

Representative Kay J. Christofferson proposes the following substitute bill:

STATE EMPLOYMENT REVISIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill modifies provisions relating to state employment.

Highlighted Provisions:

This bill:

- ▶ provides for certain career service employees to make a voluntary election to convert to career service exempt status;
- ▶ modifies a provision relating to the responsibilities of the director of the Division of Human Resource Management;
- ▶ modifies definitions applicable to a pay-for-performance management system;
- ▶ allows a state independent entity to choose to participate in a pay-for-performance plan under a pay-for-performance management system;
- ▶ establishes a schedule AY position as a career service exempt position;
- ▶ provides for employees in a schedule B career service status position to voluntarily elect to become career service exempt employees; and
- ▶ modifies provisions related to employee salary ranges.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 This bill provides a special effective date.

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **63A-17-102**, as last amended by Laws of Utah 2022, Chapter 209

30 **63A-17-106 (Effective 07/01/23)**, as last amended by Laws of Utah 2022, Chapters
31 166, 169, 177, and 209

32 **63A-17-112 (Effective 07/01/23)**, as enacted by Laws of Utah 2022, Chapter 209

33 **63A-17-301**, as last amended by Laws of Utah 2022, Chapter 209

34 **63A-17-304**, as last amended by Laws of Utah 2022, Chapter 169

35 **63A-17-307**, as last amended by Laws of Utah 2022, Chapters 169 and 209



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

38 Section 1. Section **63A-17-102** is amended to read:

39 **63A-17-102. Definitions.**

40 As used in this chapter:

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

43 (2) "Career service" means positions under schedule B as defined in Section
44 **63A-17-301**.

45 (3) "Career service employee" means an employee who ~~[has successfully completed]:~~

46 (a) before July 1, 2023, successfully completes a probationary period of service in a
47 position covered by the career service[-]; and

48 ~~[(4) "Career service status" means status granted to employees who successfully~~
49 ~~complete probationary periods for competitive career service positions.]~~

50 (b) on or after July 1, 2023, does not voluntarily:

51 (i) accept appointment to a position or status exempt from career service; or

52 (ii) elect to convert to a status exempt from career service.

53 (4) "Career service status" means status granted to an employee who, before July 1,
54 2023, successfully completes the applicable probationary period for a competitive career
55 service position.

56 (5) "Classified service" means those positions subject to the classification and

57 compensation provisions of Section 63A-17-307.

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

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

61 (b) "Demotion" does not mean:

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

64 (ii) a reclassification of an employee's position under the provisions of Subsection
65 63A-17-307(3) and rules made by the department.

66 (8) "Director" means the director of the division.

67 (9) "Disability" means a physical or mental disability as defined and protected under
68 the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq.

69 (10) "Division" means the Division of Human Resource Management, created in
70 Section 63A-17-105.

71 (11) "Employee" means any individual in a paid status covered by the career service or
72 classified service provisions of this chapter.

73 (12) "Examining instruments" means written or other types of proficiency tests.

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

75 (a) under Section 63A-17-106;

76 (b) under rules of the division; and

77 (c) under other state or federal statute.

78 (14) "Market comparability adjustment" means a salary range adjustment determined
79 necessary through a market survey of salary data and other relevant information.

80 (15) "POST-certified employee" means an employee who:

81 (a) is employed in a position that requires the employee to have received the training
82 certification under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act;

83 (b) received the training certification described in Subsection (15)(a); and

84 (c) maintains the training certification described in Subsection (15)(a) throughout the
85 employee's employment in a position that requires the employee to have received the training
86 certification described in Subsection (15)(a).

87 [~~(15)~~] (16) "Probationary employee" means an employee serving a probationary period

88 in a career service position but who does not have career service status.

89 [(16)] (17) "Probationary period" means that period of time determined by the division
90 that an employee serves in a career service position as part of the hiring process before career
91 service status is granted to the employee.

92 [(17)] (18) "Probationary status" means the status of an employee between the
93 employee's hiring and the granting of career service status.

94 [(18)] (19) "Structure adjustment" means a division modification of salary ranges.

95 [(19)] (20) "Temporary employee" means [~~career service exempt employees~~] an
96 employee described in Subsection 63A-17-301(1)(~~r~~)(s), with career service exempt status.

