

STATE EMPLOYEE BENEFITS AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: Brady Brammer

LONG TITLE

Committee Note:

The Retirement and Independent Entities Interim Committee recommended this bill.

Legislative Vote: 11 voting for 0 voting against 4 absent

General Description:

This bill creates the State Employee Benefits Advisory Commission.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the State Employee Benefits Advisory Commission;
- ▶ describes the commission's membership, quorum requirements, duties, and other requirements;
- ▶ establishes reporting requirements for the commission;
- ▶ provides a sunset date for the commission; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:



28 **63A-17-307**, as last amended by Laws of Utah 2022, Chapters 169, 209
29 **63I-1-263**, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236,
30 249, 274, 296, 313, 361, 362, 417, 419, and 472

31 ENACTS:

32 **63C-29-101**, Utah Code Annotated 1953
33 **63C-29-102**, Utah Code Annotated 1953
34 **63C-29-103**, Utah Code Annotated 1953

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

37 Section 1. Section **63A-17-307** is amended to read:

38 **63A-17-307. State pay plans -- Applicability of section -- Exemptions -- Duties of**
39 **director.**

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

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

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

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

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

47 (c) elected members of the executive branch and employees designated as schedule AC
48 as provided under Subsection **63A-17-301**(1)(c);

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

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

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

52 Subsection (2);

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

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

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

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

58 (k) employees that determine and execute policy designated as schedule AR as

59 provided under Subsection 63A-17-301(1)(l);

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

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

63 (n) patients and inmates designated as schedule AU as provided under Subsection
64 63A-17-301(1)(o) who are employed by state institutions; and

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

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

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

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

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

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

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

82 (b) The director shall design each pay plan to achieve, to the degree that funds permit,
83 comparability of state salary ranges to the market using data obtained from private enterprise
84 and other public employment for similar work.

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

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

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

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

- 90 (ii) The director shall issue rules for the administration of pay plans.
- 91 (d) The establishing of a salary range is a nondelegable activity and is not appealable
- 92 under the grievance procedures of Part 6, Grievance Provisions, Title 67, Chapter 19a,
- 93 Grievance Procedures, or otherwise.
- 94 (e) The director shall make rules, accordance with Title 63G, Chapter 3, Utah
- 95 Administrative Rulemaking Act, providing for:
 - 96 (i) agency approved salary adjustments within approved salary ranges, including an
 - 97 administrative salary adjustment; and
 - 98 (ii) structure adjustments that modify salary ranges, including a cost of living
 - 99 adjustment or market comparability adjustment.
- 100 (5) (a) On or before October 31 of each year, the director shall submit an annual
- 101 compensation plan to the executive director and the governor for consideration in the executive
- 102 budget[-] and to the State Employee Benefits Advisory Commission created in Section
- 103 [63C-29-102](#).
- 104 (b) The plan described in Subsection (5)(a) may include recommendations, including:
 - 105 (i) salary increases that generally affect employees, including a general increase or
 - 106 merit increase;
 - 107 (ii) salary increases that address compensation issues unique to an agency or
 - 108 occupation;
 - 109 (iii) structure adjustments, including a cost of living adjustment or market
 - 110 comparability adjustment; or
 - 111 (iv) changes to employee benefits.
- 112 (c) (i) (A) Subject to Subsection (5)(c)(i)(B) or (C), the director shall incorporate the
- 113 results of a salary survey of a reasonable cross section of comparable positions in private and
- 114 public employment in the state into the annual compensation plan.
 - 115 (B) The salary survey for a law enforcement officer, as defined in Section [53-13-103](#), a
 - 116 correctional officer, as defined in Section [53-13-104](#), or a dispatcher, as defined in Section
 - 117 [53-6-102](#), shall at minimum include the three largest political subdivisions in the state that
 - 118 employ, respectively, comparable positions.
 - 119 (C) The salary survey for an examiner or supervisor described in Title 7, Chapter 1,
 - 120 Part 2, Department of Financial Institutions, shall at minimum include the Federal Deposit

121 Insurance Corporation, Federal Reserve, and National Credit Union Administration.

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

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

128 (iv) The division shall acquire and protect the needed records in compliance with the
129 provisions of Section [35A-4-312](#).

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

133 (e) The director shall:

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

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

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

141 (A) demographic and labor market information;

142 (B) information on employee turnover;

143 (C) salary information;

144 (D) information on recruitment; and

145 (E) geographic data.

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

148 (g) The governor shall:

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

152 (ii) submit compensation recommendations to the Legislature; and
 153 (iii) support the recommendation with schedules indicating the cost to individual
 154 departments and the source of funds.

