

HOUSE BILL NO. 13

INTRODUCED BY J. SESSO

BY REQUEST OF THE OFFICE OF BUDGET AND PROGRAM PLANNING

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS GOVERNING STATE EMPLOYEE CLASSIFICATION AND COMPENSATION; REQUIRING THAT EMPLOYEES BE PLACED ON THE NEW BROADBAND PAY PLAN; PROVIDING FOR IMPLEMENTATION OF THE BROADBAND PAY PLAN BY STATE AGENCIES; REPLACING STATUTORY SALARIES FOR LEGISLATORS AND CERTAIN PUBLIC OFFICIALS WITH SALARIES BASED UPON THE BROADBAND PAY PLAN; INCREASING THE EMPLOYER CONTRIBUTION FOR GROUP BENEFITS; APPROPRIATING FUNDS TO IMPLEMENT PAY AND BENEFIT REVISIONS, FOR PERSONAL SERVICES CONTINGENCIES, AND FOR A LABOR-MANAGEMENT TRAINING INITIATIVE; AMENDING SECTIONS 2-6-110, 2-15-131, 2-18-101, 2-18-201, 2-18-202, 2-18-203, 2-18-204, 2-18-206, 2-18-207, 2-18-301, 2-18-303, 2-18-304, 2-18-703, 2-18-1011, 2-18-1204, 5-2-301, 5-2-302, 13-37-106, 15-2-102, 39-51-301, AND 44-1-504, MCA; REPEALING SECTIONS 2-18-205 AND 2-18-312, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-6-110, MCA, is amended to read:

"2-6-110. Electronic information and nonprint records -- public access -- fees. (1) (a) Except as provided by law, each person is entitled to a copy of public information compiled, created, or otherwise in the custody of public agencies that is in electronic format or other nonprint media, including but not limited to videotapes, photographs, microfilm, film, or computer disk, subject to the same restrictions applicable to the information in printed form. All restrictions relating to confidentiality, privacy, business secrets, and copyright are applicable to the electronic or nonprint information.

(b) The provisions of subsection (1)(a) do not apply to collections of the Montana historical society established pursuant to 22-3-101.

(2) Except as provided by law and subject to subsection (3), an agency may charge a fee, not to exceed:

(a) the agency's actual cost of purchasing the electronic media used for transferring data, if the person requesting the information does not provide the media;

(b) expenses incurred by the agency as a result of mainframe and midtier processing charges;

(c) expenses incurred by the agency for providing online computer access to the person requesting access;

(d) other out-of-pocket expenses directly associated with the request for information, including the retrieval or production of electronic mail; and

(e) the hourly market rate for an administrative assistant in pay band 3 of the broadband pay plan, as provided for in 2-18-301, in the current fiscal year ~~for a state employee classified as grade 10, market salary, under 2-18-312~~ for each hour, or fraction of an hour, after one-half hour of copying service has been provided.

(3) (a) In addition to the allowable fees in subsection (2), the department of revenue may charge an additional fee as reimbursement for the cost of developing and maintaining the property valuation and assessment system database from which the information is requested. The fee must be charged to persons, federal agencies, state agencies, and other entities requesting the database or any part of the database from any department property valuation and assessment system. The fee may not be charged to the governor's office of budget and program planning, the state tax appeal board, or any legislative agency or committee.

(b) The department of revenue may not charge a fee for information provided from any department property valuation and assessment system database to a local taxing jurisdiction for use in taxation and other governmental functions or to an individual taxpayer concerning the taxpayer's property.

(c) All fees received by the department of revenue under subsection (2) and this subsection (3) must be deposited in a state special revenue fund as provided in 15-1-521.

(d) Fees charged by the secretary of state pursuant to this section must be set and deposited in accordance with 2-15-405.

(4) For the purposes of this section, the term "agency" has the meaning provided in 2-3-102 but includes legislative, judicial, and state military agencies.

(5) An agency may not charge more than the amount provided under subsection (2) for providing a copy of an existing nonprint record.

(6) An agency shall ensure that a copy of information provided to a requester is of a quality that reflects the condition of the original if requested by the requester.

(7) This section does not authorize the release of electronic security codes giving access to private information."

Section 2. Section 2-15-131, MCA, is amended to read:

"2-15-131. Rights of state personnel. Unless otherwise provided in this chapter, each state officer or

employee affected by the reorganization of the executive branch of state government under this chapter is entitled to all rights ~~which he~~ possessed as a state officer or employee before the effective date of the applicable part of this chapter, including rights to tenure in office and of ~~rank or grade pay~~, rights to vacation and sick pay and leave, rights under any retirement or personnel plan or labor union contract, rights to compensatory time earned, and any other rights under any law or administrative policy. This section is not intended to create any new rights for any state officer or employee but to continue only those rights in effect before the effective date of the applicable part of this chapter or an amendment to this chapter."

Section 3. Section 2-18-101, MCA, is amended to read:

"2-18-101. Definitions. As used in parts 1 through 3 and part 10 of this chapter, the following definitions apply:

(1) "Agency" means a department, board, commission, office, bureau, institution, or unit of state government recognized in the state budget.