97 [(20)] (21) "Total compensation" means salaries and wages, bonuses, paid leave, group
98 insurance plans, retirement, and all other benefits offered to state employees as inducements to
99 work for the state.

100 Section 2. Section 63A-17-106 (Effective 07/01/23) is amended to read:

101 **63A-17-106 (Effective 07/01/23). Responsibilities of the director.**

102 (1) As used in this section, "miscarriage" means the spontaneous or accidental loss of a
103 fetus, regardless of gestational age or the duration of the pregnancy.

104 (2) The director shall have full responsibility and accountability for the administration
105 of the statewide human resource management system.

106 (3) Except as provided in Section 63A-17-201, an agency may not perform human
107 resource functions without the consent of the director.

108 (4) Statewide human resource management rules made by the division in accordance
109 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take precedence if there
110 is a conflict with agency rules, policies, or practices.

111 (5) The division may operate as an internal service fund agency in accordance with
112 Section 63J-1-410 for the human resource functions the division provides.

113 (6) The director shall:

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

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

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

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

- 119 (b) design and administer the state pay plan;
- 120 (c) design and administer the state classification system and procedures for determining
121 schedule assignments;
- 122 (d) design and administer the state recruitment and selection system;
- 123 (e) administer agency human resource practices and ensure compliance with federal
124 law, state law, and state human resource rules, including equal employment opportunity;
- 125 (f) consult with agencies on decisions concerning employee corrective action and
126 discipline;
- 127 (g) maintain central personnel records;
- 128 (h) perform those functions necessary to implement this chapter unless otherwise
129 assigned or prohibited;
- 130 (i) perform duties assigned by the governor, executive director, or statute;
- 131 (j) make rules for human resource management, in accordance with Title 63G, Chapter
132 3, Utah Administrative Rulemaking Act;
- 133 (k) establish and maintain a management information system that will furnish the
134 governor, the Legislature, and agencies with current information on authorized positions,
135 payroll, and related matters concerning state human resources;
- 136 (l) conduct research and planning activities to:
 - 137 (i) determine and prepare for future state human resource needs;
 - 138 (ii) develop methods for improving public human resource management; and
 - 139 (iii) propose needed policy changes to the governor;
- 140 (m) study the character, causes, and extent of discrimination in state employment and
141 develop plans for its elimination through programs consistent with federal and state laws
142 governing equal employment opportunity in employment;
- 143 (n) when requested by charter schools or counties, municipalities, and other political
144 subdivisions of the state, provide technical service, training recommendations, or advice on
145 human resource management at a charge determined by the director;
- 146 (o) establish compensation policies and procedures for early voluntary retirement;
- 147 (p) confer with the heads of other agencies about human resource policies and
148 procedures;
- 149 (q) submit an annual report to the executive director, the governor, and the Legislature;

150 and

151 (r) assist with the development of a vacant position report required under Subsection
152 63J-1-201(2)(b)(vi).

153 (7) (a) After consultation with the executive director, the governor, and the heads of
154 other agencies, the director shall establish and coordinate statewide training programs,
155 including training described in Subsection (7)(e).

156 (b) The programs developed under this Subsection (7) shall have application to more
157 than one agency.

158 (c) The division may not establish training programs that train employees to perform
159 highly specialized or technical jobs and tasks.

160 (d) The division shall ensure that any training program described in this Subsection (7)
161 complies with Title 63G, Chapter 22, State Training and Certification Requirements.

162 (e) (i) As used in this Subsection (7)(e):

163 (A) "Employee" means the same as that term is defined in Section 63A-17-112.

164 (B) "Supervisor" means an individual in a position at an agency, as defined in Section
165 63A-17-112, that requires the regular supervision and performance evaluation of an employee.

166 (ii) A supervisor shall attend the training:

167 (A) within six months of being promoted or hired to the position of supervisor; and

168 (B) at least annually.

169 (iii) [~~Training attendance~~] Completion of the training and the effective use of training
170 information and principles shall be considered in an evaluation of a supervisor's job
171 performance.

172 (iv) The training shall include:

173 (A) effective employee management and evaluation methods based on the pay for
174 performance management system described in Section 63A-17-112;

175 (B) instruction to improve supervisor and employee communications;

176 (C) best practices for recognizing and retaining high-performing employees;

177 (D) best practices for addressing poor-performing employees; and

178 (E) any other information and principles identified by the division to improve
179 management or organizational effectiveness.

