

SCHOOLS FOR THE DEAF AND BLIND**AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies the structure and governance of the Utah Schools for the Deaf and the Blind and provisions regarding its employees and a student's eligibility for services.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Utah Schools for the Deaf and the Blind as a single public school agency and a public corporation;
- ▶ allows the Utah Schools for the Deaf and the Blind to serve as the designated LEA for a student;
- ▶ clarifies that the Utah Schools for the Deaf and the Blind, with certain exceptions, is subject to state laws applicable to public schools and state government agencies;
- ▶ directs the State Board of Education to appoint:
 - an executive director for the Utah Schools for the Deaf and the Blind;
 - a principal for the Utah School for the Deaf;
 - a principal for the Utah School for the Blind; and
 - members of the Advisory Council for the Utah Schools for the Deaf and the Blind;
- ▶ establishes the power and duties of the executive director, the principals, and the advisory council;
- ▶ establishes eligibility criteria for services of the Utah Schools for the Deaf and the Blind;
- ▶ specifies educational program, assessment, and reporting requirements;
- ▶ provides that educators employed by the Utah Schools for the Deaf and the Blind are exempt from state pay plan and career service provisions of the Utah Personnel

- 32 Management Act and rules of the Department of Human Resource Management;
- 33 ▶ requires the State Board of Education to make rules to establish and specify
- 34 procedures for the operation of the Utah State Instructional Materials Accessibility
- 35 Center; and
- 36 ▶ makes technical amendments.

37 **Monies Appropriated in this Bill:**

38 None

39 **Other Special Clauses:**

40 None

41 **Utah Code Sections Affected:**

42 AMENDS:

- 43 **53A-25a-105**, as last amended by Laws of Utah 2002, Chapter 299
- 44 **67-19-12**, as last amended by Laws of Utah 2007, Chapter 166
- 45 **67-19-15**, as last amended by Laws of Utah 2008, Chapter 3

46 ENACTS:

- 47 **53A-25b-101**, Utah Code Annotated 1953
- 48 **53A-25b-102**, Utah Code Annotated 1953
- 49 **53A-25b-103**, Utah Code Annotated 1953
- 50 **53A-25b-104**, Utah Code Annotated 1953
- 51 **53A-25b-201**, Utah Code Annotated 1953
- 52 **53A-25b-202**, Utah Code Annotated 1953
- 53 **53A-25b-203**, Utah Code Annotated 1953
- 54 **53A-25b-204**, Utah Code Annotated 1953
- 55 **53A-25b-205**, Utah Code Annotated 1953
- 56 **53A-25b-301**, Utah Code Annotated 1953
- 57 **53A-25b-302**, Utah Code Annotated 1953
- 58 **53A-25b-303**, Utah Code Annotated 1953
- 59 **53A-25b-304**, Utah Code Annotated 1953
- 60 **53A-25b-401**, Utah Code Annotated 1953
- 61 **53A-25b-402**, Utah Code Annotated 1953
- 62 **53A-25b-501**, Utah Code Annotated 1953

63 REPEALS:

- 64 **53A-25-101**, as enacted by Laws of Utah 1988, Chapter 2
 65 **53A-25-102**, as enacted by Laws of Utah 1988, Chapter 2
 66 **53A-25-103**, as enacted by Laws of Utah 1988, Chapter 2
 67 **53A-25-104**, as last amended by Laws of Utah 1996, Chapter 37
 68 **53A-25-105**, as enacted by Laws of Utah 1988, Chapter 2
 69 **53A-25-107**, as enacted by Laws of Utah 1988, Chapter 2
 70 **53A-25-108**, as enacted by Laws of Utah 1988, Chapter 2
 71 **53A-25-109**, as enacted by Laws of Utah 1988, Chapter 2
 72 **53A-25-110**, as enacted by Laws of Utah 1988, Chapter 2
 73 **53A-25-111**, as last amended by Laws of Utah 2007, Chapter 380
 74 **53A-25-201**, as enacted by Laws of Utah 1988, Chapter 2
 75 **53A-25-202**, as enacted by Laws of Utah 1988, Chapter 2
 76 **53A-25-203**, as last amended by Laws of Utah 1996, Chapter 37
 77 **53A-25-204**, as enacted by Laws of Utah 1988, Chapter 2
 78 **53A-25-205**, as enacted by Laws of Utah 1988, Chapter 2
 79 **53A-25-206**, as last amended by Laws of Utah 2001, Chapter 73
 80 **53A-25-301**, as last amended by Laws of Utah 1995, Chapter 223
 81 **53A-25-302**, as last amended by Laws of Utah 1995, Chapter 223
 82 **53A-25-303**, as last amended by Laws of Utah 1995, Chapter 223
 83 **53A-25-304**, as last amended by Laws of Utah 1995, Chapter 223
 84 **53A-25-305**, as last amended by Laws of Utah 1995, Chapter 223
 85 **53A-25-306**, as enacted by Laws of Utah 2001, Chapter 312

