

**ATTORNEY GENERAL EMPLOYMENT AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael E. Noel**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to the Attorney General Career Service Act.

**Highlighted Provisions:**

This bill:

- ▶ provides that an employee who is employed as an attorney by the Office of the Attorney General is exempt from the career service system; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**67-5-8**, as last amended by Laws of Utah 2012, Chapter 101

**67-5-9**, as last amended by Laws of Utah 2007, Chapter 166

**67-5-12**, as last amended by Laws of Utah 2012, Chapter 369

**67-19-6.7**, as last amended by Laws of Utah 2013, Chapter 214

**67-19-15**, as last amended by Laws of Utah 2015, Chapter 401

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



28 Section 1. Section **67-5-8** is amended to read:

29 **67-5-8. Eligibility for career service status.**

30 (1) (a) The attorney general has sole authority to determine who may be employed with  
31 the Office of the Attorney General.

32 (b) An employee of the state or any of its departments or agencies has no claim or right  
33 to a position in the attorney general's office by virtue of that employment.

34 (2) (a) ~~[An] Except as provided in Subsections (3) and (4), an employee of the Office~~  
35 ~~of the Attorney General shall be placed in a career service status only if[-(i) for an employee~~  
36 ~~who is an attorney, the attorney is a member in good standing of the Utah State Bar~~  
37 ~~Association; and (ii) except as provided in Subsection (3);]~~ the employee has been employed  
38 by the Office of the Attorney General as a probationary employee for a period of:

39 ~~[(A)]~~ (i) at least one year but no more than 18 months; or

40 ~~[(B)]~~ (ii) in the case of investigators, at least 18 months, but no more than two years.

41 (b) An employee ~~[now]~~ employed by the attorney general's office in career service may  
42 not be terminated under this chapter except for cause.

43 (3) (a) The attorney general shall determine whether an employee should be granted  
44 career service status.

45 (b) If, at the end of the probationary period established under Subsection (2), the  
46 attorney general determines that an employee should be granted career service status, the  
47 attorney general shall notify the employee in writing of that decision and place a copy of the  
48 notification in the employee's personnel file.

49 (c) If the attorney general determines that career service status should not be granted,  
50 the attorney general may either terminate the employee or extend the probationary period for a  
51 period not to exceed one year.

52 (d) The attorney general shall notify the employee in writing of that decision and place  
53 a copy of the notification in the employee's personnel file.

54 (e) An employee terminated under this section has no appeal rights under this chapter.

55 (4) (a) Beginning on May 10, 2016, an employee who is employed by the Office of the  
56 Attorney General as an attorney is exempt from the career service system of the Office of the  
57 Attorney General established under this chapter and may not be in a career status.

58 (b) Subsection (4)(a) applies regardless of:

- 59           (i) when the employee is hired; and  
 60           (ii) whether the employee was previously in a career status.

61           Section 2. Section **67-5-9** is amended to read:

62           **67-5-9. Reassignment of career status employees -- Additional compensation for**  
 63 **managerial assignments -- Employment of special assistant attorneys general --**  
 64 **Termination of employees -- Salary increases.**

65           (1) This chapter does not affect the authority of the attorney general to:

66           [(+)] (a) subject to Subsection (2), assign and reassign employees in a career status to  
 67 different positions on [his] the attorney general's staff~~]. The salary of an employee reassigned~~  
 68 ~~to a different position shall not be decreased by reason of reassignment, except that if the~~  
 69 ~~employee reassigned occupies the position of chief deputy attorney general, the salary may be~~  
 70 ~~reduced by not more than 15% upon the assignment to a different position];~~