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

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

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

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

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

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

169 (A) budgetary advantages; or

170 (B) recruitment advantages;

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

172 or

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

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

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

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

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

181 Section 2. Section **63C-29-101** is enacted to read:

182 **CHAPTER 29. STATE EMPLOYEE BENEFITS ADVISORY COMMISSION**

183 **63C-29-101. Definitions.**184 As used in this chapter:185 (1) "Annual compensation plan" means the annual compensation plan described in
186 Section [63A-17-307](#).187 (2) "Benefits advisory commission" means the State Employee Benefit Advisory
188 Commission created in Section [63C-29-102](#).189 (3) "Total compensation" means the same as that term is defined in Section
190 [63A-17-102](#).191 Section 3. Section **63C-29-102** is enacted to read:192 **63C-29-102. Creation of State Employee Benefits Advisory Commission --**193 **Membership.**194 (1) There is created the State Employee Benefits Advisory Commission consisting of
195 the following members:196 (a) one member of the Senate, appointed by the president of the Senate;197 (b) one member of the House of Representatives, appointed by the speaker of the
198 House of Representatives;199 (c) the director of the Division of Human Resource Management, created in Section
200 [63A-17-105](#), or the director's designee;201 (d) the president of the Utah State Retirement Board, created in Section [49-11-202](#), or
202 the president's designee;203 (e) the executive director of the Governor's Office of Planning and Budget, created in
204 Section [63J-4-201](#), or the executive director's designee;205 (f) the following four individuals who are not employed by the state or another public
206 entity and are appointed jointly by the president of the Senate and speaker of the House of
207 Representatives:208 (i) an individual who has experience in health insurance benefits in the private sector;209 (ii) an individual who has experience in retirement benefits in the private sector;210 (iii) an individual who has experience in business and employee benefits in the private
211 sector; and212 (iv) a representative of an organization that represents the interests of state employees;213 and

214 (g) a representative of the Public Employees' Benefit and Insurance Program, created in
215 Section 49-20-103, appointed by the executive director of the Utah State Retirement Office.

216 (2) (a) The member of the Senate appointed under Subsection (1)(a) is a cochair of the
217 benefits advisory commission.

218 (b) The member of the House of Representatives appointed under Subsection (1)(b) is
219 a cochair of the benefits advisory commission.

220 (3) (a) Each position described in Subsection (1)(f) is for a term of four years.

221 (b) A vacancy in a position appointed under Subsection (1)(a), (b), (f), or (g) shall be
222 filled by appointing a replacement member in the same manner as the member creating the
223 vacancy was appointed under Subsection (1)(a), (b), (f), or (g), respectively.

224 (c) If a position described in Subsection (1)(f) is vacant, the president of the Senate and
225 speaker of the House of Representatives shall jointly appoint the replacement member for the
226 remainder of the unexpired term.

227 (4) (a) A majority of members constitute a quorum.

228 (b) The action of a majority of a quorum constitutes the action of the benefits advisory
229 commission.

230 (5) The benefits advisory commission shall meet as necessary to effectively conduct
231 the commission's business and duties as prescribed by statute, but not less than twice a year.

232 (6) The Division of Human Resources and Management shall provide staff support to
233 facilitate the function of the benefits advisory commission and record the benefits advisory
234 commission's action and recommendations.

235 (7) (a) A member of the benefits advisory commission may not receive compensation
236 or benefits for the commission member's service.

237 (b) A benefits advisory commission member may receive per diem and travel expenses
238 in accordance with:

239 (i) Section 63A-3-106;

240 (ii) Section 63A-3-107; and

241 (iii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and
242 63A-3-107.

243 (8) The benefits advisory commission shall comply with the provisions of Title 52,
244 Chapter 4, Open and Public Meetings Act.

245 Section 4. Section **63C-29-103** is enacted to read:

246 **63C-29-103. Duties of benefits advisory commission.**

247 (1) The benefits advisory commission shall:

248 (a) review the annual compensation plan;

249 (b) review proposed legislation submitted to the benefits advisory commission that
250 amends the retirement, health care, leave, or salary benefits for state employees while
251 considering total compensation; and

252 (c) provide recommendations, if any, for the annual compensation plan or legislation
253 described in Subsection (1)(b) that would make total compensation competitive with private
254 sector employees.

255 (2) (a) No later than November 1 of each year, the benefits advisory commission shall
256 submit a written report on the benefits advisory commission's activities and recommendations,
257 if any, for the annual compensation plan and legislation described in Subsection (1)(b) to the
258 Executive Appropriations Committee and the Retirement and Independent Entities Interim
259 Committee.