86

87 *Be it enacted by the Legislature of the state of Utah:*88 Section 1. Section **53A-25a-105** is amended to read:89 **53A-25a-105. Braille versions of textbooks.**

90 (1) As a condition of the annual contract for instructional materials process and as a
 91 condition of textbook acceptance, the State Board of Education [~~through the State Office of~~
 92 ~~Education~~] shall require publishers of textbooks recommended by the [state] board to furnish,

93 ~~on request, their textbooks on computer [diskettes, on request, for literary subjects in the~~
94 ~~American Standard Code for Information Interchange (ASCH)] files, in conformance with the~~
95 ~~National Instructional Materials Accessibility Standard~~ from which Braille versions of all or
96 part of the textbook can be produced.

97 (2) When Braille translation software for specialty code translation becomes available,
98 publishers shall ~~[make computer diskettes available, on request, in ASCH]~~ furnish, on request,
99 computer files in conformance with the National Instructional Materials Accessibility Standard
100 for nonliterary subjects such as mathematics and science.

101 Section 2. Section **53A-25b-101** is enacted to read:

102 **CHAPTER 25b. UTAH SCHOOLS FOR THE DEAF AND THE BLIND**

103 **Part 1. General Provisions**

104 **53A-25b-101. Definitions.**

105 As used in this chapter:

106 (1) "Advisory council" means the Advisory Council of the Utah Schools for the Deaf
107 and the Blind.

108 (2) "Alternate format" includes braille, audio, or digital text, or large print.

109 (3) "Blind" means having a visual impairment that, even with correction, adversely
110 affects educational performance.

111 (4) "Board" means the State Board of Education.

112 (5) "Deaf" means having a hearing impairment, whether permanent or fluctuating, that,
113 even with amplification, adversely affects educational performance.

114 (6) "Deafblind" means having concomitant hearing and visual impairments, the
115 combination of which causes such severe communication, developmental, and educational
116 needs that the person cannot be accommodated in programs solely for persons who are deaf or
117 blind.

118 (7) "Designated LEA" means the public education entity selected by an IEP team or
119 Section 504 team, and specified in a student's IEP or Section 504 accommodation plan, to be
120 held responsible and accountable for the education of a student.

121 (8) "Educator" means a person who holds:

122 (a) (i) a licence issued under Title 53A, Chapter 6, Educator Licensing and
123 Professional Practices Act; and

- 124 (ii) a position as a:
125 (A) classroom teacher;
126 (B) speech pathologist;
127 (C) librarian or media specialist;
128 (D) preschool teacher; or
129 (E) guidance counselor; or
130 (b) (i) a bachelor's degree or higher;
131 (ii) credentials from the governing body of the professional's area of practice; and
132 (iii) a position as a:
133 (A) parent infant program consultant;
134 (B) deafblind consultant; or
135 (C) orientation and mobility specialist.
136 (9) "Executive director" means the executive director of the Utah Schools for the Deaf
137 and the Blind.
138 (10) "Individualized education program or IEP" means a written statement for a student
139 with a disability that is developed, reviewed, and revised in accordance with the Individuals
140 with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
141 (11) "Principal" means:
142 (a) the principal of the Utah School for the Deaf; or
143 (b) the principal of the Utah School for the Blind.
144 (12) "Section 504" means Section 504 of the Rehabilitation Act of 1973.
145 (13) "Section 504 accommodation plan" means a plan developed pursuant to Section
146 504 of the Rehabilitation Act of 1973, as amended, to provide appropriate accommodations to
147 an individual with a disability to ensure access to major life activities.
148 (14) "Visual impairment" includes partial sightedness, blindness, and cortical visual
149 impairment.
150 Section 3. Section **53A-25b-102** is enacted to read:
151 **53A-25b-102. Utah Schools for the Deaf and the Blind created -- Designated LEA**
152 **- Services statewide.**
153 (1) The Utah Schools for the Deaf and the Blind is created as a single public school
154 agency that includes:

- 155 (a) the Utah School for the Deaf;
156 (b) the Utah School for the Blind; and
157 (c) programs for students who are deafblind.