~~(2) "Anniversary date", except as modified in part 3 of this chapter, means the month and day on which an employee began the most recent period of uninterrupted state service.~~

~~(3)~~(2) "Base salary" means the amount of compensation paid to an employee, excluding:

- (a) state contributions to group benefits provided in 2-18-703;
- (b) overtime;
- (c) fringe benefits as defined in 39-2-903; and
- (d) the longevity allowance provided in 2-18-304.

(3) "Benchmark" means a representative position in a specific occupation that is used to illustrate the application of the job evaluation factor used to determine the pay band for an occupation.

(4) "Board" means the board of personnel appeals established in 2-15-1705.

(5) "Broadband classification plan" means a job evaluation method that measures the difficulty of the work and the knowledge or skills required to perform the work.

(6) "Broadband pay plan" means a pay plan using a pay hierarchy of broad pay bands based on the broadband classification plan.

~~(5) "Class" means one or more positions substantially similar with respect to the kind or nature of duties performed, responsibility assumed, and level of difficulty so that the same descriptive title may be used to designate each position allocated to the class, similar qualifications may be required of persons appointed to the positions in the class, and the same pay rate or pay grade may be applied with equity.~~

~~(6) "Class series benchmark" means a representative position within a class series that is used to illustrate the application of the job evaluation factors that are used to classify positions in the classification plan. A benchmark description describes the duties and responsibilities assigned and the factors applied to the class series benchmark.~~

~~(7) "Class specification" means a written descriptive statement of the duties and responsibilities characteristic of a class of positions and includes the education, experience, knowledge, skills, abilities, and qualifications necessary to perform the work of the class.~~

~~(8)~~(7) "Compensation" means the annual or hourly wage or salary and includes the state contribution to group benefits under the provisions of 2-18-703.

~~(9)~~(8) "Competencies" means sets of measurable and observable knowledge, skills, ~~abilities~~, and behaviors that contribute to success in a job.

~~(10)~~(9) "Department" means the department of administration created in 2-15-1001.

~~(11)~~(10) (a) Except in 2-18-306, "employee" means any state employee other than an employee excepted under 2-18-103 or 2-18-104 ~~from the statewide classification system.~~

(b) The term does not include a student intern.

~~(12)~~(11) "Entry salary" means the entry-level base salary for each ~~grade provided in 2-18-312 occupational pay range.~~

~~(13) "Grade" means the number assigned to a pay range within a pay schedule in part 3 of this chapter.~~

~~(12) "Job evaluation factor" means a measure of the complexities of the predominant duties of the job.~~

~~(14)~~(13) "Job sharing" means the sharing by two or more persons of a position.

~~(15) "Market ratio" means an employee's base salary divided by the market salary for the employee's pay grade.~~

~~(16)~~(14) "Market salary" means the midpoint in a an occupational pay grade provided in 2-18-312 range, based on the average base salary that other employers pay to employees in comparable occupations as determined by the department's salary survey of the relevant labor market.

~~(15) "Occupation" means a generalized family of jobs having substantially similar duties and requiring similar qualifications, education, and experience.~~

~~(16) "Occupational pay range" means a range of pay, including an entry salary, market salary, and maximum salary, for a specific occupation within a specific pay band. An occupation may have more than one occupational pay range. An occupational pay range must fit within the appropriate pay band.~~

~~(17) "Pay band" means a wide salary range covering a number of different occupations.~~

~~(17)~~(18) "Permanent employee" means an employee who is designated by an agency as permanent and who has attained or is eligible to attain permanent status.

~~(18)~~(19) "Permanent status" means the state an employee attains after satisfactorily completing an appropriate probationary period.

~~(19)~~(20) "Personal staff" means those positions occupied by employees appointed by the elected officials enumerated in Article VI, section 1, of the Montana constitution or by the public service commission as a whole.

~~(20)~~(21) "Position" means a collection of duties and responsibilities currently assigned or delegated by competent authority, requiring the full-time, part-time, or intermittent employment of one person.

~~(21)~~(22) "Program" means a combination of planned efforts to provide a service.

~~(22)~~(23) "Seasonal employee" means a permanent employee who is designated by an agency as seasonal, who performs duties interrupted by the seasons, and who may be recalled without the loss of rights or benefits accrued during the preceding season.

~~(23)~~(24) "Short-term worker" means a person who:

- (a) is hired by an agency for an hourly wage established by the agency;
- (b) may not work for the agency for more than 90 days in a continuous 12-month period;
- (c) is not eligible for permanent status;
- (d) may not be hired into another position by the agency without a competitive selection process; and
- (e) is not eligible to earn the leave and holiday benefits provided in part 6 of this chapter or the group insurance benefits provided in part 7 of this chapter.

~~(24)~~(25) "Student intern" means a person who:

- (a) has been accepted in or is currently enrolled in an accredited school, college, or university and is hired directly by an agency in a student intern position;
- (b) is not eligible for permanent status;
- (c) is not eligible to become a permanent employee without a competitive selection process;
- (d) must be covered by the hiring agency's workers' compensation insurance;
- (e) is not eligible to earn the leave and holiday benefits provided for in part 6 of this chapter or the group insurance benefits provided in part 7 of this chapter; and
- (f) may be discharged without cause.

