040 (1) State agencies shall designate positions for which approved volunteer experience
2041 satisfies the job requirements for purposes of employment.
2042 (2) When evaluating applicants for those designated positions, state agencies shall
2043 consider documented approved volunteer experience in the same manner as similar paid
2044 employment.
2045 (3) The [~~Division~~] Department of Human Resource Management shall make statewide

2046 rules governing the:

2047 (a) designation of volunteer positions; and

2048 (b) a uniform process to document the approval, use, and hours worked by volunteers.

2049 Section 55. Section **67-22-2 (Effective 07/01/06)** is amended to read:

2050 **67-22-2 (Effective 07/01/06). Compensation -- Other state officers.**

2051 (1) The governor shall establish salaries for the following state officers within the

2052 following salary ranges fixed by the Legislature:

2053	State Officer	Salary Range
2054	Commissioner of Agriculture and Food	\$66,800 - \$90,600
2055	Commissioner of Insurance	\$66,800 - \$90,600
2056	Commissioner of the Labor Commission	\$66,800 - \$90,600
2057	Director, Alcoholic Beverage Control	
2058	Commission	\$66,800 - \$90,600
2059	Commissioner, Department of	
2060	Financial Institutions	\$66,800 - \$90,600
2061	Members, Board of Pardons and Parole	\$66,800 - \$90,600
2062	Executive Director, Department	
2063	of Commerce	\$66,800 - \$90,600
2064	Executive Director, Commission on	
2065	Criminal and Juvenile Justice	\$66,800 - \$90,600
2066	Adjutant General	\$66,800 - \$90,600
2067	Chair, Tax Commission	\$72,400 - \$97,600
2068	Commissioners, Tax Commission	\$72,400 - \$97,600
2069	Executive Director, Department of	
2070	Community and Culture	\$72,400 - \$97,600
2071	Executive Director, Tax Commission	\$72,400 - \$97,600
2072	Chair, Public Service Commission	\$72,400 - \$97,600
2073	Commissioners, Public Service	

2074	Commission	\$72,400 - \$97,600
2075	Executive Director, Department	
2076	of Corrections	\$78,700 - \$106,200
2077	Commissioner, Department of Public Safety	\$78,700 - \$106,200
2078	Executive Director, Department of	
2079	Natural Resources	\$78,700 - \$106,200
2080	Director, Governor's Office of Planning	
2081	and Budget	\$78,700 - \$106,200
2082	Executive Director, Department of	
2083	Administrative Services	\$78,700 - \$106,200
2084	<u>Executive Director, Department of</u>	
2085	<u>Human Resource Management</u>	<u>\$78,000 - \$106,200</u>
2086	Executive Director, Department of	
2087	Environmental Quality	\$78,700 - \$106,200
2088	Director, Governor's Office	
2089	of Economic Development	\$78,700 - \$106,200
2090	Executive Director, Department of	
2091	Workforce Services	\$85,700 - \$115,700
2092	Executive Director, Department of	
2093	Health	\$85,700 - \$115,700
2094	Executive Director, Department	
2095	of Human Services	\$85,700 - \$115,700
2096	Executive Director, Department	
2097	of Transportation	\$85,700 - \$115,700
2098	Executive Director, Department	
2099	of Information Technology	
2100	Services	\$85,700 - \$115,700
2101	(2) (a) The Legislature fixes benefits for the state [offices] <u>officers</u> outlined in	

2102 Subsection (1) as follows:

2103 (i) the option of participating in a state retirement system established by Title 49, Utah
2104 State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered
2105 by the State Retirement Office in accordance with the Internal Revenue Code and its
2106 accompanying rules and regulations;

2107 (ii) health insurance;

2108 (iii) dental insurance;

2109 (iv) basic life insurance;

2110 (v) unemployment compensation;

2111 (vi) workers' compensation;

2112 (vii) required employer contribution to Social Security;

2113 (viii) long-term disability income insurance;

2114 (ix) the same additional state-paid life insurance available to other noncareer service
2115 employees;

2116 (x) the same severance pay available to other noncareer service employees;

2117 (xi) the same leave, holidays, and allowances granted to Schedule B state employees as
2118 follows:

2119 (A) sick leave[;];

2120 (B) converted sick leave[;] if accrued prior to January 1, 2014;

2121 (C) educational allowances[~~;~~ ~~and~~];

2122 (D) holidays [~~granted to Schedule B state employees, and the same~~]; and

2123 (E) annual leave [~~granted to Schedule B state employees with more than ten years of~~
2124 ~~state service~~] except that annual leave shall be accrued at the maximum rate provided to
2125 Schedule B state employees;

2126 (xii) the option to convert accumulated sick leave to cash or insurance benefits as
2127 provided by law or rule upon resignation or retirement according to the same criteria and
2128 procedures applied to Schedule B state employees;

2129 (xiii) the option to purchase additional life insurance at group insurance rates according

2130 to the same criteria and procedures applied to Schedule B state employees; and
2131 (xiv) professional memberships if being a member of the professional organization is a
2132 requirement of the position.

2133 (b) Each department shall pay the cost of additional state-paid life insurance for its
2134 executive director from its existing budget.

2135 (3) The Legislature fixes the following additional benefits:

2136 (a) for the executive director of the State Tax Commission a vehicle for official and
2137 personal use;

2138 (b) for the executive director of the Department of Transportation a vehicle for official
2139 and personal use;

2140 (c) for the executive director of the Department of Natural Resources a vehicle for
2141 commute and official use;

2142 (d) for the Commissioner of Public Safety:

2143 (i) an accidental death insurance policy if POST certified; and
2144 (ii) a public safety vehicle for official and personal use;

2145 (e) for the executive director of the Department of Corrections:

2146 (i) an accidental death insurance policy if POST certified; and
2147 (ii) a public safety vehicle for official and personal use;

2148 (f) for the Adjutant General a vehicle for official and personal use; and
2149 (g) for each member of the Board of Pardons and Parole a vehicle for commute and
2150 official use.

2151 (4) (a) The governor has the discretion to establish a specific salary for each office
2152 listed in Subsection (1), and, within that discretion, may provide salary increases within the
2153 range fixed by the Legislature.

2154 (b) The governor shall apply the same overtime regulations applicable to other FLSA
2155 exempt positions.

2156 (c) The governor may develop standards and criteria for reviewing the performance of
2157 the state officers listed in Subsection (1).

2158 (5) Salaries for other Schedule A employees, as defined in Section 67-19-15, which are
2159 not provided for in this chapter, or in Title 67, Chapter 8, Utah Executive and Judicial Salary
2160 Act, shall be established as provided in Section 67-19-15.

2161 Section 56. Section **72-1-203 (Effective 07/01/06)** is amended to read:

2162 **72-1-203 (Effective 07/01/06). Deputy director -- Appointment -- Qualifications --**
2163 **Other assistants and advisers -- Salaries.**

2164 (1) The executive director shall appoint a deputy director, who shall be a registered
2165 professional engineer in the state and shall serve at the discretion of the executive director.

2166 (2) The deputy director is the chief engineer of the department. The deputy director
2167 shall assist the executive director and is responsible for:

2168 (a) program and project development; and

2169 (b) operation and maintenance of the state transportation systems.

2170 (3) The executive director may also appoint assistants to administer the divisions of the
2171 department. These assistants shall serve at the discretion of the executive director.

2172 (4) In addition, the executive director may employ other assistants and advisers as the
2173 executive director finds necessary and fix salaries in accordance with the salary standards
2174 adopted by the [~~Division~~] Department of Human Resource Management.

2175 Section 57. **Effective date.**

2176 This bill takes effect on July 1, 2006.