158 (2) Under the general control and supervision of the board, consistent with the board's
159 constitutional authority, the Utah Schools for the Deaf and the Blind may:

160 (a) serve as the designated LEA for a student placed at the Utah Schools for the Deaf
161 and the Blind pursuant to:

- 162 (i) an IEP; or
163 (ii) a Section 504 accommodation plan; and
164 (b) provide services to students statewide who are deaf, blind, or deafblind.

165 Section 4. Section **53A-25b-103** is enacted to read:

166 **53A-25b-103. Corporate powers.**

167 (1) The Utah Schools for the Deaf and the Blind is a public corporation with perpetual
168 succession and a corporate seal.

169 (2) The Utah Schools for the Deaf and the Blind may:

- 170 (a) sue and be sued;
171 (b) contract and be contracted with;
172 (c) take and hold by purchase, gift, devise, or bequest real and personal property
173 required for its uses; and
174 (d) may convert property, if not suitable for its use, into other property or money.

175 (3) The property of the Utah Schools for the Deaf and the Blind is exempt from taxes
176 and assessments.

177 Section 5. Section **53A-25b-104** is enacted to read:

178 **53A-25b-104. Applicability of statutes to the Utah Schools of the Deaf and the**
179 **Blind.**

180 (1) The Utah Schools for the Deaf and the Blind is subject to Title 53A, State System
181 of Public Education and other state laws applicable to public schools, except as otherwise
182 provided by this chapter.

183 (2) The following provisions of Title 53A do not apply to the Utah Schools for the
184 Deaf and the Blind:

- 185 (a) provisions governing the budgets, funding, or finances of school districts or charter

186 schools; and

187 (b) provisions governing school construction.

188 (3) Except as provided in this chapter, the Utah Schools for the Deaf and the Blind is
 189 subject to state laws governing state agencies, including:

190 (a) Title 51, Chapter 5, Funds Consolidation Act;

191 (b) Title 51, Chapter 7, State Money Management Act;

192 (c) Title 63A, Utah Administrative Services Code;

193 (d) Title 63G, Chapter 4, Administrative Procedures Act;

194 (e) Title 63G, Chapter 6, Utah Procurement Code;

195 (f) Title 63J, Chapter 1, Budgetary Procedures Act;

196 (g) Title 63J, Chapter 2, Revenue Procedures and Control Act;

197 (h) Title 67, Chapter 19, Utah Personnel Management Act;

198 (i) Title 52, Chapter 4, Open and Public Meetings Act; and

199 (j) Title 63G, Chapter 2, Government Records Access and Management Act.

200 Section 6. Section **53A-25b-201** is enacted to read:

201 **Part 2. Governance**

202 **53A-25b-201. Authority of the State Board of Education.**

203 (1) The State Board of Education is the governing board of the Utah Schools of the
 204 Deaf and the Blind.

205 (2) (a) The board shall appoint:

206 (i) an executive director for the Utah Schools for the Deaf and the Blind;

207 (ii) a principal for the Utah School for the Deaf; and

208 (iii) a principal for the Utah School of the Blind.

209 (b) (i) Except as provided in Subsection (2)(b)(ii), the executive director shall:

210 (A) hold an administrative/supervisory license;

211 (B) have demonstrated success in administration of education programs;

212 (C) have demonstrated skill in organizational management; and

213 (D) have a knowledge of special education practice and law.

214 (ii) The board may grant a letter of authorization permitting a person with outstanding
 215 professional qualifications, including management experience and skills consistent with the
 216 mission of the Utah Schools for the Deaf and the Blind, to be appointed as executive director.