~~(25)~~(26) "Telework" means a flexible work arrangement where a designated employee may work from home within the state of Montana or an alternative worksite within the state of Montana 1 or more days a week instead of physically traveling to a central workplace.

~~(26)~~(27) "Temporary employee" means an employee who:

- (a) is designated as temporary by an agency for a definite period of time not to exceed 12 months;
- (b) performs temporary duties or permanent duties on a temporary basis;
- (c) is not eligible for permanent status;
- (d) is terminated at the end of the employment period; and
- (e) is not eligible to become a permanent employee without a competitive selection process."

Section 4. Section 2-18-201, MCA, is amended to read:

"2-18-201. Development Implementation and maintenance of personnel broadband classification plan. (1) The department shall ~~develop~~ implement and maintain a ~~personnel~~ broadband classification plan for all state positions ~~and classes of positions~~ in state service ~~following hearings involving affected employees and employee organizations~~, except those exempt in 2-18-103 and 2-18-104.

(2) The legislative council shall in a like manner ~~develop~~ implement and maintain a broadband classification plan for employees of the legislative branch, other than those of the office of consumer counsel."

Section 5. Section 2-18-202, MCA, is amended to read:

"2-18-202. Guidelines for classification. (1) In providing for the broadband classification plan, the department shall group all positions in ~~the~~ state service into defined ~~classes~~ occupations based on similarity of ~~duties~~ work performed, responsibilities assumed, ~~and complexity~~ difficulty of work, required knowledge, and required skills. ~~so that:~~

~~—— (a) similar qualifications of education, experience, knowledge, skill, and ability can be required of applicants for each position in the class;~~

~~—— (b) the same title can be used to identify each position in the class;~~

~~(c)(2) similar~~ Similar pay may be provided ~~under the same conditions with equity to each position within the class~~ to individuals with the same occupation within an occupational pay range.

~~(2) A class may consist of only one position."~~

Section 6. Section 2-18-203, MCA, is amended to read:

"2-18-203. Review of positions -- change in classification pay band allocation. (1) The department shall ~~continuously~~ review all the job evaluation factor of positions on a regular basis and may adjust ~~classifications~~ the occupations for the positions to reflect significant changes in duties and responsibilities. ~~In the event that~~ If

adjustments are to be made to ~~class specifications, class series~~ benchmarks; or criteria used for allocating positions to ~~classes~~ pay bands affecting employees within a bargaining unit, the department shall consult with the representative of the bargaining unit prior to implementation of the adjustments, except for positions factored in the blue-collar and teachers' classification plans pay plan, which ~~plans~~ must remain a mandatory negotiable ~~items~~ item under Title 39, chapter 31.

(2) Employees and employee organizations must be given the opportunity to appeal the allocation or reallocation of a position to a class pay band. The grade pay band assigned to ~~a class~~ an occupation and ~~factors assigned to class series~~ benchmarks are not appealable subjects under 2-18-1011 through 2-18-1013.

(3) The period of time for which retroactive pay for a classification pay band allocation appeal may be awarded under 2-18-1011 through 2-18-1013 or under parts 1 through 3 of this chapter may not extend beyond 30 days prior to the date on which the appeal was filed."

Section 7. Section 2-18-204, MCA, is amended to read:

"2-18-204. Determination of number and classes occupations of employees in each agency. (1) ~~Based on documentation to be submitted by each agency, the~~ The department shall determine the ~~classes of occupations for~~ positions of employees of in each agency or program thereof ~~before the beginning of each fiscal year~~. At any time, upon request of the an agency, the department may amend the ~~classes of positions of employees in any~~ list of occupations for the requesting agency or program thereof.

(2) Based on documentation to be submitted by each agency, the budget director shall determine the number of positions and employees (full-time equivalents) of each agency or program thereof prior to preparation of the executive budget and before the beginning of each fiscal year. At any time, upon the request of the agency, the budget director may amend the number of positions or employees (full-time equivalents) in any agency or program thereof.

(3) This section does not limit legislative authority to amend the determinations of the department or the budget director."

Section 8. Section 2-18-206, MCA, is amended to read:

"2-18-206. List of positions maintained. To facilitate state budgeting and as directed by the budget director, each agency shall maintain a list of current authorized positions, the number of positions in each ~~class~~ occupation, and the salaries or wages being paid, appropriated, or proposed for each ~~class~~ position."

Section 9. Section 2-18-207, MCA, is amended to read:

"2-18-207. Department authorization for increase of ~~salary or wage of class~~ occupational pay range. An agency may not increase the ~~salary or wage~~ occupational pay range of any ~~class of positions~~ occupation without authorization of the department."

Section 10. Section 2-18-301, MCA, is amended to read:

"2-18-301. Purpose and intent of part -- rules. (1) The purpose of this part is to provide the market-based compensation necessary to attract and retain competent and qualified employees in order to perform the services that the state is required to provide to its citizens.

(2) It is the intent of the legislature that compensation plans for state employees, excluding those employees excepted under 2-18-103 or 2-18-104, be based on an analysis of the labor market as provided by the department in a biennial salary survey. The salary survey must be submitted to the office of budget and program planning as a part of the information required by 17-7-111.

