

1 STATE EMPLOYMENT AMENDMENTS

2 2022 GENERAL SESSION

3 STATE OF UTAH

4 Chief Sponsor: Kay J. Christofferson

5 Senate Sponsor: Evan J. Vickers

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7 LONG TITLE

8 General Description:

9 This bill enacts and amends provisions related to the employment and management of  
10 state personnel.

11 Highlighted Provisions:

12 This bill:

- 13 ▶ requires the Division of Human Resource Management (division) to provide  
14 training for supervisors of state agency employees;
- 15 ▶ requires a supervisor to attend the training;
- 16 ▶ requires the division to establish a pay for performance management system;
- 17 ▶ requires the division to make rules allowing an employee to receive a wage that  
18 exceeds the employee's salary range if necessary to recognize the employee's  
19 performance;
- 20 ▶ requires a state agency, no later than July 1, 2023, to evaluate and pay employees  
21 based on performance;
- 22 ▶ provides that a state employee hired in a supervisor position on or after July 1,  
23 2022, is exempt from the career service system;
- 24 ▶ allows a state employee in a supervisor position who holds career service status  
25 before July 1, 2022, to retain the employee's career service status or convert to  
26 career-service exempt status by July 1, 2023;
- 27 ▶ prohibits the Career Service Review Office from taking jurisdiction of a matter that  
28 an employer has not had an opportunity to address;
- 29 ▶ clarifies the process for filing a grievance;

- 30           ▶ repeals longevity and promotion salary increases for certain state employees;
- 31           ▶ except in certain circumstances, requires an employee to submit a grievance within
- 32 10 working days; and
- 33           ▶ makes conforming changes.

34 **Money Appropriated in this Bill:**

35           None

36 **Other Special Clauses:**

37           This bill provides a special effective date.

38 **Utah Code Sections Affected:**

39 AMENDS:

- 40           **63A-17-102**, as renumbered and amended by Laws of Utah 2021, Chapter 344
- 41           **63A-17-106**, as renumbered and amended by Laws of Utah 2021, Chapter 344
- 42           **63A-17-301**, as last amended by Laws of Utah 2021, Chapter 382 and renumbered and
- 43 amended by Laws of Utah 2021, Chapter 344
- 44           **63A-17-307**, as renumbered and amended by Laws of Utah 2021, Chapter 344
- 45           **63I-2-263**, as last amended by Laws of Utah 2021, First Special Session, Chapter 4
- 46           **67-19a-202**, as last amended by Laws of Utah 2021, Chapter 344
- 47           **67-19a-302**, as repealed and reenacted by Laws of Utah 2018, Chapter 390
- 48           **67-19a-401**, as last amended by Laws of Utah 2018, Chapter 390

49 ENACTS:

50           **63A-17-112**, Utah Code Annotated 1953



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

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

54           **63A-17-102. Definitions.**

55           As used in this chapter:

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

- 58 (2) "Career service" means positions under schedule B as defined in Section  
59 [63A-17-301](#).
- 60 (3) "Career service employee" means an employee who has successfully completed a  
61 probationary period of service in a position covered by the career service.
- 62 (4) "Career service status" means status granted to employees who successfully  
63 complete probationary periods for competitive career service positions.
- 64 (5) "Classified service" means those positions subject to the classification and  
65 compensation provisions of Section [63A-17-307](#).
- 66 (6) "Controlled substance" means controlled substance as defined in Section [58-37-2](#).
- 67 (7) (a) "Demotion" means a disciplinary action resulting in a reduction of an  
68 employee's current actual wage.
- 69 (b) "Demotion" does not mean:
- 70 (i) a nondisciplinary movement of an employee to another position without a reduction  
71 in the current actual wage; or
- 72 (ii) a reclassification of an employee's position under the provisions of Subsection  
73 [63A-17-307\(3\)](#) and rules made by the department.
- 74 (8) "Director" means the director of the division.
- 75 (9) "Disability" means a physical or mental disability as defined and protected under  
76 the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq.
- 77 (10) "Division" means the Division of Human Resource Management, created in  
78 Section [63A-17-105](#).
- 79 (11) "Employee" means any individual in a paid status covered by the career service or  
80 classified service provisions of this chapter.
- 81 (12) "Examining instruments" means written or other types of proficiency tests.
- 82 (13) "Human resource function" means those duties and responsibilities specified:
- 83 (a) under Section [63A-17-106](#);
- 84 (b) under rules of the division; and
- 85 (c) under other state or federal statute.