71           [(2)] (b) subject to Subsection (3), develop a plan for additional compensation for  
 72 career status employees who accept managerial assignments within the office~~]. The provisions~~  
 73 ~~of Subsection (1) notwithstanding, the attorney general may discontinue any additional~~  
 74 ~~compensation if the employee no longer holds a managerial assignment. Additional~~  
 75 ~~compensation provided under this section shall be determined by the attorney general pursuant~~  
 76 ~~to the plan developed by the Office of the Attorney General. If the employee no longer holds a~~  
 77 ~~managerial assignment, and the attorney general decides to discontinue any additional~~  
 78 ~~compensation, the reduction may not place the employee at a salary below where the employee~~  
 79 ~~would be through normal salary increases if the employee had not been in a managerial~~  
 80 ~~position];~~

81           [(3)] (c) employ special assistant attorneys general, who shall not be subject to this  
 82 chapter, to represent the state in particular lawsuits or to handle particular legal matters for the  
 83 state;

84           [(4)] (d) terminate the employment of any employee of the Office of the Attorney  
 85 General who is not in a career service status; or

86           [(5)] (e) establish the salary or determine salary increases of any employee under this  
 87 chapter.

88           (2) (a) If the attorney general assigns or reassigns an employee in a career status to a  
 89 different position, the attorney general may not decrease the employee's salary as a result of the

90 assignment or reassignment.

91 (b) Notwithstanding Subsection (2)(a), the attorney general may decrease the salary of  
92 an employee in a career status if:

93 (i) the employee is reassigned from a managerial assignment to a non-managerial  
94 assignment;

95 (ii) the decrease in salary relates only to the reassignment described in Subsection  
96 (2)(b)(i); and

97 (iii) after any decrease, the employee's salary is equal to or greater than what the  
98 employee's salary would have been, based on normal salary increases, had the employee never  
99 been in the managerial position.

100 (3) The attorney general shall, in accordance with the plan described in Subsection  
101 (1)(b), determine any additional compensation for a managerial assignment.

102 Section 3. Section **67-5-12** is amended to read:

103 **67-5-12. Dismissal of career status employees -- Causes -- Procedure -- Retention**  
104 **roster -- Reappointment register.**

105 (1) (a) Employees in a career status may be dismissed only:

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

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

108 (iii) for any of the following causes or reasons:

109 (A) noncompliance with provisions in the Office of the Attorney General policy  
110 manual[;] or division policies[; ~~and, for attorneys, noncompliance with the Rules of~~  
111 ~~Professional Conduct~~];

112 (B) work performance that is inefficient or incompetent;

113 (C) failure to maintain skills and adequate performance levels;

114 (D) insubordination or disloyalty to the orders of a superior;

115 (E) misfeasance, malfeasance, or nonfeasance;

116 (F) failure to advance the good of the public service, including conduct on or off duty  
117 which demeans or harms the effectiveness or ability of the office to fulfill its mission or legal  
118 obligations;

119 (G) conduct on or off duty which creates a conflict of interest with the employee's  
120 public responsibilities or impact that employee's ability to perform [~~his or her~~] the employee's

121 job assignments;

122 (H) any incident involving intimidation, physical harm, threats of physical harm  
123 against coworkers, management, or the public;

124 (I) failure to meet the requirements of the position;

125 (J) dishonesty; or

126 (K) misconduct.

127 (b) Employees in career status may not be dismissed for reasons of race, national  
128 origin, religion, or political affiliation.

129 (2) (a) Except in aggravated cases of misconduct, an employee in a career status may  
130 not be suspended, demoted, or dismissed without the following procedures:

131 ~~[(a) The]~~ (i) the attorney general or a designated representative ~~[shall notify]~~ notifies  
132 the employee of the reasons for suspension, demotion, or dismissal~~[-];~~;

133 ~~[(b) The]~~ (ii) the employee ~~[shall have]~~ has an opportunity to reply ~~[and have the reply~~  
134 ~~considered by the attorney general or a designated representative.];~~

135 (iii) the attorney general or a designated representative considers the employee's reply;  
136 and

137 ~~[(c) The]~~ (iv) the employee ~~[shall have]~~ has an opportunity to be heard by the attorney  
138 general or a designated representative at a hearing.