(3) Except as provided in 2-18-110, pay adjustments ~~and pay schedules~~ provided for in 2-18-303 ~~and in 2-18-312~~ supersede any other plan or systems established through collective bargaining after the adjournment of the 59th legislature.

(4) Pay ~~levels~~ provided for in ~~2-18-312~~ 2-18-303 may not be increased through collective bargaining after adjournment of the 59th legislature.

(5) Total funds required to implement the pay ~~schedules~~ increases provided for in ~~2-18-312~~ 2-18-303 for any employee group or bargaining unit may not be increased through collective bargaining over the amount appropriated by the 59th legislature.

(6) The department shall administer the pay program established by the legislature on the basis of merit, internal equity, and competitiveness to external labor markets when fiscally able.

(7) The broadband pay plan must consist of nine pay bands. Each pay band must contain a salary range with a minimum salary and a maximum salary. The department shall adopt an entry salary, market salary, and maximum salary for each occupation within each pay band. These salary ranges are also known as occupational pay ranges.

(8) Based on the biennial salary survey, the department shall:

(a) identify current market rates for all occupations;

(b) establish pay band levels; and

(c) set occupational pay ranges for all occupations.

~~(7)(9)~~ The department may promulgate rules not inconsistent with the provisions of this part, collective bargaining statutes, or negotiated contracts to carry out the purposes of this part.

~~(8)(10)~~ Nothing in this part prohibits the board of regents from engaging in negotiations with the collective bargaining units representing the classified staff of the university system."

Section 11. Section 2-18-303, MCA, is amended to read:

"2-18-303. Procedures for using administering broadband pay schedules plan. ~~(1) The pay schedule provided in 2-18-312 must be implemented as follows:~~

~~— (a) The pay schedule provided in 2-18-312 indicates the entry salary and market salary for each grade for positions classified under the provisions of part 2 of this chapter.~~

~~— (b) Each employee newly hired by the state of Montana must be hired at the entry rate, except as provided in subsections (5) through (9).~~

~~(e)(1) (a)~~ On the first day of the first complete pay period in fiscal year ~~2006~~ 2008, each employee is entitled to the amount of the employee's base salary as it was on June 30, ~~2005~~ 2007.

~~(d)(b)~~ Effective on the first day of the first complete pay period that includes ~~an employee's anniversary date during the fiscal year ending June 30, 2006~~ October 1, 2007, the base salary of each employee must be increased by ~~3.5% or \$1,005, based upon 2,080 annual hours in a pay status, whichever is greater~~ 3%. Effective on the first day of the first complete pay period that includes ~~an employee's anniversary date during the fiscal year ending June 30, 2007~~ October 1, 2008, the base salary of each employee must be increased by ~~4% or \$1,188, based upon 2,080 annual hours in a pay status, whichever is greater~~ 3%. ~~For employees hired on or before September 30, 2005, the anniversary date is October 1.~~

(2) (a) Effective October 1, 2007, and October 1, 2008, the appropriation that represents 6/10 of 1% of the salary for each full-time equivalent position must be allocated to each agency to distribute to its employees for reasons including but not limited to market progression, job performance, or employee competencies.

(b) To the extent that this distribution applies to employees within a collective bargaining unit, the distribution is a negotiable subject under Title 39, chapter 31. The amount of money allocated to agencies and available to distribute to members of each bargaining unit must be determined by multiplying the salaries of the total number of full-time equivalents in the bargaining unit by 6/10 of 1%.

(c) The allocation described in subsection (2)(b) may not be distributed to members of a collective bargaining unit until the employer's collective bargaining representative receives written notice that the employee's collective bargaining unit has ratified a pay addendum to the collective bargaining agreement

specifying the distribution.

~~(e)(3)~~ An employee's base salary may be no less than the pay band entry salary for the employee's assigned grade occupation.

~~(2)~~ The pay schedule provided in 2-18-312 and the provisions of subsections (1)(a) through (1)(d) of this section do not apply to those employees who are members of collective bargaining units that have collectively bargained to participate in a separate or alternative classification and pay plan or who are covered under subsections (5) and (6) of this section.

~~(3)(4)~~ (a) (i) If the legislature authorizes a pay increase for state employees, a A member of a bargaining unit may not receive a the pay increase provided for in subsection (1)(b) until the employer's collective bargaining representative receives written notice that the employee's collective bargaining unit has ratified a completely integrated collective bargaining agreement.

(ii) If ratification of a completely integrated collective bargaining agreement, as required by subsection ~~(3)(a)(i)~~ (4)(a)(i), is not completed by the date on which a legislatively authorized pay increase is implemented, members of the bargaining unit must continue to receive the compensation that they were receiving until an agreement is ratified.

(b) Methods of administration ~~not inconsistent~~ consistent with the purpose of this part and necessary to properly implement the pay ~~schedules and~~ adjustments provided for in 2-18-312 and this section may be provided for in collective bargaining agreements.

~~(4)(5)~~ The current wage or salary of an employee may not be reduced by the implementation of the broadband pay ~~schedules~~ plan provided for in 2-18-312.

~~(5)~~ The department may authorize a separate pay schedule for classes of medical professionals if the rates provided in 2-18-312 are not sufficient to attract and retain fully licensed and qualified professionals.