- 217 (c) The board shall appoint a principal for the Utah School for the Deaf based on:
218 (i) demonstrated competency as an expert educator of deaf persons; and
219 (ii) knowledge of school management and the instruction of deaf persons.
- 220 (d) The board shall appoint a principal for the Utah School for the Blind based on:
221 (i) demonstrated competency as an expert educator of blind persons; and
222 (ii) knowledge of school management and the instruction of blind persons, including an
223 understanding of the unique needs and education of deafblind persons.
- 224 (e) The board shall establish the salaries for the executive director and principals in
225 accordance with standards adopted by the Department of Human Resource Management.
- 226 (3) (a) The board shall:
- 227 (i) appoint members of the Advisory Council for the Utah Schools for the Deaf and the
228 Blind; and
- 229 (ii) receive and consider the recommendations and advice of the advisory council.
- 230 (b) The board is not obligated to follow the recommendations of the advisory council.
- 231 (4) The board shall have the authority to approve the annual budget and expenditures
232 of the Utah Schools for the Deaf and the Blind.
- 233 (5) The board shall establish rules in accordance with this chapter and Title 63G,
234 Chapter 3, Utah Administrative Rulemaking Act, that determine the eligibility of students to be
235 served by the Utah Schools for the Deaf and the Blind.
- 236 Section 7. Section **53A-25b-202** is enacted to read:
- 237 **53A-25b-202. Authority and duties of the executive director.**
- 238 The executive director shall:
- 239 (1) serve as the chief operating officer of the Utah Schools for the Deaf and the Blind;
240 (2) hire staff to provide business and instructional support services to the Utah School
241 for the Deaf and the Utah School for the Blind;
- 242 (3) establish policies for student conduct and procedures for due process, consistent
243 with federal state statutes;
- 244 (4) establish policies and procedures for reporting child abuse in accordance with
245 Section 62A-4a-403; and
- 246 (5) establish procedures to ensure effective communication and relationships with
247 school districts, charter schools, other state agencies, and the community.

248 Section 8. Section **53A-25b-203** is enacted to read:

249 **53A-25b-203. Authority and duties of the principal of the Utah School for the**
250 **Deaf.**

251 (1) The principal of the Utah School for the Deaf shall serve as the chief academic
252 officer of the Utah School for the Deaf.

253 (2) As chief academic officer, the principal shall hire, provide instructional leadership
254 to, and supervise the educators of children and students who are deaf.

255 Section 9. Section **53A-25b-204** is enacted to read:

256 **53A-25b-204. Authority and duties of the principal of the Utah School for the**
257 **Blind.**

258 (1) The principal of the Utah School for the Blind shall serve as the chief academic
259 officer of the Utah School for the Blind and programs for students who are deafblind.

260 (2) As chief academic officer, the principal shall hire, provide instructional leadership
261 to, and supervise the educators of students who are blind or deafblind.

262 Section 10. Section **53A-25b-205** is enacted to read:

263 **53A-25b-205. Advisory Council for the Utah Schools for the Deaf and the Blind.**

264 (1) (a) There is created the Advisory Council for the Utah Schools for the Deaf and the
265 Blind composed of at least six, but no more than eleven, voting members appointed by the
266 board.

267 (b) The advisory council shall include:

268 (i) two members who are blind;

269 (ii) two members who are deaf; and

270 (iii) two members who are deafblind or a parent of a deafblind child.

271 (c) The board may appoint other advisory council members who have an interest in and
272 knowledge of the needs and education of students who are deaf, blind, or deafblind.

273 (2) The board may remove a council member for cause.

274 (3) The board shall makes rules in accordance with Title 63G, Chapter 3, Utah
275 Administrative Rulemaking Act regarding the operation of the advisory council, including
276 rules:

277 (a) specifying the term of membership for advisory council members;

278 (b) establishing procedures for filling a vacancy on the advisory council; and

- 279 (c) establishing procedures for dismissing an advisory council member.
- 280 (4) An advisory council member may receive per diem and expenses incurred in the
- 281 performance of the member's official duties at the rates established by the Division of Finance
- 282 under Sections 63A-3-106 and 63A-3-107.
- 283 (5) The advisory council shall meet at least ten times per year.
- 284 (6) (a) The advisory council shall elect a chair and vice chair from its membership.
- 285 (b) The advisory council may elect other officers from its membership.
- 286 (c) The advisory council officers shall serve one-year terms.
- 287 (7) A majority of the advisory council constitutes a quorum for the transaction of
- 288 business.
- 289 (8) The board shall assign a staff member from the Utah State Office of Education and
- 290 the executive director to act as liaisons between the board and the advisory council.
- 291 (9) The advisory council shall:
- 292 (a) advise and make recommendations to the board, executive director, and principals
- 293 regarding:
- 294 (i) staff positions;
- 295 (ii) policy;
- 296 (iii) budgets; and
- 297 (iv) operations;
- 298 (b) advise the board, executive director, and principals as to the needs of those who are
- 299 deaf, blind, or deafblind and of appropriate programs and services to address individual needs
- 300 consistent with state and federal laws, rules, and regulations; and
- 301 (c) advise and make recommendations to the board regarding the continued
- 302 employment of the executive director and principals.
- 303 (10) The board shall receive and consider the advice and recommendations of the
- 304 advisory council but is not obligated to follow that advice or adopt the recommendations.