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

88 (15) "Probationary employee" means an employee serving a probationary period in a  
89 career service position but who does not have career service status.

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

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

95 (18) "Structure adjustment" means a division modification of salary ranges.

96 (19) "Temporary employee" means career service exempt employees described in  
97 Subsection 63A-17-301(1)(~~q~~)(r).

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

101 Section 2. Section 63A-17-106 is amended to read:

102 **63A-17-106. Responsibilities of the director.**

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

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

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

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

112 (5) The director shall:

113 (a) develop, implement, and administer a statewide program of human resource

114 management that will:

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

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

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

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

119 (c) design and administer the state classification system and procedures for determining

120 schedule assignments;

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

122 (e) administer agency human resource practices and ensure compliance with federal

123 law, state law, and state human resource rules, including equal employment opportunity;

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

125 discipline;

126 (g) maintain central personnel records;

127 (h) perform those functions necessary to implement this chapter unless otherwise

128 assigned or prohibited;

129 (i) perform duties assigned by the governor, executive director, or statute;

130 (j) adopt rules for human resource management according to the procedures of Title

131 63G, Chapter 3, Utah Administrative Rulemaking Act;

132 (k) establish and maintain a management information system that will furnish the

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

134 payroll, and related matters concerning state human resources;

135 (l) conduct research and planning activities to:

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

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

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

139 (m) study the character, causes, and extent of discrimination in state employment and

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

141 governing equal employment opportunity in employment;

142 (n) when requested by charter schools or counties, municipalities, and other political  
143 subdivisions of the state, provide technical service, training recommendations, or advice on  
144 human resource management at a charge determined by the director;

145 (o) establish compensation policies and procedures for early voluntary retirement;

146 (p) confer with the heads of other agencies about human resource policies and  
147 procedures;

148 (q) submit an annual report to the executive director, the governor, and the Legislature;  
149 and

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

152 (6) (a) After consultation with the executive director, the governor, and the heads of  
153 other agencies, the director shall establish and coordinate statewide training programs,  
154 including ~~[and subject to available funding, the development of manager and supervisor~~  
155 ~~training]~~ training described in Subsection (6)(e).

156 (b) The programs developed under this Subsection (6) 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 (6)  
161 complies with Title 63G, Chapter 22, State Training and Certification Requirements.

162 (e) (i) As used in this Subsection (6)(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 and the effective use of training information and principles

170 shall be considered in an evaluation of a supervisor's job performance.

171 (iv) The training shall include:

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

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

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

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

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

179 (7) (a) (i) The division may collect fees for training as authorized by this Subsection  
180 (7).

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

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

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

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

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

192 Section 3. Section **63A-17-112** is enacted to read:

193 **63A-17-112. Pay for performance management system -- Employees paid for**  
194 **performance.**

195 (1) As used in this section:

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

198 (ii) "Agency" does not include the State Board of Education, the Office of the State  
199 Treasurer, Office of the State Auditor, Office of the State Attorney General, Utah System of  
200 Higher Education, the Legislature, the judiciary, or, as defined in Section 63E-1-102, an  
201 independent entity.

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

203 (ii) "Employee" does not include an individual in a schedule AB, as described in  
204 Section 63A-17-301, position.

205 (c) "Pay for performance" means a plan for incentivizing an employee for meeting or  
206 exceeding production or performance goals, in which the plan is well-defined before work  
207 begins, eligible work groups are defined, specific goals and targets for the employee are  
208 determined, measurement procedures are in place, and specific incentives are provided when  
209 goals and targets are met.

210 (d) "Pay for performance management system" means the system described in  
211 Subsection (2).

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

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

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

218 (b) employee performance ratings;

219 (c) requirements for written employee performance standards and expectations;

220 (d) supervisor verbal and written feedback based on the standards of performance and  
221 behavior outlined in an employee's performance plan; and

222 (e) quarterly written evaluation of an employee's performance.