260 (b) The report submitted under Subsection (2)(a) shall comply with Section [68-3-14](#).

261 Section 5. Section **63I-1-263** is amended to read:

262 **63I-1-263. Repeal dates: Titles 63A to 63N.**

263 (1) Subsection [63A-5b-405](#)(5), relating to prioritizing and allocating capital
264 improvement funding, is repealed July 1, 2024.

265 (2) Section [63A-5b-1003](#), State Facility Energy Efficiency Fund, is repealed July 1,
266 2023.

267 (3) Sections [63A-9-301](#) and [63A-9-302](#), related to the Motor Vehicle Review
268 Committee, are repealed July 1, 2023.

269 (4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

270 (a) Section [63A-18-102](#) is repealed;

271 (b) Section [63A-18-201](#) is repealed; and

272 (c) Section [63A-18-202](#) is repealed.

273 (5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
274 1, 2028.

275 (6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1,

276 2025.

277 (7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1,
278 2024.

279 (8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is
280 repealed July 1, 2023.

281 (9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed
282 July 1, 2023.

283 (10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is
284 repealed July 1, 2026.

285 (11) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

286 (12) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

287 (13) Title 63C, Chapter 29, State Employee Benefits Advisory Commission, is
288 repealed on July 1, 2028.

289 ~~[(13)]~~ (14) Section [63G-6a-805](#), which creates the Purchasing from Persons with
290 Disabilities Advisory Board, is repealed July 1, 2026.

291 ~~[(14)]~~ (15) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed
292 July 1, 2028.

293 ~~[(15)]~~ (16) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed
294 July 1, 2024.

295 ~~[(16)]~~ (17) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1,
296 2026.

297 ~~[(17)]~~ (18) Subsection [63J-1-602.1](#)(17), relating to the Nurse Home Visiting Restricted
298 Account, is repealed July 1, 2026.

299 ~~[(18)]~~ (19) Subsection [63J-1-602.2](#)(6), referring to dedicated credits to the Utah
300 Marriage Commission, is repealed July 1, 2023.

301 ~~[(19) Subsection [63J-1-602.2](#)(7), referring to the Trip Reduction Program, is repealed~~
302 ~~July 1, 2022.]~~

303 (20) Subsection [63J-1-602.2](#)(26), related to the Utah Seismic Safety Commission, is
304 repealed January 1, 2025.

305 (21) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is
306 repealed July 1, 2027.

307 (22) In relation to the Utah Substance Use and Mental Health Advisory Council, on
308 January 1, 2033:

309 (a) Sections [63M-7-301](#), [63M-7-302](#), [63M-7-303](#), [63M-7-304](#), and [63M-7-306](#) are
310 repealed;

311 (b) Section [63M-7-305](#), the language that states "council" is replaced with
312 "commission";

313 (c) Subsection [63M-7-305](#)(1)(a) is repealed and replaced with:

314 "(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

315 (d) Subsection [63M-7-305](#)(2) is repealed and replaced with:

316 "(2) The commission shall:

317 (a) provide ongoing oversight of the implementation, functions, and evaluation of the
318 Drug-Related Offenses Reform Act; and

319 (b) coordinate the implementation of Section [77-18-104](#) and related provisions in Subsections
320 [77-18-103](#)(2)(c) and (d)."

321 (23) The Crime Victim Reparations and Assistance Board, created in Section
322 [63M-7-504](#), is repealed July 1, 2027.

323 (24) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

324 (25) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed
325 January 1, 2025.

326 (26) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

327 (27) Section [63N-2-512](#), related to the Hotel Impact Mitigation Fund, is repealed July
328 1, 2028.

329 (28) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed
330 July 1, 2027.

331 (29) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is
332 repealed July 1, 2025.

333 (30) In relation to the Rural Employment Expansion Program, on July 1, 2023:

334 (a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed;
335 and

336 (b) Subsection [63N-4-805](#)(5)(b), referring to the Rural Employment Expansion
337 Program, is repealed.

- 338 (31) In relation to the Board of Tourism Development, on July 1, 2025:
- 339 (a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;
- 340 (b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is
341 repealed and replaced with "Utah Office of Tourism";
- 342 (c) Subsection 63N-7-101(1), which defines "board," is repealed;
- 343 (d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive
344 approval from the Board of Tourism Development, is repealed; and
- 345 (e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.
- 346 (32) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic
347 Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed
348 on July 1, 2024.

349 **Section 6. Effective date.**

350 This bill takes effect on July 1, 2023.