180 (8) (a) (i) The division may collect fees for training as authorized by this Subsection

181 (8).

182 (ii) Training funded from General Fund appropriations shall be treated as a separate
183 program within the department budget.

184 (iii) All money received from fees under this section will be accounted for by the
185 department as a separate user driven training program.

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

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

190 (ii) Each year, as part of the appropriations process, the Legislature shall review the
191 amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require
192 the department to lapse a portion of the funds.

193 (9) Rules described in Subsection (6)(j) shall provide for at least three work days of
194 paid bereavement leave for an employee:

195 (a) following the end of the employee's pregnancy by way of miscarriage or stillbirth;
196 or

197 (b) following the end of another individual's pregnancy by way of a miscarriage or
198 stillbirth, if:

199 (i) the employee is the individual's spouse or partner;

200 (ii) (A) the employee is the individual's former spouse or partner; and

201 (B) the employee would have been a biological parent of a child born as a result of the
202 pregnancy;

203 (iii) the employee provides documentation to show that the individual intended for the
204 employee to be an adoptive parent, as that term is defined in Section 78B-6-103, of a child born
205 as a result of the pregnancy; or

206 (iv) under a valid gestational agreement in accordance with Title 78B, Chapter 15, Part
207 8, Gestational Agreement, the employee would have been a parent of a child born as a result of
208 the pregnancy.

209 Section 3. Section 63A-17-112 (Effective 07/01/23) is amended to read:

210 63A-17-112 (Effective 07/01/23). Pay for performance management system --

211 Employees paid for performance.

212 (1) As used in this section:

213 (a) (i) "Agency" means, except as provided in Subsection (1)(a)(ii), the same as that
214 term is defined in Section [63A-17-102](#).

215 (ii) "Agency" does not include the State Board of Education, the Office of the State
216 Treasurer, Office of the State Auditor, Office of the State Attorney General, Utah System of
217 Higher Education, the Legislature, the judiciary, or~~[-as defined in Section [63E-1-102](#);~~ an
218 independent entity.

219 (b) (i) "Employee" means an employee of an agency.

220 (ii) "Employee" does not include:

221 (A) an individual in a schedule AB position, as described in Section [63A-17-301](#);
222 position.];

223 (B) an individual in a position that does not receive retirement benefits under Title 49,
224 Utah State Retirement and Insurance Benefit Act; or

225 (C) an individual hired for a position that has a duration of less than 12 consecutive
226 months.

227 (c) "Independent entity" means the same as that term is defined in Section [63E-1-102](#).

228 ~~[(e)]~~ (d) "Pay for performance" means a plan:

229 (i) for incentivizing an employee [for meeting or exceeding] to meet or exceed
230 production or performance goals[; in which the plan];

231 (ii) that is well-defined before work begins[; eligible work groups are defined]; and

232 (iii) under which specific goals and targets for the employee are determined[; and
233 measurement procedures are in place[; and specific incentives are provided when goals and
234 targets are met].

235 ~~[(d)]~~ (e) "Pay for performance management system" means the system described in
236 Subsection ~~[(2)]~~ (3).

237 (2) The division shall establish and, in accordance with Title 63G, Chapter 3, Utah
238 Administrative Rulemaking Act, make rules for the administration of a pay for performance
239 management system.

240 (3) The pay for performance management system shall include:

241 (a) guidelines and criteria for an agency to adopt pay for performance policies and
242 administer pay based on an employee's performance in furtherance of the agency's mission;

- 243 (b) employee performance ratings;
- 244 (c) requirements for written employee performance standards and expectations;
- 245 (d) supervisor verbal and written feedback based on the standards of performance and
- 246 behavior outlined in an employee's performance plan; and
- 247 (e) quarterly written evaluation of an employee's performance.

248 (4) In consultation with the division, no later than July 1, 2023, each agency shall:

- 249 (a) adopt pay for performance policies based on the performance management system;
- 250 and

251 (b) subject to available funds and as necessary, adjust an employee's wage to reflect:

- 252 (i) subject to Subsection (5), for a classified service employee, the salary range of the
- 253 position classified plan for the employee's position; and

254 (ii) an increase, decrease, or no change in the employee's wage:

255 (A) commensurate to an employee's performance as reflected by the employee's

256 evaluation conducted in accordance with the pay for performance management system; and

257 (B) in an amount that is in accordance with the guidelines and criteria established for a

258 wage change in the pay for performance management system.