~~(6)~~ (a) The department may develop and implement an alternative pay and classification plan for certain classes, occupations, and work units. Pay for employees in the alternative pay and classification plan may be established and changed based on demonstrated competencies and accomplishments, on the labor market, and on other situations defined by the department.

~~(b)~~ To the extent that the plan applies to employees within a collective bargaining unit, the implementation of the plan is a negotiable subject under 39-31-305.

~~(7)~~ The department may develop programs that enable the department to mitigate problems associated with difficult recruitment, retention, transfer, or other exceptional circumstances. To the extent that the program applies to employees within a collective bargaining unit, it is a negotiable subject under 39-31-305.

~~(8) The department shall review the competitiveness of the compensation provided to all occupations under this part. If the department finds that substantial problems exist with recruitment and retention because of inadequate salaries when compared to competing employers, the department may establish criteria allowing an adjustment in pay or classification to mitigate the problems. To the extent that these adjustments apply to employees within a collective bargaining unit, the implementation of these adjustments is a negotiable subject under 39-31-305.~~

~~(9)(6)~~ (a) Montana highway patrol officer base salaries and biennial salary increases must be established through ~~an alternative pay and classification~~ the broadband pay plan. Before January 1 of each odd-numbered year, the department shall, after seeking the advice of the Montana highway patrol, conduct a salary survey to be used in establishing the base salary and any biennial salary increase for existing and entry-level highway patrol officer positions. The county sheriff's offices in the following consolidated governments and counties are the labor market for purposes of the survey: Butte-Silver Bow, Cascade, Yellowstone, Missoula, Lewis and Clark, Gallatin, Flathead, and Dawson. The base salary and biennial salary increases for existing and entry-level highway patrol officer positions must then be determined by the department of justice, using the results of the salary survey and the department of justice pay plan guidelines. Base or biennial salary increases under this subsection are exclusive of and not in addition to any increases otherwise awarded to other state employees after July 1, 2006.

(b) To the extent that the plan applies to employees within a collective bargaining unit, the implementation of the plan is a negotiable subject under 39-31-305.

(c) ~~The department of justice shall submit the~~ salary survey ~~must be submitted~~ to the office of budget and program planning as a part of the information required by 17-7-111.

(d) ~~(i) Except as provided in subsection (9)(d)(ii), the~~ The salary survey and plan must be completed at least 6 months before the start of each regular legislative session.

~~(ii) The first survey must be completed by January 1, 2006, for the plan to be implemented for the first full pay period in fiscal year 2007."~~

Section 12. Section 2-18-304, MCA, is amended to read:

"2-18-304. Longevity allowance. (1) (a) In addition to the compensation provided for in 2-18-303 ~~or 2-18-312~~, each employee who has completed 5 years of uninterrupted state service must receive 1.5% of the employee's base salary multiplied by the number of completed, contiguous 5-year periods of uninterrupted state service.

(b) In addition to the longevity allowance provided under subsection (1)(a), each employee who has completed 10 years of uninterrupted state service, 15 years of uninterrupted state service, or ~~completed~~ 20 years of uninterrupted state service must receive an additional 0.5% of the employee's base salary for each of those additional 5 years of uninterrupted service.

(c) Service to the state is not interrupted by authorized leaves of absence.

(2) (a) For the purpose of determining years of service under this section, an employee must be credited with 1 year of service for each period of:

(i) 2,080 hours of service following the employee's date of employment; an employee must be credited with 80 hours of service for each biweekly pay period in which the employee is in a pay status or on an authorized leave of absence without pay, regardless of the number of hours of service in the pay period; or

(ii) 12 uninterrupted calendar months following the employee's date of employment in which the employee was in a pay status or on an authorized leave of absence without pay, regardless of the number of hours of service in any month. An employee of a school at a state institution or the university system must be credited with 1 year of service if the employee is employed for an entire academic year.

(b) State agencies, other than the university system and a school at a state institution, shall use the method provided in subsection (2)(a)(i) to calculate years of service under this section.

(3) For the purposes of calculating longevity, employment as a short-term worker does not apply toward years of service."

Section 13. Section 2-18-703, MCA, is amended to read:

"2-18-703. Contributions. (1) Each agency, as defined in 2-18-601, and the state compensation insurance fund shall contribute the amount specified in this section toward the group benefits cost.

(2) For employees defined in 2-18-701 and for members of the legislature, the employer contribution for group benefits is ~~\$460 a month for the period from July 2005 through December 2005, \$506 a month for the period from January 2006 through December 2006, and \$557 a month for from January 2007 through December 2007, \$590 a month from January 2008 through December 2008, and \$626 for January 2009~~ and for each succeeding month. For employees of the Montana university system, the employer contribution for group benefits is ~~\$506 a month for the period from July 2005 through June 2006 and \$557 a month for from July 2006 through December 2007, \$590 a month from January 2008 through December 2008, and \$626 for January 2009~~ and for each succeeding month. If a state employee is terminated to achieve a reduction in force, the continuation of contributions for group benefits beyond the termination date is subject to negotiation under 39-31-305. Permanent

part-time, seasonal part-time, and temporary part-time employees who are regularly scheduled to work less than 20 hours a week are not eligible for the group benefit contribution. An employee who elects not to be covered by a state-sponsored group benefit plan may not receive the state contribution. A portion of the employer contribution for group benefits may be applied to an employee's costs for participation in Part B of medicare under Title XVIII of the Social Security Act, as amended, if the state group benefit plan is the secondary payer and medicare the primary payer.

