

1                                   **HUMAN RESOURCE MANAGEMENT**

2                                                   **AMENDMENTS**

3                                                           2006 GENERAL SESSION

4                                                           STATE OF UTAH

5                                                           **Chief Sponsor: David Clark**

6                                                           Senate Sponsor: Beverly Ann Evans

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7  
8   **LONG TITLE**

9   **General Description:**

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

13   **Highlighted Provisions:**

14           This bill:

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



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

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

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

34       ▶ makes technical changes.

35 **Monies Appropriated in this Bill:**

36       None

37 **Other Special Clauses:**

38       This bill takes effect on July 1, 2006.

39 **Utah Code Sections Affected:**

40 AMENDS:

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

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

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

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

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

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

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

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

49 Utah 2005

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

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

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

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

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

55 Utah 2005

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



245 safety service employee's current retirement system.

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

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

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

251 (iii) is irrevocable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

352 (iii) is irrevocable.

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

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

355 (1) The program shall:

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

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

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

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

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

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

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

- 369 recommendations for benefit changes;
- 370 (h) annually submit a budget and audited financial statements to the governor and  
371 Legislature which includes total projected benefit costs and administrative costs;
- 372 (i) maintain reserves sufficient to liquidate the unrevealed claims liability and other  
373 liabilities of the employee benefit plans as certified by the program's consulting actuary;
- 374 (j) submit its recommended benefit adjustments for state employees to the executive  
375 director of the state [~~Division~~] Department of Human Resource Management;
- 376 (k) determine benefits and rates, upon approval of the board, for multiemployer risk  
377 pools, retiree coverage, and conversion coverage;
- 378 (l) determine benefits and rates, upon approval of the board and the Legislature, for  
379 state employees;
- 380 (m) administer benefits and rates, upon ratification of the board, for single employer  
381 risk pools;
- 382 (n) request proposals for provider networks or health and dental benefit plans  
383 administered by third party carriers at least once every three years for the purposes of:
- 384 (i) stimulating competition for the benefit of covered individuals;
- 385 (ii) establishing better geographical distribution of medical care services; and
- 386 (iii) providing coverage for both active and retired covered individuals;
- 387 (o) offer proposals which meet the criteria specified in a request for proposals and  
388 accepted by the program to active and retired state covered individuals and which may be  
389 offered to active and retired covered individuals of other covered employers at the option of the  
390 covered employer;
- 391 (p) perform the same functions established in Subsections (1)(a), (b), (e), and (h) for  
392 the Department of Health if the program provides program benefits to children enrolled in the  
393 Utah Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's  
394 Health Insurance Act;
- 395 (q) establish rules and procedures governing the admission of political subdivisions or  
396 educational institutions and their employees to the program;
- 397 (r) contract directly with medical providers to provide services for covered individuals;  
398 and
- 399 (s) take additional actions necessary or appropriate to carry out the purposes of this

400 chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

424 **People with Disabilities.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



493 department.

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

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

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

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

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

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

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

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

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

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

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

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

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

524 Management prior to making such a recommendation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

567 (a) The commission may hire:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

599 (2) The division director may:

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

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

604 (c) employ necessary administrative and support staff.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

648 radio, or telecommunications.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

691 (16) "Unavailable" means:

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

695 (b) as otherwise defined by local ordinance.

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

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

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

700 (i) every Sunday;

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

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

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

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

705 (vi) July 4, called Independence Day;

706 (vii) July 24, called Pioneer Day;

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

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

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

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



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

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

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

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

745 (a) administrative rules;

746 (b) archives and records;

747 (c) facilities construction and management;

748 (d) finance;

749 (e) fleet operations;

750 (f) office of state debt collection;

751 (g) state purchasing and general services;

752 (h) risk management; and

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

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

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

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

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

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

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

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

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

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

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

774           (1) As used in this section:

775           (a) "Agency" means:

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

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

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

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

784           (v) the Career Service Review Board;

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

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

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

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

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

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

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

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

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

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

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

802           (b) Those rules shall include:

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

834 division's program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

958 state treasurer;

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

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

964 (3) The commission shall:

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

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

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

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

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

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

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



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

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

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

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

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

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

1005 As used in this chapter:

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

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

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

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

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

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

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

1018 (b) "Demotion" does not mean:

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

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

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

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

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

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

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

1061 (b) providing for equitable and competitive compensation;