305 Section 11. Section **53A-25b-301** is enacted to read:

306 **Part 3. Services and Educational Programs**

307 **53A-25b-301. Eligibility for services of the Utah Schools for the Deaf and the**

308 **Blind.**

- 309 (1) Except as provided in Subsections (3) and (4), a person is eligible to receive

310 services of the Utah Schools for the Deaf and the Blind if the person:

311 (a) is a resident of Utah;

312 (b) is less than 22 years of age;

313 (c) is referred to the Utah Schools for the Deaf and the Blind by the person's school
314 district of residence or a local early intervention program; and

315 (d) is identified as deaf, blind, or deafblind through:

316 (i) the special education eligibility determination process; or

317 (ii) the Section 504 eligibility determination process.

318 (2) (a) A student who qualifies for special education shall have services and placement
319 determinations made through the IEP process.

320 (b) A student who qualifies for accommodations under Section 504 shall have services
321 and placement determinations made through the Section 504 team process.

322 (3) (a) A nonresident may receive services of the Utah Schools for the Deaf and the
323 Blind in accordance with rules of the board.

324 (b) The rules shall require the payment of tuition for services provided to a
325 nonresident.

326 (4) (a) A child who is not deaf may participate in a preschool program that teaches
327 American Sign Language in accordance with rules of the board.

328 (b) The rules shall require the payment of tuition for a child's participation in a
329 preschool program described in Subsection (3)(a).

330 Section 12. Section **53A-25b-302** is enacted to read:

331 **53A-25b-302. Entrance policies and procedures.**

332 With input from the Utah Schools for the Deaf and the Blind and school districts, the
333 board shall establish entrance policies and procedures that IEP teams and Section 504 teams
334 are to consider in making placement recommendations at the Utah Schools for the Deaf and the
335 Blind.

336 Section 13. Section **53A-25b-303** is enacted to read:

337 **53A-25b-303. Educational programs.**

338 (1) The Utah Schools for the Deaf and the Blind shall provide an educational program
339 for a student based on assessments of the student's abilities.

340 (2) If a student's ability to access the core curriculum is impaired primarily due to a

341 severe sensory loss, the Utah Schools for the Deaf and the Blind shall provide an educational
342 program that will enable the student, with accommodations, to access, and master the learning
343 objectives of, the core curriculum.

344 (3) The Utah Schools for the Deaf and the Blind shall provide instruction in Braille to
345 students who are blind as required by Chapter 25a, Blind Persons' Literacy Rights and
346 Education Act

347 Section 14. Section **53A-25b-304** is enacted to read:

348 **53A-25b-304. U-PASS testing and reporting.**

349 (1) The Utah Schools for the Deaf and the Blind shall annually administer, as
350 applicable, the U-PASS tests specified in Section 53A-1-602, except a student may take an
351 alternative test in accordance with the student's IEP.

352 (2) (a) By October 1 of each year, through 2011, the Utah Schools for the Deaf and the
353 Blind shall report the U-PASS test results of its students by grade level or course and the
354 student's disability to the Education Interim Committee.

355 (b) The report shall include comparison data showing tests results of students
356 statewide.

357 Section 15. Section **53A-25b-401** is enacted to read:

358 **Part 4. Employees**

359 **53A-25b-401. Educators exempt from Department of Human Resource**
360 **Management rules - Collective bargaining agreement.**

361 (1) Educators employed by the Utah Schools for the Deaf and the Blind are exempt
362 from mandatory compliance with rules of the Department of Human Resource Management.

363 (2) The board may enter into a collective bargaining agreement to establish
364 compensation and other personnel policies with educators employed by the Utah Schools for
365 the Deaf and the Blind to replace rules of the Department of Human Resource Management.

366 (3) A collective bargaining agreement made under Subsection (2) is subject to the same
367 requirements that are imposed on local school boards by Section 53A-3-411.