(3) For employees of elementary and high school districts and of local government units, the employer's premium contributions may exceed but may not be less than \$10 a month. Subject to the public hearing requirement provided in 2-9-212(2)(b), the increase in a local government's property tax levy for premium contributions for group benefits beyond the amount of contributions in effect on the first day of the last fiscal year is not subject to the mill levy calculation limitation provided for in 15-10-420.

(4) Unused employer contributions for any state employee must be transferred to an account established for this purpose by the department of administration and upon transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member.

(5) Unused employer contributions for any government employee may be transferred to an account established for this purpose by a self-insured government and upon transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member or to increase the reserves of the group.

(6) The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit bona fide group insurance plans from providing greater or additional contributions for insurance benefits to employees with dependents than to employees without dependents or with fewer dependents."

Section 14. Section 2-18-1011, MCA, is amended to read:

"2-18-1011. Classification Pay band allocation or compensation grievance -- retaliation -- hearing on complaint. (1) An employee or ~~his~~ the employee's representative affected by the operation of parts 1 through 3 of this chapter is entitled to file a complaint with the board of personnel appeals provided for in 2-15-1705 and to be heard under the provisions of a grievance procedure to be prescribed by the board.

(2) Direct or indirect interference, restraint, coercion, or retaliation by an employee's supervisor or the agency for which the employee works or by any other agency of state government against an employee because the employee has filed or attempted to file a complaint with the board ~~shall is also be~~ is also be the basis for a complaint and ~~shall entitle~~ entitles the employee to file a complaint with the board and to be heard under the provisions of the grievance procedure prescribed by the board.

(3) An action ~~attempting that attempts~~ to revise the ~~class specifications of or series of class specifications~~ determination of a pay band involving and that involves an employee exercising a right conferred by 2-18-1011 through 2-18-1013 in a way ~~which that~~ would adversely affect the employee prior to final resolution or entry of a final order with respect ~~thereto to the action~~ is presumed to be an interference, restraint, coercion, or retaliation prohibited by subsection (2) of this section unless ~~such the~~ review was commenced or scheduled prior to filing of the appeal and was not prompted by the grievance appealed from. The presumption is rebuttable."

Section 15. Section 2-18-1204, MCA, is amended to read:

"2-18-1204. Salary and benefits protection -- employee transfer. An employee whose position is eliminated as a result of privatization, reorganization of an agency, closure of or a reduction in force at an agency, or other actions by the legislature and who is subsequently transferred to a different position in a state agency is entitled to:

- (1) the same hourly salary as previously received if the new position is ~~at the same grade level in the same occupational pay range~~ or higher as the one previously held;
 - (2) retain all accrued sick leave credits;
 - (3) retain, cash out, or use accrued vacation leave credits to extend the employee's effective layoff date;
- and
- (4) relocation expenses as provided in agency policy."

Section 16. Section 5-2-301, MCA, is amended to read:

"5-2-301. Compensation and expenses for members while in session. (1) Legislators are entitled to a salary commensurate to that of the daily rate ~~of an entry grade 10 classified state employee~~ for an employee earning \$10.33 an hour in effect when the regular session of the legislature in which they serve is convened under 5-2-103 for those days during which the legislature is in session. The hourly rate must be adjusted by any statutorily required pay increase. The president of the senate and the speaker of the house must receive an additional \$5 a day in salary for those days during which the legislature is in session.

- (2) Legislators may serve for no salary.
- (3) Subject to subsection (4), legislators are entitled to a daily allowance, 7 days a week, during a legislative session, as reimbursement for expenses incurred in attending a session. Expense payments must stop when the legislature recesses for more than 3 days and resume when the legislature reconvenes.
- (4) After November 15, and prior to December 15 of each even-numbered year, the department of

administration shall conduct a survey of the allowance for daily expenses of legislators for the states of North Dakota, South Dakota, Wyoming, and Idaho. The department shall include the average daily expense allowance for Montana legislators in determining the average daily rate for legislators. The department shall include only states with specific daily allowances in the calculation of the average. If the average daily rate is greater than the daily rate for legislators in Montana, legislators are entitled to a new daily rate for those days during which the legislature is in session. The new daily rate is the daily rate for the prior legislative session, increased by the percentage rate increase as determined by the survey, a cost of living increase to reflect inflation that is calculated pursuant to 15-6-134, or 5%, whichever is less. The expense allowance is effective when the next regular session of the legislature in which the legislators serve is convened under 5-2-103.

(5) Legislators are entitled to a mileage allowance as provided in 2-18-503 for each mile of travel to the place of the holding of the session and to return to their place of residence at the conclusion of the session.

(6) In addition to the mileage allowance provided for in subsection (5), legislators, upon submittal of an appropriate claim for mileage reimbursement to the legislative services division, are entitled to:

- (a) three additional round trips to their place of residence during each regular session; and
- (b) additional round trips as authorized by the legislature during special session.