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

224 (a) adopt pay for performance policies based on the performance management system;

225 and



- 226           (b) subject to available funds and as necessary, adjust an employee's wage to reflect:
- 227           (i) subject to Subsection (5), for a classified service employee, the salary range of the
- 228 position classified plan for the employee's position; and
- 229           (ii) an increase, decrease, or no change in the employee's wage:
- 230           (A) commensurate to an employee's performance as reflected by the employee's
- 231 evaluation conducted in accordance with the pay for performance management system; and
- 232           (B) in an amount that is in accordance with the guidelines and criteria established for a
- 233 wage change in the pay for performance management system.
- 234           (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 235 division shall make rules authorizing a classified service employee to receive a wage that
- 236 exceeds the salary range of the classified service employee's position classified plan if
- 237 warranted based on the classified employee's performance rating.

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

239           **63A-17-301. Career service -- Exempt positions -- Schedules for civil service**  
240 **positions -- Coverage of career service provisions.**

241           (1) Except as [~~otherwise provided by law or by rules and regulations established for~~  
242 ~~federally aided programs~~] provided in Subsection (3)(d), the following positions are exempt  
243 from the career service provisions of this chapter and are designated under the following  
244 schedules:

- 245           (a) schedule AA includes the governor, members of the Legislature, and all other
- 246 elected state officers;
- 247           (b) schedule AB includes appointed executives and board or commission executives
- 248 enumerated in Section [67-22-2](#);
- 249           (c) schedule AC includes all employees and officers in:
  - 250           (i) the office and at the residence of the governor;
  - 251           (ii) the Public Lands Policy Coordinating Office;
  - 252           (iii) the Office of the State Auditor; and
  - 253           (iv) the Office of the State Treasurer;

- 254 (d) schedule AD includes employees who:
- 255 (i) are in a confidential relationship to an agency head or commissioner; and
- 256 (ii) report directly to, and are supervised by, a department head, commissioner, or
- 257 deputy director of an agency or its equivalent;
- 258 (e) schedule AE includes each employee of the State Board of Education that the State
- 259 Board of Education designates as exempt from the career service provisions of this chapter;
- 260 (f) schedule AG includes employees in the Office of the Attorney General who are
- 261 under their own career service pay plan under Sections [67-5-7](#) through [67-5-13](#);
- 262 (g) schedule AH includes:
- 263 (i) teaching staff of all state institutions; and
- 264 (ii) employees of the Utah Schools for the Deaf and the Blind who are:
- 265 (A) educational interpreters as classified by the division; or
- 266 (B) educators as defined by Section [53E-8-102](#);
- 267 (h) schedule AN includes employees of the Legislature;
- 268 (i) schedule AO includes employees of the judiciary;
- 269 (j) schedule AP includes all judges in the judiciary;
- 270 (k) schedule AQ includes:
- 271 (i) members of state and local boards and councils appointed by the governor and
- 272 governing bodies of agencies;
- 273 (ii) a water commissioner appointed under Section [73-5-1](#);
- 274 (iii) other local officials serving in an ex officio capacity; and
- 275 (iv) officers, faculty, and other employees of state universities and other state
- 276 institutions of higher education;
- 277 (l) schedule AR includes employees in positions that involve responsibility:
- 278 (i) for determining policy;
- 279 (ii) for determining the way in which a policy is carried out; or
- 280 (iii) of a type not appropriate for career service, as determined by the agency head with
- 281 the concurrence of the director;

- 282 (m) schedule AS includes any other employee:
- 283 (i) whose appointment is required by statute to be career service exempt;
- 284 (ii) whose agency is not subject to this chapter; or
- 285 (iii) whose agency has authority to make rules regarding the performance,
- 286 compensation, and bonuses for its employees;
- 287 (n) schedule AT includes employees of the Division of Technology Services,
- 288 designated as executive/professional positions by the director of the Division of Technology
- 289 Services with the concurrence of the director of the division;
- 290 (o) schedule AU includes patients and inmates employed in state institutions;
- 291 (p) employees of the Department of Workforce Services, designated as schedule AW:
- 292 (i) who are temporary employees that are federally funded and are required to work
- 293 under federally qualified merit principles as certified by the director; or
- 294 (ii) for whom substantially all of their work is repetitive, measurable, or transaction
- 295 based, and who voluntarily apply for and are accepted by the Department of Workforce
- 296 Services to work in a pay for performance program designed by the Department of Workforce
- 297 Services with the concurrence of the director of the division; ~~and~~
- 298 (q) subject to Subsection (6), schedule AX includes employees in positions that:
- 299 (i) require the regular supervision and performance evaluation of one or more other
- 300 employees; and
- 301 (ii) are not designated exempt from career service under any other schedule described
- 302 in this Subsection (1); and
- 303 ~~(r)~~ (r) for employees in positions that are temporary, seasonal, time limited, funding
- 304 limited, or variable hour in nature, under schedule codes and parameters established by the
- 305 division by administrative rule.
- 306 (2) The civil service shall consist of two schedules as follows:
- 307 (a) (i) Schedule A is the schedule consisting of positions under Subsection (1).
- 308 (ii) Removal from any appointive position under schedule A, unless otherwise
- 309 regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