259 (5) (a) Notwithstanding Subsection (1)(a)(ii), an independent entity may choose to

260 adopt pay for performance policies in accordance with the performance management system

261 established by the division under this section.

262 (b) An independent entity that chooses to adopt pay for performance policies:

263 (i) shall provide written notification to the division of the independent entity's choice;

264 and

265 (ii) is subject to this section and division rules made under this section to the same

266 extent as an agency described in Subsection (1)(a)(i).

267 [~~5~~](6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

268 Act, the division shall make rules authorizing a classified service employee to receive a wage

269 that exceeds the salary range of the classified service employee's position classified plan if

270 warranted based on the classified employee's performance rating.

271 Section 4. Section **63A-17-301** is amended to read:

272 **63A-17-301. Career service -- Exempt positions -- Schedules for civil service**

273 **positions -- Coverage of career service provisions.**

274 (1) Except as provided in Subsection (3)(d), the following positions are exempt from
275 the career service provisions of this chapter and are designated under the following schedules:

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

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

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

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

282 (ii) the Public Lands Policy Coordinating Office;

283 (iii) the Office of the State Auditor; and

284 (iv) the Office of the State Treasurer;

285 (d) schedule AD includes employees who:

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

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

289 (e) schedule AE includes each employee of the State Board of Education that the State
290 Board of Education designates as exempt from the career service provisions of this chapter;

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

293 (g) schedule AH includes:

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

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

296 (A) educational interpreters as classified by the division; or

297 (B) educators as defined by Section [53E-8-102](#);

298 (h) schedule AN includes employees of the Legislature;

299 (i) schedule AO includes employees of the judiciary;

300 (j) schedule AP includes all judges in the judiciary;

301 (k) schedule AQ includes:

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

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

305 (iii) other local officials serving in an ex officio capacity; and
306 (iv) officers, faculty, and other employees of state universities and other state
307 institutions of higher education;

308 (l) schedule AR includes employees in positions that involve responsibility:
309 (i) for determining policy;
310 (ii) for determining the way in which a policy is carried out; or
311 (iii) of a type not appropriate for career service, as determined by the agency head with
312 the concurrence of the director;

313 (m) schedule AS includes any other employee:
314 (i) whose appointment is required by statute to be career service exempt;
315 (ii) whose agency is not subject to this chapter; or
316 (iii) whose agency has authority to make rules regarding the performance,
317 compensation, and bonuses for its employees;

318 (n) schedule AT includes employees of the Division of Technology Services,
319 designated as executive/professional positions by the director of the Division of Technology
320 Services with the concurrence of the director of the division;

321 (o) schedule AU includes patients and inmates employed in state institutions;
322 (p) employees of the Department of Workforce Services, designated as schedule AW:
323 (i) who are temporary employees that are federally funded and are required to work
324 under federally qualified merit principles as certified by the director; or
325 (ii) for whom substantially all of their work is repetitive, measurable, or transaction
326 based, and who voluntarily apply for and are accepted by the Department of Workforce
327 Services to work in a pay for performance program designed by the Department of Workforce
328 Services with the concurrence of the director of the division;

329 (q) subject to Subsection (6), schedule AX includes employees in positions that:
330 (i) require the regular supervision and performance evaluation of one or more other
331 employees; and
332 (ii) are not designated exempt from career service under any other schedule described
333 in this Subsection (1); [and]
334 [~~r~~] for employees in positions that are temporary, seasonal, time limited, funding
335 limited, or variable hour in nature, under schedule codes and parameters established by the

336 ~~division by administrative rule.]~~

337 (r) subject to Subsection (7), schedule AY includes an employee, except a POST-
338 certified employee and an employee in a position subject to Subsection (3)(d), who is in a
339 position that is not designated under any other schedule described in this Subsection (1) as
340 exempt from career service; and

341 (s) an employee in a position that is temporary, seasonal, time-limited, funding-limited,
342 or with variable hours, under schedule codes and parameters established by the division by
343 rule.

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

345 (a) (i) Schedule A is the schedule consisting of positions under Subsection (1).