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

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

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

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

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

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

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

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

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

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

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

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

1084 (3) The executive director may:

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

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

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

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

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

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

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

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

1101 (1) The executive director shall:

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

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

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

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

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

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

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

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

1113 employment opportunity;

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

1115 discipline;

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

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

1118 assigned or prohibited;

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

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

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

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

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

1124 payroll, and related matters concerning state human resources;

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

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

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

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

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

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

1131 governing equal employment opportunity in employment;

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

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

1134 determined by the executive director;

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

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

1137 procedures;

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

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

1140 (A) identify funded vacant positions; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1212 (1) As used in this section:

1213 (a) "Accrued overtime hours" means:

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

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

1218 (b) "Appointed official" means:

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

1259 (m) "Work period" means:

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

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

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

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

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

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

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

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

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

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

1281 (e) Each department shall:

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

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

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

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

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

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

1298 (b) (i) Each department shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1330 Finance, make rules:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1379 (2) The executive director shall:

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

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

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

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

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

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

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

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

1392 two-year term;

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

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

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

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

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

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

1405 (b) The committee shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1435 Subsection (2);

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

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

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

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

1443 (k) employees of the Medical Education Council.

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

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

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

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

1454 responsibilities assigned to and performed by employees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1485 positions in private and public employment in the state.

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

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

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

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

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

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

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

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

1506 (x) The governor shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1625 (i) annual leave;

1626 (ii) sick leave; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1722 (a) a deputy director;

1723 (b) a division director;

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1764 (b) The executive director shall make rules establishing probationary periods.
- 1765 (6) A person serving a probationary period may not use the grievance procedures
- 1766 provided in this chapter and in Title 67, Chapter 19a, Grievance and Appeal Procedures, and
- 1767 may be dismissed at any time by the appointing officer without hearing or appeal.
- 1768 (7) Career service status shall be granted upon the successful completion of the
- 1769 probationary period.

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

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

1772 (1) Any career service employee accepting an appointment to an exempt position who

1773 is not retained by the appointing officer, unless discharged for cause as provided by this [~~act~~]

1774 chapter or by regulation, shall:

1775 [~~(+)~~] (a) be appointed to any career service position for which the employee qualifies in

1776 a pay grade comparable to the employee's last position in the career service provided an

1777 opening exists; or

1778 [~~(2)~~] (b) be appointed to any lesser career service position for which the employee

1779 qualifies pending the opening of a position described in Subsection (1) [~~of this section~~].

1780 (2) The executive director shall maintain a reappointment register for this purpose and

1781 it shall have precedence over other registers.

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

1783 **67-19-18. Dismissals and demotions -- Grounds -- Disciplinary action --**

1784 **Procedure -- Reductions in force.**

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

- 1786 (a) to advance the good of the public service; or
- 1787 (b) for just causes such as inefficiency, incompetency, failure to maintain skills or
- 1788 adequate performance levels, insubordination, disloyalty to the orders of a superior,
- 1789 misfeasance, malfeasance, or nonfeasance in office.

1790 (2) Employees may not be dismissed because of race, sex, age, disability, national

1791 origin, religion, political affiliation, or other nonmerit factor including the exercise of rights

1792 under this chapter.

1793 (3) The executive director shall establish rules governing the procedural and

1794 documentary requirements of disciplinary dismissals and demotions.

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

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

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

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

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

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

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

1811 (b) Under those circumstances:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1861 **Procedure.**

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

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

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

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

1874 (c) The classification panel may:

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

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

1877 (iii) consider new or additional information.

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

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

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

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

1887 (ii) two department executive directors;

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

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

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

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

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

1897 An employee may not:

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

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

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

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

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

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

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

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

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

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

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

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

1919 employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1948 (2) refuses to complete a drug rehabilitation program in accordance with Subsection  
1949 67-19-38(3);

1950 (3) is convicted under a federal or state criminal statute regulating the manufacture,  
1951 distribution, dispensation, possession, or use of a controlled substance; or

1952 (4) manufactures, dispenses, possesses, uses, or distributes a controlled substance in  
1953 violation of state or federal law during work hours or on state property.