139 ~~[(d)]~~ (b) Following ~~[a] the hearing~~~~[-, an employee may be suspended, demoted, or~~  
140 ~~dismissed]~~ described in Subsection (2)(a)(iv), the attorney general or a designated  
141 representative may suspend, demote, or dismiss the employee if the attorney general or a  
142 designated representative finds adequate reason.

143 ~~[(e)]~~ (c) If the attorney general or a designated representative finds that retention of an  
144 employee in a career service status would endanger the peace and safety of others or pose a  
145 grave threat to the public interest, the employee may be summarily suspended pending  
146 administrative hearings and a review by the Career Service Review Office.

147 (3) (a) An employee in a career status who is aggrieved by a decision of the attorney  
148 general or a designated representative to suspend, demote, or dismiss the employee may appeal  
149 the decision to the Career Service Review Office or its hearing officers by following the  
150 procedures in Title 67, Chapter 19a, Grievance Procedures.

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

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

154 (4) Disciplinary actions shall be supported by credible evidence, but the normal rules  
155 of evidence in courts of law do not apply in hearings before the attorney general or a designated  
156 representative or the Career Service Review Office or its hearing officers.

157 (5) (a) Reductions in force required by reinstatement of an employee under Section  
158 67-5-11, inadequate funds, change of workload, or lack of work shall be governed by a  
159 retention roster to be maintained by the Office of the Attorney General and the requirements of  
160 this Subsection (5).

161 (b) Except attorney general executive or administrative appointees, employees not in a  
162 career status shall be separated before any employee in a career status.

163 (c) Retention points for each employee in a career status shall be based on the  
164 employee's seniority in service within each employee category in the Office of the Attorney  
165 General, including any military service fulfilled subsequent to the employee's original  
166 appointment.

167 (d) Employees in career status shall be separated in the order of their retention points,  
168 the employee with the lowest points to be discharged first.

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

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

173 (f) An employee in a career status who is separated by reason of a reduction in force  
174 shall be:

- 175 (i) placed on a reappointment register kept by the Office of the Attorney General for  
176 one year; and
- 177 (ii) offered reappointment to a position in the same category in the Office of the  
178 Attorney General before any employee not having a career status is appointed.

179 Section 4. Section 67-19-6.7 is amended to read:

180 **67-19-6.7. Overtime policies for state employees.**

181 (1) As used in this section:

- 182 (a) "Accrued overtime hours" means:

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

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

187 (b) "Appointed official" means:

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

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

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

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

194 (c) "Department" means the Department of Administrative Services, the Department of  
195 Corrections, the Department of Financial Institutions, the Department of Alcoholic Beverage  
196 Control, the Insurance Department, the Public Service Commission, the Labor Commission,  
197 the Department of Agriculture and Food, the Department of Human Services, the State Board  
198 of Education, the Department of Natural Resources, the Department of Technology Services,  
199 the Department of Transportation, the Department of Commerce, the Department of Workforce  
200 Services, the State Tax Commission, the Department of Heritage and Arts, the Department of  
201 Health, the National Guard, the Department of Environmental Quality, the Department of  
202 Public Safety, the Department of Human Resource Management, the Commission on Criminal  
203 and Juvenile Justice, ~~all~~ merit employees ~~[except attorneys]~~ in the Office of the Attorney  
204 General, merit employees in the Office of the State Treasurer, merit employees in the Office of  
205 the State Auditor, Department of Veterans' and Military Affairs, and the Board of Pardons and  
206 Parole.

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

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

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

212 (g) "FLSA agreement" means the agreement authorized by the Fair Labor Standards  
213 Act of 1978, 29 U.S.C. Sec. 201 et seq., by which a nonexempt employee elects the form of

214 compensation the nonexempt employee will receive for overtime.

215 (h) "Nonexempt employee" means a state employee who is nonexempt as defined by  
216 the Department of Human Resource Management applying FLSA requirements.