(7) Legislators are not entitled to any additional mileage allowance under subsection (5) for a special session if it is convened within 7 days of a regular session."

Section 17. Section 5-2-302, MCA, is amended to read:

"5-2-302. Compensation and expenses when legislature not in session. When the legislature is not in session, a member of the legislature, while engaged in legislative business with prior authorization of the appropriate funding authority, is entitled to:

- (1) a mileage allowance as provided in 2-18-503;
- (2) expenses as provided in 2-18-501 and 2-18-502; and
- (3) a salary equal to one full day's pay at the rate of a classified state employee, described in 5-2-301(1) for each 24-hour period of time (from midnight to midnight), or portion thereof of a 24-hour period, spent away from home on authorized legislative business. However, if time spent for business other than authorized legislative business results in lengthening a legislator's stay away from home into an additional 24-hour period, ~~he~~ the legislator may not be compensated for the additional day."

Section 18. Section 13-37-106, MCA, is amended to read:

"13-37-106. Salary. (1) The commissioner of political practices ~~is entitled to receive an annual salary of \$31,551 and beginning October 1, 1997,~~ is entitled to receive a salary ~~equal to the market salary of a grade 18 classified employee as provided in 2-18-312~~ within the occupational pay range, as defined in 2-18-101, determined by the department of administration as provided in subsection (4).

(2) The commissioner is also entitled to longevity, expense reimbursement, leave, insurance, and other benefits provided to classified state employees under Title 2, chapter 18.

(3) The salary of the commissioner may not be reduced during the term for which the commissioner is appointed.

(4) The department of administration shall determine the appropriate occupation and occupational pay range for the commissioner of political practices in the same manner that it determines the occupation and occupational pay range for employees in state government pursuant to Title 2, chapter 18.

(5) The governor shall set the salary of the commissioner of political practices within the occupational pay range established by the department of administration.

(6) The commissioner of political practices must receive pay adjustments consistent with those required by the legislature for state employees in 2-18-303 and 2-18-304."

Section 19. Section 15-2-102, MCA, is amended to read:

"15-2-102. Qualification and compensation. (1) To be appointed a member of the state tax appeal board, a person ~~must shall~~ possess knowledge of the subject of taxation and skill in matters ~~pertaining thereto relating to taxation. No person so appointed~~ A member may ~~not~~ hold any other state office or any office under the government of the United States or under the government of any other state. The person shall devote the entire time to the duties of the office and ~~shall may~~ not hold any other position of trust or profit or engage in any occupation or business interfering or inconsistent with the person's duties. The state tax appeal board is ~~transferred~~ allocated to the department of administration for administrative purposes only as is specified in 2-15-121. However, the board may hire its own personnel, and 2-15-121(2)(d) does not apply.

(2) State tax appeal board members ~~shall must~~ be paid a salary ~~equivalent to that of a grade 17 salary as provided in 2-18-312~~ within the occupational pay range, defined in 2-18-101, determined by the department of administration as provided in subsection (3). State tax appeal board members must receive pay and pay adjustments consistent with those required by the legislature for ~~classified~~ state employees in 2-18-303 and 2-18-304. The member designated as presiding officer as provided for in 15-2-103 must ~~have~~ receive an additional 5% ~~added to the in~~ salary. All members of the board ~~shall must~~ receive travel expenses as provided

for in 2-18-501 through 2-18-503, ~~as amended~~, when away from the capital on official business.

(3) The department of administration shall determine the appropriate occupation and occupational pay range for the state tax appeal board members in the same manner that it determines the occupation and occupational pay range for employees in state government pursuant to Title 2, chapter 18.

(4) The governor shall set the salary of the state tax appeal board members within the occupational pay range established by the department of administration."

Section 20. Section 39-51-301, MCA, is amended to read:

"39-51-301. Administration -- duties and powers of department. (1) It is the duty of the department to administer this chapter and it may adopt, amend, or rescind rules to employ persons, make expenditures, require reports, make investigations, and take action that it considers necessary or suitable in administering this chapter.

(2) The department shall determine its own organization and methods of procedure in accordance with the provisions of this chapter and must have an official seal, which is judicially noticed.

(3) Whenever the department believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly inform the governor and the legislature and make recommendations with respect to the change.

(4) The department and the board may issue subpoenas and compel testimony and the production of evidence, including books and records, in regard to any investigation or proceeding under this chapter.

(5) Employees transferring from the department of revenue to the department as a result of the termination of the delegation of duties associated with unemployment insurance contribution functions are entitled to all rights, including those under 2-15-131, possessed as a state officer or employee before transferring, including rights to tenure in office and of rank or grade, rights to vacation and sick pay and leave, rights under any retirement or personnel plan or labor union contract, rights to compensatory time earned, and any other rights under any law or administrative policy including the State Employee Protection Act. Employees transferring must be considered internal applicants by the department of revenue for recruitment purposes for 1 year from the date of the termination of the delegation of duties associated with unemployment insurance contribution functions.