368 Section 16. Section **53A-25b-402** is enacted to read:

369 **53A-25b-402. Annual salary adjustments for educators.**

370 (1) Subject to future budget constraints, the Legislature shall annually appropriate
371 money to the board for the salary adjustments described in this section, including step and lane

372 changes.

373 (2) The board shall include in its annual budget request for the Utah Schools for the
374 Deaf and the Blind an amount of money sufficient to adjust educators' salaries as described in
375 Subsection (3) and fund step and lane changes.

376 (3) (a) The board shall determine the salary adjustment specified in Subsection (2) by:

377 (i) calculating a weighted average salary adjustment for nonadministrative licensed
378 staff adopted by the school districts of the state, with the average weighted by the number of
379 teachers in each school district; and

380 (ii) increasing the weighted average salary adjustment by 10% in any year in which
381 teachers of the Utah Schools for the Deaf and the Blind are not ranked in the top ten in 20-year
382 earnings when compared to earnings of teachers in the schools districts of the state.

383 (b) In calculating a weighted average salary adjustment for nonadministrative licensed
384 staff adopted by the school districts of the state under Subsection (3)(a), the board shall exclude
385 educator salary adjustments provided pursuant to Section 53A-17a-153.

386 (4) From money appropriated to the board for salary adjustments, the board shall adjust
387 the salary schedule applicable to educators at the school each year.

388 Section 17. Section **53A-25b-501** is enacted to read:

389 **Part 5. Utah State Instructional Materials Access Center**

390 **53A-25b-501. Instructional Materials Access Center -- Board to make rules.**

391 (1) The Utah State Office of Education shall collaborate with the Utah Schools for the
392 Deaf and the Blind, school districts, and charter schools in establishing the Utah State
393 Instructional Materials Access Center to provide students with print disabilities access to
394 instructional materials in alternate formats in a timely manner.

395 (2) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah
396 Administrative Rulemaking Act, to:

397 (a) establish the Utah State Instructional Materials Access Center;

398 (b) define how the Educational Resource Center at the Utah Schools for the Deaf and
399 the Blind shall collaborate in the operation of the Utah State Instructional Materials Access
400 Center;

401 (c) specify procedures for the operation of the Utah State Instructional Materials
402 Access Center, including procedures to:

- 403 (i) identify students who qualify for instructional materials in alternate formats; and
 404 (ii) distribute and store instructional materials in alternate formats;
 405 (d) establish the contribution of school districts and charter schools towards the cost of
 406 instructional materials in alternate formats; and
 407 (e) require textbook publishers, as a condition of contract, to provide textbook files in
 408 conformance with the National Instructional Materials Accessibility Standard.

409 Section 18. Section **67-19-12** is amended to read:

410 **67-19-12. State pay plans -- Applicability of section -- Exemptions -- Duties of the**
 411 **executive director.**

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

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

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

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

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

419 (c) elected members of the executive branch and their direct staff who meet career
 420 service exempt criteria as defined in Subsection 67-19-15(1)(k);

421 (d) ~~[certificated]~~ employees of the State Board of Education who are licensed by the
 422 State Board of Education;

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

424 (f) employees in any position that is determined by statute to be exempt from this
 425 Subsection (2);

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

427 (h) department heads and other persons appointed by the governor pursuant to statute;

428 (i) employees of the Department of Community and Culture whose positions are
 429 designated as executive/professional positions by the executive director of the Department of
 430 Community and Culture with the concurrence of the executive director;

431 (j) employees of the Governor's Office of Economic Development whose positions are
 432 designated as executive/professional positions by the director of the office; ~~[and]~~

433 (k) employees of the Medical Education Council~~[-];~~ and

434 (l) educators as defined by Section 53A-25b-101 who are employed by the Utah
435 Schools for the Deaf and the Blind.

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

439 (b) Classification of positions shall be based upon similarity of duties performed and
440 responsibilities assumed, so that the same job requirements and the same salary range may be
441 applied equitably to each position in the same class.

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

444 (d) (i) The department shall conduct periodic studies and desk audits to provide that the
445 classification plan remains reasonably current and reflects the duties and responsibilities
446 assigned to and performed by employees.

447 (ii) The executive director shall determine the schedule for studies and desk audits after
448 considering factors such as changes in duties and responsibilities of positions or agency
449 reorganizations.

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

452 (b) The executive director shall design each pay plan to achieve, to the degree that
453 funds permit, comparability of state salary ranges to salary ranges used by private enterprise
454 and other public employment for similar work.