1954 Section 51. Section **67-19-38 (Effective 07/01/06)** is amended to read:

1955 **67-19-38 (Effective 07/01/06). Violations and penalties.**

1956 In addition to other criminal penalties provided by law, an employee who:

1957 (1) fails to notify the employee's director under Section 67-19-35 is subject to  
1958 disciplinary proceedings as established by the executive director by rule in accordance with  
1959 Section 67-19-34;

1960 (2) refuses to submit to testing procedures provided for in Section 67-19-36, may be  
1961 suspended immediately without pay pending further disciplinary action as set forth in the rules  
1962 of the executive director in accordance with Section 67-19-34; or

1963 (3) tests positive for the presence of unlawfully used controlled substances or alcohol  
1964 may be required, as part of the employee's disciplinary treatment, to complete a drug  
1965 rehabilitation program at the employee's expense within 60 days after receiving the positive test  
1966 results or be subject to further disciplinary procedures established by rule of the executive  
1967 director in accordance with Section 67-19-34.

1968 Section 52. Section **67-19a-303 (Effective 07/01/06)** is amended to read:

1969 **67-19a-303 (Effective 07/01/06). Employees' rights in grievance and appeals**  
1970 **procedure.**

1971 (1) For the purpose of processing a grievance, a career service employee may:

1972 (a) obtain assistance by a representative of the employee's choice to act as an advocate  
1973 at any level of the grievance procedure;

1974 (b) request a reasonable amount of time during work hours to confer with the  
1975 representative and prepare the grievance; and

1976 (c) call other employees as witnesses at a grievance hearing.

1977 (2) The state shall allow employees to attend and testify at the grievance hearing as  
1978 witnesses if the employee has given reasonable advance notice to the employee's immediate  
1979 supervisor.

1980 (3) No person may take any reprisals against any career service employee for use of



1981 grievance procedures specified in this chapter.

1982 (4) (a) The employing agency of an employee who files a grievance may not place  
1983 grievance forms, grievance materials, correspondence about the grievance, agency and  
1984 department replies to the grievance, or other documents relating to the grievance in the  
1985 employee's personnel file.

1986 (b) The employing agency of an employee who files a grievance may place records of  
1987 disciplinary action in the employee's personnel file.

1988 (c) If any disciplinary action against an employee is rescinded through the grievance  
1989 procedures established in this chapter, the agency and the [~~Division~~] Department of Human  
1990 Resource Management shall remove the record of the disciplinary action from the employee's  
1991 agency personnel file and central personnel file.

1992 (d) An agency may maintain a separate grievance file relating to an employee's  
1993 grievance, but shall discard the file after three years.

1994 Section 53. Section **67-19c-101 (Effective 07/01/06)** is amended to read:

1995 **67-19c-101 (Effective 07/01/06). Department award program.**

1996 (1) As used in this section:

1997 (a) "Department" means the Department of Administrative Services, the Department of  
1998 Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of  
1999 Commerce, the Department of Community and Culture, the Department of Corrections, the  
2000 Department of Workforce Services, the Department of Environmental Quality, the Department  
2001 of Financial Institutions, the Department of Health, the Department of Human Resource  
2002 Management, the Department of Human Services, the Insurance Department, the National  
2003 Guard, the Department of Natural Resources, the Department of Public Safety, the Public  
2004 Service Commission, the Labor Commission, the State Board of Education, the State Board of  
2005 Regents, the State Tax Commission, and the Department of Transportation.

2006 (b) "Department head" means the individual or body of individuals in whom the  
2007 ultimate legal authority of the department is vested by law.

2008 (2) There is created a department awards program to award an outstanding employee in  
2009 each department of state government.

2010 (3) (a) By April 1 of each year, each department head shall solicit nominations for  
2011 outstanding employee of the year for his department from the employees in his department.