310 (b) Schedule B is the competitive career service schedule, consisting of:  
311 (i) all positions filled through competitive selection procedures as defined by the  
312 director; or  
313 (ii) positions filled through a division approved on-the-job examination intended to  
314 appoint a qualified person with a disability, or a veteran in accordance with Title 71, Chapter  
315 10, Veterans Preference.

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

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

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

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

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

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

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

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

336 (d) Unless otherwise provided by law, compensation for all other schedule A  
337 employees shall be established by their appointing authorities, within ranges approved by, and

338 after consultation with the director.

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

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

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

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

346 (b) An employee who before July 1, 2022, is a career service employee employed in a  
347 schedule B position that is rescheduled to a schedule AX position on July 1, 2022, shall  
348 maintain the employee's career service status for the duration of the employee's employment in  
349 the same position unless the employee voluntarily converts to career service exempt status  
350 before July 1, 2023.

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

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

355 (B) on July 1, 2022, the schedule B position in which the probationary employee is  
356 employed is rescheduled as a scheduled AX position.

357 (ii) An employee described in Subsection (6)(c)(i):

358 (A) is not a probationary employee on or after July 1, 2022; and

359 (B) is exempt from career service status on and after July 1, 2022, unless the employee  
360 changes employment to a schedule B position.

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

364 (e) An agency, as defined in Section [63A-17-112](#), may adopt a policy, created in  
365 consultation with the division, for agency review of recommendations that schedule AX

366 employees be suspended, demoted, or dismissed from employment.

367 Section 5. Section **63A-17-307** is amended to read:

368 **63A-17-307. State pay plans -- Applicability of section -- Exemptions -- Duties of**  
369 **director.**

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

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

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

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

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

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

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

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

381 (f) employees in a position that is specified by statute to be exempt from this  
382 Subsection (2);

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

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

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

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

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

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

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

393 (n) patients and inmates designated as schedule AU as provided under Subsection

394 63A-17-301(1)(o) who are employed by state institutions; and

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

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

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

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

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

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

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

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

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

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

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

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

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

421 (d) The establishing of a salary range is a nondelegable activity and is not appealable

422 under the grievance procedures of Part 6, Grievance Provisions, Title 67, Chapter 19a,  
423 Grievance Procedures, or otherwise.

424 (e) The director shall issue rules providing for:

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

427 [~~(ii) legislatively approved salary adjustments within approved salary ranges, including~~  
428 ~~a merit increase, subject to Subsection (4)(f), or general increase; and]~~

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

431 [~~(f) A merit increase shall be granted on a uniform and consistent basis to each~~  
432 ~~employee who receives a rating of "successful" or higher in an annual evaluation of the~~  
433 ~~employee's productivity and performance.]~~

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

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

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

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

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

444 (iv) changes to employee benefits.

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

448 (B) The salary survey for a law enforcement officer, as defined in Section 53-13-103, a  
449 correctional officer, as defined in Section 53-13-104, or a dispatcher, as defined in Section



450 [53-6-102](#), shall at minimum include the three largest political subdivisions in the state that  
451 employ, respectively, comparable positions.

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

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

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

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

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

466 (e) The director shall:

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

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

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

474 (A) demographic and labor market information;

475 (B) information on employee turnover;

476 (C) salary information;

477 (D) information on recruitment; and

478 (E) geographic data.

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

481 (g) The governor shall:

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

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

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

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

490 (6) (a) The director shall issue rules for the granting of incentive awards, including  
491 awards for cost saving actions, awards for commendable actions by an employee, or a  
492 market-based award to attract or retain employees.

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

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

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

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

501 (A) budgetary advantages; or

502 (B) recruitment advantages;

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

504 or

505 (iii) any other advantage the agency would gain through the utilization of a

506 market-based award.