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

456 (i) Each pay plan shall consist of sufficient salary ranges to permit adequate salary
457 differential among the various classes of positions in the classification plan.

458 (ii) (A) The executive director shall assign each class of positions in the classification
459 plan to a salary range and shall set the width of the salary range to reflect the normal growth
460 and productivity potential of employees in that class.

461 (B) The width of the ranges need not be uniform for all classes of positions in the plan,
462 but each range shall contain merit steps in increments of 2.75% salary increases.

463 (iii) (A) The executive director shall issue rules for the administration of pay plans.

464 (B) The rules may provide for exceptional performance increases and for a program of

465 incentive awards for cost-saving suggestions and other commendable acts of employees.

466 (C) The executive director shall issue rules providing for salary adjustments.

467 (iv) Merit step increases shall be granted, if funds are available, to employees who
468 receive a rating of "successful" or higher in an annual evaluation of their productivity and
469 performance.

470 (v) By October 31 of each year, the executive director shall submit market
471 comparability adjustments to the director of the Governor's Office of Planning and Budget for
472 consideration to be included as part of the affected agency's base budgets.

473 (vi) By October 31 of each year, the executive director shall recommend a
474 compensation package to the governor.

475 (vii) (A) Adjustments shall incorporate the results of a total compensation market
476 survey of salary ranges and benefits of a reasonable cross section of comparable benchmark
477 positions in private and public employment in the state.

478 (B) The survey may also study comparable unusual positions requiring recruitment in
479 other states.

480 (C) The executive director may cooperate with other public and private employers in
481 conducting the survey.

482 (viii) (A) The executive director shall establish criteria to assure the adequacy and
483 accuracy of the survey and shall use methods and techniques similar to and consistent with
484 those used in private sector surveys.

485 (B) Except as provided under Section 67-19-12.3, the survey shall include a reasonable
486 cross section of employers.

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

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

493 (E) The department shall acquire and protect the needed records in compliance with the
494 provisions of Section 35A-4-312.

495 (ix) The establishing of a salary range is a nondelegable activity and is not appealable

496 under the grievance procedures of Sections 67-19-30 through 67-19-32, Title 67, Chapter 19a,
497 Grievance and Appeal Procedures, or otherwise.

498 (x) The governor shall:

499 (A) consider salary adjustments recommended under Subsection (4)(c)(vi) in preparing
500 the executive budget and shall recommend the method of distributing the adjustments;

501 (B) submit compensation recommendations to the Legislature; and

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

504 (xi) If funding is approved by the Legislature in a general appropriations act, the
505 adjustments take effect on the July 1 following the enactment.

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

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

510 (i) the most recent edition of the Employee Benefits Survey Data conducted by the U.S.
511 Chamber of Commerce Research Center; or

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

513 (6) (a) The executive director shall submit proposals for a state employee
514 compensation plan to the governor by October 31 of each year, setting forth findings and
515 recommendations affecting employee compensation.

516 (b) The governor shall consider the executive director's proposals in preparing budget
517 recommendations for the Legislature.

518 (c) The governor's budget proposals to the Legislature shall include a specific
519 recommendation on employee compensation.

520 Section 19. Section **67-19-15** is amended to read:

521 **67-19-15. Career service -- Exempt positions -- Schedules for civil service**
522 **positions -- Coverage of career service provisions.**

523 (1) Except as otherwise provided by law or by rules and regulations established for
524 federally aided programs, the following positions are exempt from the career service provisions
525 of this chapter:

526 (a) the governor, members of the Legislature, and all other elected state officers,

527 designated as Schedule AA;

528 (b) appointed executives and board or commission executives enumerated in Section
529 67-22-2, and commissioners designated as Schedule AB;

530 (c) all employees and officers in the office and at the residence of the governor,
531 designated as Schedule AC;

532 (d) employees who are in a confidential relationship to an agency head or
533 commissioner and who report directly to, and are supervised by, a department head,
534 commissioner, or deputy director of an agency or its equivalent, designated as Schedule AD;

535 (e) unskilled employees in positions requiring little or no specialized skill or training,
536 designated as Schedule AE;

537 (f) part-time professional noncareer persons who are paid for any form of medical and
538 other professional service and who are not engaged in the performance of administrative duties,
539 designated as Schedule AF;

540 (g) employees in the Office of the Attorney General who are under their own career
541 service pay plan under Sections 67-5-7 through 67-5-13, designated as Schedule AG;