2012 (b) By July 1 of each year, the department head shall:  
2013 (i) select a person from the department to receive the outstanding employee of the year  
2014 award using the criteria established in Subsection (3)(c); and  
2015 (ii) announce the recipient of the award to his employees.  
2016 (c) Department heads shall make the award to a person who demonstrates:  
2017 (i) extraordinary competence in performing his function;  
2018 (ii) creativity in identifying problems and devising workable, cost-effective solutions to  
2019 them;  
2020 (iii) excellent relationships with the public and other employees;  
2021 (iv) a commitment to serving the public as the client; and  
2022 (v) a commitment to economy and efficiency in government.  
2023 (4) (a) The [~~Division~~] Department of Human Resource Management shall divide any  
2024 appropriation for outstanding department employee awards that it receives from the Legislature  
2025 equally among the departments.  
2026 (b) If the department receives monies from the [~~Division~~] Department of Human  
2027 Resource Management or if the department budget allows, the department head shall provide  
2028 the employee with a bonus, a plaque, or some other suitable acknowledgement of the award.  
2029 (5) (a) The department head may name the award after an exemplary present or former  
2030 employee of the department.  
2031 (b) A department head may not name the award for himself or for any relative as  
2032 defined in Section 52-3-1.  
2033 (c) Any awards or award programs existing in any department as of May 3, 1993, shall  
2034 be modified to conform to the requirements of this section.  
2035 Section 54. Section **67-20-8 (Effective 07/01/06)** is amended to read:  
2036 **67-20-8 (Effective 07/01/06). Volunteer experience credit.**  
2037 (1) State agencies shall designate positions for which approved volunteer experience  
2038 satisfies the job requirements for purposes of employment.  
2039 (2) When evaluating applicants for those designated positions, state agencies shall  
2040 consider documented approved volunteer experience in the same manner as similar paid  
2041 employment.  
2042 (3) The [~~Division~~] Department of Human Resource Management shall make statewide

2043 rules governing the:

2044 (a) designation of volunteer positions; and

2045 (b) a uniform process to document the approval, use, and hours worked by volunteers.

2046 Section 55. Section **67-22-2 (Effective 07/01/06)** is amended to read:

2047 **67-22-2 (Effective 07/01/06). Compensation -- Other state officers.**

2048 (1) The governor shall establish salaries for the following state officers within the

2049 following salary ranges fixed by the Legislature:

2050	State Officer	Salary Range
2051	Commissioner of Agriculture and Food	\$66,800 - \$90,600
2052	Commissioner of Insurance	\$66,800 - \$90,600
2053	Commissioner of the Labor Commission	\$66,800 - \$90,600
2054	Director, Alcoholic Beverage Control	
2055	Commission	\$66,800 - \$90,600
2056	Commissioner, Department of	
2057	Financial Institutions	\$66,800 - \$90,600
2058	Members, Board of Pardons and Parole	\$66,800 - \$90,600
2059	Executive Director, Department	
2060	of Commerce	\$66,800 - \$90,600
2061	Executive Director, Commission on	
2062	Criminal and Juvenile Justice	\$66,800 - \$90,600
2063	Adjutant General	\$66,800 - \$90,600
2064	Chair, Tax Commission	\$72,400 - \$97,600
2065	Commissioners, Tax Commission	\$72,400 - \$97,600
2066	Executive Director, Department of	
2067	Community and Culture	\$72,400 - \$97,600
2068	Executive Director, Tax Commission	\$72,400 - \$97,600
2069	Chair, Public Service Commission	\$72,400 - \$97,600
2070	Commissioners, Public Service	
2071	Commission	\$72,400 - \$97,600
2072	Executive Director, Department	
2073	of Corrections	\$78,700 - \$106,200

2074	Commissioner, Department of Public Safety	\$78,700 - \$106,200
2075	Executive Director, Department of	
2076	Natural Resources	\$78,700 - \$106,200
2077	Director, Governor's Office of Planning	
2078	and Budget	\$78,700 - \$106,200
2079	Executive Director, Department of	
2080	Administrative Services	\$78,700 - \$106,200
2081	<u>Executive Director, Department of</u>	
2082	<u>Human Resource Management</u>	<u>\$78,000 - \$106,200</u>
2083	Executive Director, Department of	
2084	Environmental Quality	\$78,700 - \$106,200
2085	Director, Governor's Office	
2086	of Economic Development	\$78,700 - \$106,200
2087	Executive Director, Department of	
2088	Workforce Services	\$85,700 - \$115,700
2089	Executive Director, Department of	
2090	Health	\$85,700 - \$115,700
2091	Executive Director, Department	
2092	of Human Services	\$85,700 - \$115,700
2093	Executive Director, Department	
2094	of Transportation	\$85,700 - \$115,700
2095	Executive Director, Department	
2096	of Information Technology	
2097	Services	\$85,700 - \$115,700

2098           (2) (a) The Legislature fixes benefits for the state [~~offices~~] officers outlined in  
 2099 Subsection (1) as follows:

2100           (i) the option of participating in a state retirement system established by Title 49, Utah  
 2101 State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered  
 2102 by the State Retirement Office in accordance with the Internal Revenue Code and its  
 2103 accompanying rules and regulations;