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

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

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

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

513 Section 6. Section **63I-2-263** is amended to read:

514 **63I-2-263. Repeal dates, Title 63A to Title 63N.**

515 (1) Section **63A-3-111** is repealed June 30, 2021.

516 (2) Section 63A-17-303 is repealed July 1, 2023.

517 (3) Subsection 63A-17-304(1)(c) is repealed July 1, 2022.

518 ~~(2)~~ (4) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is  
519 repealed July 1, 2021.

520 ~~(3)~~ (5) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology  
521 Commission is repealed July 1, 2023.

522 ~~(4)~~ (6) Section **63G-1-502** is repealed July 1, 2022.

523 ~~(5)~~ (7) The following sections regarding the World War II Memorial Commission are  
524 repealed on July 1, 2022:

525 (a) Section **63G-1-801**;

526 (b) Section **63G-1-802**;

527 (c) Section **63G-1-803**; and

528 (d) Section **63G-1-804**.

529 ~~(6)~~ (8) Section **63H-7a-303** is repealed July 1, 2024.

530 ~~(7)~~ (9) Subsection **63J-1-206(3)(c)**, relating to coronavirus, is repealed July 1, 2021.

531 ~~(8)~~ (10) Sections **63M-7-213** and **63M-7-213.5** are repealed on January 1, 2023.

532 ~~(9)~~ (11) Section **63M-7-217** is repealed on July 1, 2022.

533 ~~(10)~~ (12) Title 63N, Chapter 13, Part 3, Facilitating Public-private Partnerships Act,

534 is repealed January 1, 2024.

535           ~~[(H)]~~ (13) Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, is  
536 repealed December 31, 2021.

537           Section 7. Section **67-19a-202** is amended to read:

538           **67-19a-202. Powers -- Scope of authority.**

539           (1) The office shall serve as the final administrative body to review a grievance from a  
540 career service employee and an agency of a decision regarding:

541           (a) a dismissal;

542           (b) a demotion;

543           (c) a suspension;

544           (d) a reduction in force;

545           (e) a dispute concerning abandonment of position;

546           (f) a wage grievance if an employee is not placed within the salary range of the  
547 employee's current position;

548           (g) a violation of a rule adopted under Title 63A, Chapter 17, Utah State Personnel  
549 Management Act; or

550           (h) except as provided by Subsection ~~[(4)]~~ (5), equitable administration of the  
551 following benefits:

552           (i) long-term disability insurance;

553           (ii) medical insurance;

554           (iii) dental insurance;

555           (iv) post-retirement health insurance;

556           (v) post-retirement life insurance;

557           (vi) life insurance;

558           (vii) defined contribution retirement;

559           (viii) defined benefit retirement; and

560           (ix) a leave benefit.

561           (2) The office shall serve as the final administrative body to review a grievance by a

562 reporting employee alleging retaliatory action.

563 (3) The office shall serve as the final administrative body to review, without an  
564 evidentiary hearing, the findings of an abusive conduct investigation described in Section  
565 [67-26-202](#) of a state executive branch agency employee.

566 (4) The office may not take jurisdiction of a matter that an employer has not had an  
567 opportunity to address.

568 [~~4~~] (5) The office may not review or take action on:

569 (a) a personnel matter not listed in Subsections (1) through (3);

570 (b) a personnel matter listed in Subsections (1) through (3) that alleges discrimination  
571 or retaliation related to a claim of discrimination that is a violation of a state or federal law for  
572 which review and action by the office is preempted by state or federal law; or

573 (c) a personnel matter related to a claim for which an administrative review process is  
574 provided by statute and administered by:

575 (i) the Utah State Retirement Systems under Title 49, Utah State Retirement and  
576 Insurance Benefit Act;

577 (ii) the Public Employees' Benefit and Insurance Program under Title 49, Chapter 20,  
578 Public Employees' Benefit and Insurance Program Act; or

579 (iii) the Public Employees' Long-Term Disability Program under Title 49, Chapter 21,  
580 Public Employees' Long-Term Disability Act.

581 [~~5~~] (6) The time limits established in this chapter supersede the procedural time limits  
582 established in Title 63G, Chapter 4, Administrative Procedures Act.

583 Section 8. Section **67-19a-302** is amended to read:

584 **67-19a-302. Levels of procedure.**

585 (1) The administration of all grievances under Subsection [67-19a-202](#)(1) occurs on the  
586 following four levels:

587 (a) Level 1 - the supervisor;

588 (b) Level 2 - the division director or the director's designee;

589 (c) Level 3 - the agency director or the director's designee; and

590 (d) Level 4 - the office.