(6) The department shall succeed the department of revenue in its rights to property relating to the termination of the delegation of duties associated with unemployment insurance contribution functions to the extent that is consistent with federal property transfer policy. The property includes real property, records, office equipment, forms, supplies, and contracts other than the program budget plan with the United States department

of labor.

(7) (a) The termination of the delegation of duties associated with unemployment insurance contribution functions does not affect the validity of any pending judicial or administrative proceeding.

(b) All appeals that have not been heard prior to the termination of the delegation of duties associated with unemployment insurance contribution functions must be made in accordance with the procedures identified in 39-51-1109.

(c) The department must be substituted for the department of revenue and succeed to all audits, determinations, and other actions following the date of the termination of the delegation of duties associated with unemployment insurance contribution functions.

(8) The rights, privileges, and duties of the holders of bonds and other obligations issued and of the parties to contracts, leases, indentures, and other transactions entered into before the termination of the delegation of duties associated with unemployment insurance contribution functions remain in effect, and none of those rights, privileges, duties, covenants, or agreements are impaired or diminished by reason of the delegation of duties. The department is substituted for the department of revenue and succeeds to the rights and duties under the provisions of those bonds, contracts, leases, indentures, and other transactions. The provisions of this subsection do not apply to the program budget plan agreement between the department and the United States department of labor."

Section 21. Section 44-1-504, MCA, is amended to read:

"44-1-504. Special revenue account to partially fund highway patrol officers' salaries -- statutory appropriation. (1) There is an account in the state special revenue fund provided for in 17-2-102.

(2) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department of justice to fund, pursuant to ~~2-18-303(10)~~ 2-18-303(6):

~~(a) an increase in the base salary for the number of highway patrol officer positions existing on June 30, 2006;~~

~~(b)(a)~~ (a) the base salary and associated operating costs for ~~new~~ highway patrol officer positions created after June 30, 2006; and

~~(c)(b)~~ (b) biennial salary increases ~~after June 30, 2006~~, for highway patrol officers."

NEW SECTION. Section 22. Appropriations for broadband classification plan pay implementation.

(1) The following money for the indicated fiscal years is appropriated to the listed agencies to implement the

adjustments provided for in 2-18-303:

	Fiscal Year 2008		Fiscal Year 2009	
	General Fund	Other Funds	General Fund	Other Funds
Legislative Branch	\$200,389	\$44,742	\$462,984	\$92,250
Consumer Council		\$12,502		\$28,965
Judicial Branch	\$601,880	\$27,673	\$1,437,967	\$66,623
Executive Branch	\$6,295,995	\$9,732,127	\$14,945,346	\$22,195,176
University System	\$6,721,057	\$128,372	\$15,194,084	\$279,930
Total	\$13,819,321	\$9,945,416	\$32,040,381	\$22,662,994

(2) The following money is appropriated for the biennium to the office of budget and program planning to be distributed, on October 1 of the fiscal year, to the entities listed in subsection (1) based upon the ratio of FTE in each entity to the ratio of state FTE to be used for market progression and pay for performance or competency:

	Fiscal Year 2008		Fiscal Year 2009	
	General Fund	Other Funds	General Fund	Other Funds
Legislative Branch	\$30,883	\$6,315	\$74,329	\$13,973
Consumer Council		\$2,030		\$4,817
Judicial Branch	\$97,429	\$4,539	\$231,499	\$10,767
Executive Branch	\$935,251	\$1,393,501	\$2,237,827	\$3,297,003
University System	\$944,684	\$15,629	\$2,210,575	\$37,157
Total	\$2,008,247	\$1,422,014	\$4,754,230	\$3,363,717

(3) The following money is appropriated to move employee pay to a minimum of 80% of the market salary for each occupational wage range after pay adjustments are made in October 2007. The appropriation is allocated as follows:

	Fiscal Year 2008		Fiscal Year 2009	
	General Fund	Other Funds	General Fund	Other Funds
Judicial Branch	\$148,750	\$33,690	\$198,333	\$44,919
Executive Branch	\$1,097,186	\$730,365	\$1,462,913	\$973,820
Total	\$1,245,936	\$764,055	\$1,661,246	\$1,018,739

(4) The following money is appropriated for the biennium to the office of budget and program planning, from the designated state fund, to be distributed to agencies when personnel vacancies do not occur, retirement costs exceed agency resources, or other contingencies arise:

	Fiscal Year 2008			
	General Fund	State Special	Federal Special	Proprietary
Personal Services Contingency	\$3,000,000	\$2,400,000	\$500,000	\$100,000

(5) The following money is appropriated for the biennium to the department of administration for a labor-management training initiative:

	Fiscal Year 2008
	General Fund
Labor-Management Training Initiative	\$75,000

NEW SECTION. Section 23. Repealer. Sections 2-18-205 and 2-18-312, MCA, are repealed.

NEW SECTION. Section 24. Effective dates. (1) [Sections 1 through 11, 13 through 23, and 25 and this section] are effective July 1, 2007.

(2) [Section 12] is effective on the first day of the first full pay period in fiscal year 2008.

NEW SECTION. Section 25. Applicability. (1) [Section 12] applies to all current state employees who have 10 or more years of uninterrupted service.

(2) [Sections 16 and 17] apply to legislators for the legislative session convening in January 2009.

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