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

348 (b) Schedule B is the competitive career service schedule, consisting of:

349 (i) all positions filled through competitive selection procedures as defined by the
350 director; or

351 (ii) positions filled through a division approved on-the-job examination intended to
352 appoint a qualified person with a disability, or a veteran in accordance with Title 71, Chapter
353 10, Veterans Preference.

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

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

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

361 (d) (i) An agency may file with the division a request to reschedule a position that
362 would otherwise be scheduled as a schedule A position.

363 (ii) The division shall review a request filed under Subsection (3)(d)(i) and approve the
364 request only if the exception is necessary to conform to a requirement imposed as a condition
365 precedent to receipt of federal funds or grant of a tax benefit under federal law.

366 (4) (a) Compensation for employees of the Legislature shall be established by the

367 directors of the legislative offices in accordance with Section [36-12-7](#).

368 (b) Compensation for employees of the judiciary shall be established by the state court
369 administrator in accordance with Section [78A-2-107](#).

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

374 (d) Unless otherwise provided by law, compensation for all other schedule A
375 employees shall be established by their appointing authorities~~[, within ranges approved by,~~
376 ~~and]~~:

377 (i) after consultation with the director~~[-]~~;

378 (ii) using ranges approved by the director; and

379 (iii) at or above the minimum salary of the salary range for the employee's position.

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

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

383 (b) does not elect to convert to career service exempt status in accordance with a rule
384 made by the division.

385 (6) (a) An employee who is hired for a schedule AX position on or after July 1, 2022,
386 is exempt from career service status.

387 (b) An employee who before July 1, 2022, is a career service employee employed in a
388 schedule B position that is rescheduled to a schedule AX position on July 1, 2022, ~~[shall~~
389 ~~maintain]~~ maintains the employee's career service status for the duration of the employee's
390 employment in the same position unless the employee voluntarily converts to career service
391 exempt status before July 1, 2023.

392 (c) (i) Subject to Subsection (6)(c)(ii), an employee is exempt from career service
393 status if:

394 (A) before July 1, 2022, the employee was a probationary employee in a schedule B
395 position and had not completed the probationary period; and

396 (B) on July 1, 2022, the schedule B position in which the probationary employee is
397 employed is rescheduled as a ~~[scheduled]~~ schedule AX position.

398 (ii) An employee described in Subsection (6)(c)(i):
399 (A) is not a probationary employee on or after July 1, 2022; and
400 (B) is exempt from career service status on and after July 1, 2022, unless the employee
401 changes employment to a schedule B position.

402 (d) The division shall disseminate to each employee described in Subsection (6)(b)
403 information on financial and other incentives for voluntary conversion to career-service exempt
404 status.

405 (e) An agency, as defined in Section 63A-17-112, may adopt a policy, created in
406 consultation with the division, for agency review of recommendations that schedule AX
407 employees be suspended, demoted, or dismissed from employment.

408 (7) (a) As used in this Subsection (7), "eligible employee" means an employee who:

409 (i) before July 1, 2023, is a career service employee in a schedule B position that, on
410 July 1, 2023, is rescheduled to a schedule AY position; or

411 (ii) (A) before July 1, 2023, was a probationary employee in a schedule B position; and

412 (B) by July 1, 2023, had not completed the probationary period.

413 (b) An employee hired for a schedule AY position on or after July 1, 2023 is exempt
414 from career service.

415 (c) (i) An employee described in Subsection (7)(a)(i) maintains the employee's career
416 service status for the duration of the employee's employment in the same position unless the
417 employee voluntarily elects, before March 30, 2024, to convert to a status that is exempt from
418 career service.

419 (ii) An employee described in Subsection (7)(a)(ii) who successfully completes the
420 probationary period maintains the employee's career service status, attained at the completion
421 of the probationary period, for the duration of the employee's employment in the same position
422 unless the employee voluntarily elects, before March 30, 2024, to convert to a status that is
423 exempt from career service.

424 (d) The division shall disseminate to each eligible employee information on financial
425 and other incentives for the employee to voluntarily convert to a status that is exempt from
426 career service.

427 Section 5. Section 63A-17-304 is amended to read:

428 **63A-17-304. Promotion -- Reclassification -- Market adjustment.**

429 (1) ~~[(a)]~~ If an employee is promoted or the employee's position is reclassified to a
 430 higher salary range maximum, the agency shall place the employee ~~[within]~~ at or above the
 431 minimum salary of the new salary range ~~[of]~~ for the position.