591 (2) (a) Except as provided in Subsection (2)(b), Section [67-19a-402.5](#), and Section  
592 [67-19a-501](#), and subject to applicable time limits as provided in this chapter, an employee;

593 (i) shall file a grievance [~~or complaint at Level 1 and proceed through the levels of~~  
594 ~~procedure within the applicable time limits provided in this chapter.~~] at the lowest level  
595 described in Subsection (1) that has not already issued a decision, taken action, or declined to  
596 address the subject of the grievance; and

597 (ii) may proceed for further review of a grievance in accordance with Section  
598 [67-19a-402](#).

599 (b) If a supervisor or division director is a subject of a grievance or complaint, the  
600 employee may proceed directly to Level 2 or Level 3, respectively.

601 (c) An employee may not file a grievance that asks the same manager or a lower-level  
602 manager to reconsider a previously made decision.

603 (3) A career service employee may advance all grievances to Level 3.

604 (4) In accordance with Section [67-19a-402.5](#) and subject to Section [67-21-4](#), a  
605 reporting employee may file a grievance alleging retaliatory action directly at Level 4.

606 Section 9. Section **67-19a-401** is amended to read:

607 **67-19a-401. Time limits for submission and advancement of grievance by**  
608 **aggrieved employee -- Voluntary termination of employment -- Group grievances.**

609 [~~(1) When a career service employee files a grievance at Level 1, as described in~~  
610 ~~Section [67-19a-302](#), the employee shall advance the grievance through the proper levels of~~  
611 ~~procedure specified in this chapter.]~~

612 [(~~2~~) The] (1) An aggrieved career service employee and the person to whom the  
613 grievance is directed may agree in writing to waive or extend grievance steps specified under  
614 Subsection [67-19a-402](#)(1), (2), or (3) or the time limits specified for those grievance steps, as  
615 outlined in Section [67-19a-402](#).

616 [(~~3~~) (2) Any writing made under Subsection [(~~2~~) (1)] shall be submitted to the  
617 administrator.

618           ~~[(4)]~~ (3) Except as provided under Subsections (5) and (6) ~~[and (7)]~~, if the employee  
619 fails to advance the grievance to the next procedural step within the time limits established in  
620 this part:

621           (a) the employee waives the right to advance the grievance or to obtain judicial review  
622 of the grievance; and

623           (b) the grievance is considered to be settled based on the decision made at the last  
624 procedural step.

625           ~~[(5)]~~ (4) An employee may file a grievance for review under this chapter, except as  
626 provided in Subsections (5) and (6) ~~[and (7)]~~, if the employee submits the grievance within  
627 ~~[30]~~ 10 working days after:

628           (a) the most recent event giving rise to the grievance; or

629           (b) the employee has knowledge of the most recent event giving rise to the grievance.

630           ~~[(6)]~~ (5) (a) An employee may file with the office a motion for an enlargement of a  
631 time limit described in Subsection ~~[(5)]~~ (4).

632           (b) In determining whether to grant a motion described in Subsection ~~[(6)]~~ (5)(a), the  
633 office shall consider, giving reasonable deference to the employee, whether:

634           (i) the employee filed the motion before the time limit the employee seeks to enlarge;

635 or

636           (ii) the enlargement is necessary to remedy the employee's excusable neglect.

637           ~~[(7)]~~ (6) The provisions of Subsections (3) and (4) ~~[and (5)]~~ do not apply if the  
638 employee meets the requirements for excusable neglect as that term is defined in Section  
639 [67-19a-101](#).

640           ~~[(8)]~~ (7) (a) If several employees allege the same grievance, the employees may submit  
641 a group grievance by following the procedures and requirements of this chapter.

642           (b) In submitting a group grievance, each aggrieved employee shall sign the grievance.

643           (c) The administrator may not treat a group grievance as a class action, but may select  
644 one aggrieved employee's grievance and address that grievance as a test case.

645           Section 10. **Effective date.**

646           This bill takes effect on May 4, 2022, except that the amendments to:  
647           (1) Sections [63A-17-102](#), [63A-17-301](#), [63A-17-307](#) take effect July 1, 2022; and  
648           (2) Sections [63A-17-106](#) and [63A-17-112](#) take effect July 1, 2023.