542 (h) teaching staff of all state institutions, including educators as defined by Section
543 53A-25b-101 who are employed by the Utah Schools for the Deaf and the Blind, and patients
544 and inmates employed in state institutions, designated as Schedule AH;

545 (i) persons appointed to a position vacated by an employee who has a right to return
546 under federal or state law or policy, designated as Schedule AI;

547 (j) noncareer employees compensated for their services on a seasonal or contractual
548 basis who are hired for limited periods of less than nine consecutive months or who are
549 employed on less than 1/2 time basis, designated as Schedule AJ;

550 (k) those employees in a personal and confidential relationship to elected officials,
551 designated as Schedule AK;

552 (l) employees appointed to perform work of a limited duration not exceeding two years
553 or to perform work with time-limited funding, designated as Schedule AL;

554 (m) employees of the Department of Community and Culture whose positions are
555 designated as executive/professional positions by the executive director of the Department of
556 Community and Culture with the concurrence of the executive director, and employees of the
557 Governor's Office of Economic Development whose positions are designated as

558 executive/professional positions by the director of the office, designated as Schedule AM;
559 (n) employees of the Legislature, designated as Schedule AN;
560 (o) employees of the judiciary, designated as Schedule AO;
561 (p) all judges in the judiciary, designated as Schedule AP;
562 (q) members of state and local boards and councils appointed by the governor and
563 governing bodies of agencies, other local officials serving in an ex officio capacity, officers,
564 faculty, and other employees of state universities and other state institutions of higher
565 education, designated as Schedule AQ;
566 (r) employees who make statewide policy, designated as Schedule AR;
567 (s) any other employee whose appointment is required by statute to be career service
568 exempt, designated as Schedule AS; and
569 (t) employees of the Department of Technology Services, designated as
570 executive/professional positions by the executive director of the Department of Technology
571 Services with the concurrence of the executive director, designated as Schedule AT.

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

573 (a) (i) Schedule A is the schedule consisting of positions exempted by Subsection (1).
574 (ii) Removal from any appointive position under Schedule A, unless otherwise
575 regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

576 (b) Schedule B is the competitive career service schedule, consisting of all positions
577 filled through competitive selection procedures as defined by the executive director.

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

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

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

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

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

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

592 (d) Unless otherwise provided by law, compensation for all other Schedule A
593 employees shall be established by their appointing authorities, within ranges approved by, and
594 after consultation with the executive director of the Department of Human Resource
595 Management.

596 (5) All employees of the Office of State Auditor, the Office of State Treasurer, and
597 employees who are not exempt under this section are covered by the career service provisions
598 of this chapter.

599 Section 20. **Repealer.**

600 This bill repeals:

601 Section **53A-25-101, School for the Deaf.**

602 Section **53A-25-102, Corporate powers.**

603 Section **53A-25-103, Purposes -- Qualifications of pupils.**

604 Section **53A-25-104, Governance and control by board of trustees -- Initial
605 placement of children -- Individualized education programs.**

606 Section **53A-25-105, Meetings of board.**

607 Section **53A-25-107, Board powers -- Bylaws -- Contracts with instructors --
608 Religious and political doctrine.**

609 Section **53A-25-108, Appointment of superintendent and treasurer.**

610 Section **53A-25-109, Qualifications and duties of superintendent -- Removal.**

611 Section **53A-25-110, Fiscal year.**

612 Section **53A-25-111, Annual salary adjustments for school employees -- Benefits.**

613 Section **53A-25-201, School for the Blind.**

614 Section **53A-25-202, Corporate powers.**

615 Section **53A-25-203, Governance and control by board of trustees -- Initial
616 placement of children -- Individualized education programs.**

617 Section **53A-25-204, Subject to same laws as School for Deaf.**

618 Section **53A-25-205, Purposes -- Qualifications of pupils.**

619 Section **53A-25-206, Instruction of adults with visual impairments.**

- 620 Section **53A-25-301, Establishment of council -- Membership.**
- 621 Section **53A-25-302, Appointment and terms of council members -- Powers --**
- 622 **Expenses.**
- 623 Section **53A-25-303, Council meetings -- Officers.**
- 624 Section **53A-25-304, Duties of council.**
- 625 Section **53A-25-305, Dual sensory impairment disability education specialist.**
- 626 Section **53A-25-306, Educational Enrichment Program for Hearing and Visually**
- 627 **Impaired Students -- Funding for the program.**