432 ~~[(b) An agency may not set an employee's salary:]~~

433 ~~[(i) higher than the maximum in the new salary range; or]~~

434 ~~[(ii) lower than the minimum in the new salary range of the position.]~~

435 (2) An agency shall adjust the salary range for an employee whose salary range is
 436 approved by the Legislature for a market comparability adjustment consistent with Subsection
 437 [63A-17-307\(5\)\(b\)\(i\)](#):

438 (a) at the beginning of the next fiscal year; and

439 (b) consistent with appropriations made by the Legislature.

440 (3) Division-initiated revisions in the state classification system that result in
 441 consolidation or reduction of class titles or broadening of pay ranges:

442 (a) may not be regarded as a reclassification of the position or promotion of the
 443 employee; and

444 (b) are exempt from the provisions of Subsection (1).

445 Section 6. Section [63A-17-307](#) is amended to read:

446 **[63A-17-307. State pay plans -- Applicability of section -- Exemptions -- Duties of](#)**
 447 **director.**

448 (1) (a) This section, and the rules made by the division under this section, apply to each
 449 career and noncareer employee not specifically exempted under Subsection (2).

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

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

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

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

455 (c) elected members of the executive branch and employees designated as schedule AC
 456 as provided under Subsection [63A-17-301\(1\)\(c\)](#);

457 (d) employees of the State Board of Education;

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

459 (f) employees in a position that is specified by statute to be exempt from this

460 Subsection (2);

461 (g) employees in the Office of the Attorney General;

462 (h) department heads and other persons appointed by the governor under statute;

463 (i) schedule AS employees as provided under Subsection 63A-17-301(1)(m);

464 (j) department deputy directors, division directors, and other employees designated as
465 schedule AD as provided under Subsection 63A-17-301(1)(d);

466 (k) employees that determine and execute policy designated as schedule AR as
467 provided under Subsection 63A-17-301(1)(l);

468 (l) teaching staff, educational interpreters, and educators designated as schedule AH as
469 provided under Subsection 63A-17-301(1)(g);

470 (m) temporary employees described in Subsection 63A-17-301(1)(r);

471 (n) patients and inmates designated as schedule AU as provided under Subsection
472 63A-17-301(1)(o) who are employed by state institutions; and

473 (o) members of state and local boards and councils and other employees designated as
474 schedule AQ as provided under Subsection 63A-17-301(1)(k).

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

478 (b) Classification of positions shall be based upon similarity of duties performed and
479 responsibilities assumed, so that the same job requirements and the same salary range, subject
480 to Section 63A-17-112, may be applied equitably to each position in the same class.

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

483 (d) (i) The division shall conduct periodic studies and interviews to provide that the
484 classification plan remains reasonably current and reflects the duties and responsibilities
485 assigned to and performed by employees.

486 (ii) The director shall determine the need for studies and interviews after considering
487 factors such as changes in duties and responsibilities of positions or agency reorganizations.

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

490 (b) The director shall design each pay plan to achieve, to the degree that funds permit,

491 comparability of state salary ranges to the market using data obtained from private enterprise
492 and other public employment for similar work.

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

494 (i) each pay plan shall consist of sufficient salary ranges to:

495 (A) permit adequate salary differential among the various classes of positions in the
496 classification plan; and

497 (B) reflect the normal growth and productivity potential of employees in that class.

498 (ii) The director shall issue rules for the administration of pay plans.

499 (d) The establishing of a salary range is a nondelegable activity and is not appealable
500 under the grievance procedures of Part 6, Grievance Provisions, Title 67, Chapter 19a,
501 Grievance Procedures, or otherwise.

502 (e) The director shall make rules, accordance with Title 63G, Chapter 3, Utah
503 Administrative Rulemaking Act, providing for:

504 (i) agency approved salary adjustments [~~within approved salary ranges~~], including an
505 administrative salary adjustment; and

506 (ii) structure adjustments that modify salary ranges, including a cost of living
507 adjustment or market comparability adjustment.

508 (5) (a) On or before October 31 of each year, the director shall submit an annual
509 compensation plan to the executive director and the governor for consideration in the executive
510 budget.