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

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

221 (k) "State employee" means every person employed by a department who is not:

222 (i) an appointed official;

223 (ii) an elected official;

224 (iii) a member of a board or commission who is paid only for per diem or travel  
225 expenses; or

226 (iv) employed on a contractual basis at the State Office of Education.

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

229 (m) "Work period" means:

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

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

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

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

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

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

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

244 (ii) being paid for the overtime worked at the rate of one and one-half times the rate per



245 hour that the state employee receives for nonovertime work.

246 (c) Any nonexempt employee who elects to take time off under this Subsection (3)  
247 shall be paid for any overtime worked in excess of the cap established by the Department of  
248 Human Resource Management.

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

251 (e) Each department shall:

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

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

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

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

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

264 (ii) The executive director of the Department of Human Resource Management may  
265 grant limited exceptions to this requirement, where work circumstances dictate, by authorizing  
266 a department to pay employees for overtime worked at the rate per hour that the employee  
267 receives for nonovertime work, if the department has funds available.

268 (b) (i) Each department shall:

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

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

272 (ii) If any department fails to establish a uniform annual date as required by this  
273 Subsection (4), the executive director of the Department of Human Resource Management, in  
274 conjunction with the director of the Division of Finance, shall establish the date for that  
275 department.

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

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

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

283 (i) any of an exempt employee's overtime that is more than the maximum established  
284 by the Department of Human Resource Management rule lapses; and

285 (ii) unless authorized by the executive director of the Department of Human Resource  
286 Management under Subsection (4)(a)(ii), a department may not compensate the exempt  
287 employee for that lapsed overtime by paying the employee for the overtime or by granting the  
288 employee time off for the lapsed overtime.

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

291 (f) If the department pays an exempt employee for overtime under authorization from  
292 the executive director of the Department of Human Resource Management, the department  
293 shall charge that payment to the department's budget in the pay period earned.

294 (5) The Department of Human Resource Management shall:

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

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

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

301 (i) establishing procedures for recording overtime worked that comply with FLSA  
302 requirements;

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

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

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

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

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

314 (vii) establishing procedures for adjudicating appeals of any FLSA determinations  
315 made by the Department of Human Resource Management as required by this section;

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

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

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

322 (a) Notwithstanding the procedures and requirements of Title 63G, Chapter 4,  
323 Administrative Procedures Act, Section 67-19-31, and Section 67-19a-301, any employee who  
324 is aggrieved by the FLSA designation made by the Department of Human Resource  
325 Management as required by this section may appeal that determination to the executive director  
326 of the Department of Human Resource Management by following the procedures and  
327 requirements established in Department of Human Resource Management rule.

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

330 (c) If the employee is aggrieved by the decision of the executive director of the  
331 Department of Human Resource Management, the employee shall appeal that determination to  
332 the Department of Labor, Wage and Hour Division, according to the procedures and  
333 requirements of federal law.

334 Section 5. Section 67-19-15 is amended to read:

335 **67-19-15. Career service -- Exempt positions -- Schedules for civil service**  
336 **positions -- Coverage of career service provisions.**

337 (1) Except as otherwise provided by law or by rules and regulations established for

338 federally aided programs, the following positions are exempt from the career service provisions  
339 of this chapter and are designated under the following schedules:

340 (a) schedule AA includes the governor, members of the Legislature, and all other  
341 elected state officers;

342 (b) schedule AB includes appointed executives and board or commission executives  
343 enumerated in Section [67-22-2](#);

344 (c) schedule AC includes all employees and officers in:

345 (i) the office and at the residence of the governor;

346 (ii) the Utah Science Technology and Research Initiative (USTAR);

347 (iii) the Public Lands Policy Coordinating Council;

348 (iv) the Office of the State Auditor; and

349 (v) the Office of the State Treasurer;

350 (d) schedule AD includes employees who:

351 (i) are in a confidential relationship to an agency head or commissioner; and

352 (ii) report directly to, and are supervised by, a department head, commissioner, or  
353 deputy director of an agency or its equivalent;

354 (e) schedule AG includes employees in the Office of the Attorney General [~~who are~~  
355 ~~under their own career service pay plan under Sections [67-5-7](#) through [67-5-13](#)];~~

356 (f) schedule AH includes:

357 (i) teaching staff of all state institutions; and

358 (ii) employees of the Utah Schools for the Deaf and the Blind who are:

359 (A) educational interpreters as classified by the department; or

360 (B) educators as defined by Section [53A-25b-102](#);

361 (g) schedule AN includes employees of the Legislature;

362 (h) schedule AO includes employees of the judiciary;

363 (i) schedule AP includes all judges in the judiciary;

364 (j) schedule AQ includes:

365 (i) members of state and local boards and councils appointed by the governor and  
366 governing bodies of agencies;

367 (ii) a water commissioner appointed under Section [73-5-1](#);

368 (iii) other local officials serving in an ex officio capacity; and

- 369 (iv) officers, faculty, and other employees of state universities and other state  
370 institutions of higher education;
- 371 (k) schedule AR includes employees in positions that involve responsibility:  
372 (i) for determining policy;  
373 (ii) for determining the way in which a policy is carried out; or  
374 (iii) of a type not appropriate for career service, as determined by the agency head with  
375 the concurrence of the executive director;
- 376 (l) schedule AS includes any other employee:  
377 (i) whose appointment is required by statute to be career service exempt;  
378 (ii) whose agency is not subject to this chapter; or  
379 (iii) whose agency has authority to make rules regarding the performance,  
380 compensation, and bonuses for its employees;
- 381 (m) schedule AT includes employees of the Department of Technology Services,  
382 designated as executive/professional positions by the executive director of the Department of  
383 Technology Services with the concurrence of the executive director;
- 384 (n) schedule AU includes patients and inmates employed in state institutions;
- 385 (o) employees of the Department of Workforce Services, designated as schedule AW:  
386 (i) who are temporary employees that are federally funded and are required to work  
387 under federally qualified merit principles as certified by the director; or  
388 (ii) for whom substantially all of their work is repetitive, measurable, or transaction  
389 based, and who voluntarily apply for and are accepted by the Department of Workforce  
390 Services to work in a pay for performance program designed by the Department of Workforce  
391 Services with the concurrence of the executive director; and
- 392 (p) for employees in positions that are temporary, seasonal, time limited, funding  
393 limited, or variable hour in nature, under schedule codes and parameters established by the  
394 department by administrative rule.
- 395 (2) The civil service shall consist of two schedules as follows:
- 396 (a) (i) Schedule A is the schedule consisting of positions under Subsection (1).  
397 (ii) Removal from any appointive position under schedule A, unless otherwise  
398 regulated by statute, is at the pleasure of the appointing officers without regard to tenure.
- 399 (b) Schedule B is the competitive career service schedule, consisting of:

400 (i) all positions filled through competitive selection procedures as defined by the  
401 executive director; or

402 (ii) positions filled through a department approved on-the-job examination intended to  
403 appoint a qualified person with a disability or a veteran as defined in Section 71-10-1.

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

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

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

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

413 (b) Compensation for employees of the judiciary shall be established by the state court  
414 administrator in accordance with Section 78A-2-107.

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

419 (d) Unless otherwise provided by law, compensation for all other schedule A  
420 employees shall be established by their appointing authorities, within ranges approved by, and  
421 after consultation with the executive director of the Department of Human Resource  
422 Management.

423 (5) An employee who is in a position designated schedule AC and who holds career  
424 service status on June 30, 2010, shall retain the career service status if the employee:

425 (a) remains in the position that the employee is in on June 30, 2010; and

426 (b) does not elect to convert to career service exempt status in accordance with a rule  
427 made by the department.