

SB0022S02 compared with SB0022

~~{deleted text}~~ shows text that was in SB0022 but was deleted in SB0022S02.

inserted text shows text that was not in SB0022 but was inserted into SB0022S02.

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Representative Brady Brammer proposes the following substitute bill:

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;~~{ }~~

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- ▶ 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:

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

63I-1-263, as last amended by Laws of Utah 2022, Chapters 23, 34, 68, 153, 218, 236, 249, 274, 296, 313, 361, 362, 417, 419, and 472

ENACTS:

63C-29-101, Utah Code Annotated 1953

63C-29-102, Utah Code Annotated 1953

63C-29-103, Utah Code Annotated 1953

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

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

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

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

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

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

(a) members of the Legislature and legislative employees;

(b) members of the judiciary and judicial employees;

(c) elected members of the executive branch and employees designated as schedule AC

as provided under Subsection 63A-17-301(1)(c);

(d) employees of the State Board of Education;

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

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- (f) employees in a position that is specified by statute to be exempt from this Subsection (2);
- (g) employees in the Office of the Attorney General;
- (h) department heads and other persons appointed by the governor under statute;
- (i) schedule AS employees as provided under Subsection 63A-17-301(1)(m);
- (j) department deputy directors, division directors, and other employees designated as schedule AD as provided under Subsection 63A-17-301(1)(d);
- (k) employees that determine and execute policy designated as schedule AR as provided under Subsection 63A-17-301(1)(l);
- (l) teaching staff, educational interpreters, and educators designated as schedule AH as provided under Subsection 63A-17-301(1)(g);
- (m) temporary employees described in Subsection 63A-17-301(1)(r);
- (n) patients and inmates designated as schedule AU as provided under Subsection 63A-17-301(1)(o) who are employed by state institutions; and
- (o) members of state and local boards and councils and other employees designated as schedule AQ as provided under Subsection 63A-17-301(1)(k).
- (3) (a) The director shall prepare, maintain, and revise a position classification plan for each employee position not exempted under Subsection (2) to provide equal pay for equal work.
- (b) Classification of positions shall be based upon similarity of duties performed and responsibilities assumed, so that the same job requirements and the same salary range, subject to Section 63A-17-112, may be applied equitably to each position in the same class.
- (c) The director shall allocate or reallocate the position of each employee in classified service to one of the classes in the classification plan.
- (d) (i) The division shall conduct periodic studies and interviews to provide that the classification plan remains reasonably current and reflects the duties and responsibilities assigned to and performed by employees.
- (ii) The director shall determine the need for studies and interviews after considering factors such as changes in duties and responsibilities of positions or agency reorganizations.
- (4) (a) With the approval of the executive director and the governor, the director shall develop and adopt pay plans for each position in classified service.

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

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

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

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

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

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

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

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

(i) agency approved salary adjustments within approved salary ranges, including an administrative salary adjustment; and

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

(5) (a) On or before October 31 of each year, the director shall submit an annual compensation plan to the executive director and the governor for consideration in the executive budget[-] and to the State Employee Benefits Advisory Commission created in Section 63C-29-102.

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

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

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

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

(iv) changes to employee benefits.

(c) (i) (A) Subject to Subsection (5)(c)(i)(B) or (C), the director shall incorporate the

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results of a salary survey of a reasonable cross section of comparable positions in private and public employment in the state into the annual compensation plan.

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

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

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

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

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

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

(e) The director shall:

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

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

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

(A) demographic and labor market information;

(B) information on employee turnover;

(C) salary information;

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(D) information on recruitment; and

(E) geographic data.

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

(g) The governor shall:

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

(ii) submit compensation recommendations to the Legislature; and

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

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

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

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

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

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

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

(A) budgetary advantages; or

(B) recruitment advantages;

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

or

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

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

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

- (i) a study conducted by a third-party consultant; or
- (ii) the most recent edition of a nationally recognized benefits survey.

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

CHAPTER 29. STATE EMPLOYEE BENEFITS ADVISORY COMMISSION

63C-29-101. Definitions.

As used in this chapter:

(1) ~~†~~ "Annual compensation plan" means the annual compensation plan described in Section 63A-17-307.

(2) "Benefits advisory commission" means the State Employee Benefit Advisory Commission created in Section 63C-29-102.

(3) "Total compensation" means the same as that term is defined in Section 63A-17-102.

Section 3. Section **63C-29-102** is enacted to read:

63C-29-102. Creation of State Employee Benefits Advisory Commission --

Membership.

(1) There is created the State Employee Benefits Advisory Commission consisting of the following members:

(a) one member of the Senate, appointed by the president of the Senate;

(b) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(c) the director of the Division of Human Resource Management, created in Section 63A-17-105, or the director's designee;

~~{~~ ~~(d) the president of the Utah State Retirement Board, created in Section 49-11-202, or the president's designee;~~

~~†~~ ~~(f)d~~ the executive director of the Governor's Office of Planning and Budget, created in Section 63J-4-201, or the executive director's designee;

~~(ff)e~~ the following four individuals who are not employed by the state or another

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public entity and are appointed jointly by the president of the Senate and speaker of the House of Representatives:

(i) an individual who has experience in health insurance benefits in the private sector;

(ii) an individual who has experience in ~~retirement~~ business and employee benefits in the private sector;

~~_____ (iii) an individual who has experience in business and employee benefits in the private sector;~~ and

(~~fiv~~iii) a representative of an organization that represents the interests of state employees; and

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

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

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

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

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

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

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

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

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

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

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(7) (a) ~~{A member}~~ The salary and expenses of ~~{the}~~ a benefits advisory commission member who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(b) A benefits advisory commission member who is not a legislator may not receive compensation or benefits for the ~~{commission}~~ member's service~~;~~

~~— (b) A~~ ~~on the benefits advisory commission, but may receive per diem and reimbursement for travel expenses incurred as a~~ benefits advisory commission member ~~{may receive per diem and travel expenses in accordance with}~~ at the rates established by the Division of Finance under:

(i) ~~{Section}~~ Sections 63A-3-106~~;~~

~~— (ii) Section}~~ and 63A-3-107; and

(~~{iii}~~ii) rules made by the Division of Finance ~~{in accordance with}~~ under Sections 63A-3-106 and 63A-3-107.

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

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

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

(1) The benefits advisory commission shall:

(a) review the annual compensation plan;

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

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

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

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

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

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

- (1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.
- (2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.
- (3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.
- (4) In relation to the Utah Transparency Advisory Board, on January 1, 2025:
 - (a) Section 63A-18-102 is repealed;
 - (b) Section 63A-18-201 is repealed; and
 - (c) Section 63A-18-202 is repealed.
- (5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.
- (6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.
- (7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.
- (8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.
- (9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.
- (10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.
- (11) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.
- (12) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.
- (13) Title 63C, Chapter 29, State Employee Benefits Advisory Commission, is repealed on July 1, 2028.
- ~~(13)~~ (14) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.
- ~~(14)~~ (15) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed

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July 1, 2028.

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

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

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

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

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

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

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

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

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

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

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

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

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

"(2) The commission shall:

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

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

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

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

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

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

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

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

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

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

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

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

(31) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

(32) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 6. **Effective date.**

This bill takes effect on July 1, 2023.