511 (b) The plan described in Subsection (5)(a) may include recommendations, including:

512 (i) salary increases that generally affect employees, including a general increase or
513 merit increase;

514 (ii) salary increases that address compensation issues unique to an agency or
515 occupation;

516 (iii) structure adjustments, including a cost of living adjustment or market
517 comparability adjustment; or

518 (iv) changes to employee benefits.

519 (c) (i) (A) Subject to Subsection (5)(c)(i)(B) or (C), the director shall incorporate the
520 results of a salary survey of a reasonable cross section of comparable positions in private and
521 public employment in the state into the annual compensation plan.

522 (B) The salary survey for a law enforcement officer, as defined in Section 53-13-103, a
523 correctional officer, as defined in Section 53-13-104, or a dispatcher, as defined in Section
524 53-6-102, shall at minimum include the three largest political subdivisions in the state that
525 employ, respectively, comparable positions.

526 (C) The salary survey for an examiner or supervisor described in Title 7, Chapter 1,
527 Part 2, Department of Financial Institutions, shall at minimum include the Federal Deposit
528 Insurance Corporation, Federal Reserve, and National Credit Union Administration.

529 (ii) The director may cooperate with or participate in any survey conducted by other
530 public and private employers.

531 (iii) The director shall obtain information for the purpose of constructing the survey
532 from the Division of Workforce Information and Payment Services and shall include employer
533 name, number of persons employed by the employer, employer contact information and job
534 titles, county code, and salary if available.

535 (iv) The division shall acquire and protect the needed records in compliance with the
536 provisions of Section 35A-4-312.

537 (d) The director may incorporate any other relevant information in the plan described
538 in Subsection (5)(a), including information on staff turnover, recruitment data, or external
539 market trends.

540 (e) The director shall:

541 (i) establish criteria to assure the adequacy and accuracy of data used to make
542 recommendations described in this Subsection (5); and

543 (ii) when preparing recommendations use accepted methodologies and techniques
544 similar to and consistent with those used in the private sector.

545 (f) (i) Upon request and subject to Subsection (5)(f)(ii), the division shall make
546 available foundational information used by the division or director in the drafting of a plan
547 described in Subsection (5)(a), including:

548 (A) demographic and labor market information;

549 (B) information on employee turnover;

550 (C) salary information;

551 (D) information on recruitment; and

552 (E) geographic data.

553 (ii) The division may not provide under Subsection (5)(f)(i) information or other data
554 that is proprietary or otherwise protected under the terms of a contract or by law.

555 (g) The governor shall:

556 (i) consider salary and structure adjustments recommended under Subsection (5)(b) in
557 preparing the executive budget and shall recommend the method of distributing the
558 adjustments;

559 (ii) submit compensation recommendations to the Legislature; and

560 (iii) support the recommendation with schedules indicating the cost to individual
561 departments and the source of funds.

562 (h) If funding is approved by the Legislature in a general appropriations act, the
563 adjustments take effect on the July 1 following the enactment unless otherwise indicated.

564 (6) (a) The director shall make rules, in accordance with Title 63G, Chapter 3, Utah
565 Administrative Rulemaking Act, for the granting of incentive awards, including awards for cost
566 saving actions, awards for commendable actions by an employee, or a market-based award to
567 attract or retain employees.

568 (b) An agency may not grant a market-based award unless the award is previously
569 approved by the division.

570 (c) In accordance with Subsection (6)(b), an agency requesting the division's approval
571 of a market-based award shall submit a request and documentation, subject to Subsection
572 (6)(d), to the division.

573 (d) In the documentation required in Subsection (6)(c), the requesting agency shall
574 identify for the division:

575 (i) any benefit the market-based award would provide for the agency, including:

576 (A) budgetary advantages; or

577 (B) recruitment advantages;

578 (ii) a mission critical need to attract or retain unique or hard to find skills in the market;

579 or

580 (iii) any other advantage the agency would gain through the utilization of a
581 market-based award.

582 (7) (a) The director shall regularly evaluate the total compensation program of state
583 employees in the classified service.

584 (b) The division shall determine if employee benefits are comparable to those offered
585 by other private and public employers using information from:

586 (i) a study conducted by a third-party consultant; or

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

588 Section 7. **Effective date.**

589 (1) Except as provided in Subsection (2), this bill takes effect May 3, 2023.

590 (2) The amendments to Sections [63A-17-106](#) and [63A-17-112](#) take effect July 1, 2023.