2104           (ii) health insurance;

- 2105 (iii) dental insurance;
- 2106 (iv) basic life insurance;
- 2107 (v) unemployment compensation;
- 2108 (vi) workers' compensation;
- 2109 (vii) required employer contribution to Social Security;
- 2110 (viii) long-term disability income insurance;
- 2111 (ix) the same additional state-paid life insurance available to other noncareer service
- 2112 employees;
- 2113 (x) the same severance pay available to other noncareer service employees;
- 2114 (xi) the same leave, holidays, and allowances granted to Schedule B state employees as
- 2115 follows:
- 2116 (A) sick leave[;];
- 2117 (B) converted sick leave[;] if accrued prior to January 1, 2014;
- 2118 (C) educational allowances[~~;~~and];
- 2119 (D) holidays [~~granted to Schedule B state employees, and the same~~]; and
- 2120 (E) annual leave [~~granted to Schedule B state employees with more than ten years of~~
- 2121 ~~state service~~] except that annual leave shall be accrued at the maximum rate provided to
- 2122 Schedule B state employees;
- 2123 (xii) the option to convert accumulated sick leave to cash or insurance benefits as
- 2124 provided by law or rule upon resignation or retirement according to the same criteria and
- 2125 procedures applied to Schedule B state employees;
- 2126 (xiii) the option to purchase additional life insurance at group insurance rates according
- 2127 to the same criteria and procedures applied to Schedule B state employees; and
- 2128 (xiv) professional memberships if being a member of the professional organization is a
- 2129 requirement of the position.
- 2130 (b) Each department shall pay the cost of additional state-paid life insurance for its
- 2131 executive director from its existing budget.
- 2132 (3) The Legislature fixes the following additional benefits:
- 2133 (a) for the executive director of the State Tax Commission a vehicle for official and
- 2134 personal use;
- 2135 (b) for the executive director of the Department of Transportation a vehicle for official

2136 and personal use;

2137 (c) for the executive director of the Department of Natural Resources a vehicle for  
2138 commute and official use;

2139 (d) for the Commissioner of Public Safety:

2140 (i) an accidental death insurance policy if POST certified; and

2141 (ii) a public safety vehicle for official and personal use;

2142 (e) for the executive director of the Department of Corrections:

2143 (i) an accidental death insurance policy if POST certified; and

2144 (ii) a public safety vehicle for official and personal use;

2145 (f) for the Adjutant General a vehicle for official and personal use; and

2146 (g) for each member of the Board of Pardons and Parole a vehicle for commute and  
2147 official use.

2148 (4) (a) The governor has the discretion to establish a specific salary for each office  
2149 listed in Subsection (1), and, within that discretion, may provide salary increases within the  
2150 range fixed by the Legislature.

2151 (b) The governor shall apply the same overtime regulations applicable to other FLSA  
2152 exempt positions.

2153 (c) The governor may develop standards and criteria for reviewing the performance of  
2154 the state officers listed in Subsection (1).

2155 (5) Salaries for other Schedule A employees, as defined in Section 67-19-15, which are  
2156 not provided for in this chapter, or in Title 67, Chapter 8, Utah Executive and Judicial Salary  
2157 Act, shall be established as provided in Section 67-19-15.

2158 Section 56. Section **72-1-203 (Effective 07/01/06)** is amended to read:

2159 **72-1-203 (Effective 07/01/06). Deputy director -- Appointment -- Qualifications --**  
2160 **Other assistants and advisers -- Salaries.**

2161 (1) The executive director shall appoint a deputy director, who shall be a registered  
2162 professional engineer in the state and shall serve at the discretion of the executive director.

2163 (2) The deputy director is the chief engineer of the department. The deputy director  
2164 shall assist the executive director and is responsible for:

2165 (a) program and project development; and

2166 (b) operation and maintenance of the state transportation systems.

2167 (3) The executive director may also appoint assistants to administer the divisions of the  
2168 department. These assistants shall serve at the discretion of the executive director.

2169 (4) In addition, the executive director may employ other assistants and advisers as the  
2170 executive director finds necessary and fix salaries in accordance with the salary standards  
2171 adopted by the [~~Division~~] Department of Human Resource Management.

2172 Section 57. **Effective date.**

2173 This bill takes effect on July 1, 2006.

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**Legislative Review Note**  
**as of 1-10-06 1:46 PM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**