

HJR 17 – WHAT PAY PLANS ARE AND HOW THEY WERE ESTABLISHED

A Report Prepared for the
Legislative Finance Committee

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INTRODUCTION

The 2013 Legislature passed HJ 17, a study resolution of the state pay plans. Identified in the resolution was an examination of what a pay plan is and how they are established. The purpose of this report is to provide information on several questions related to this topic including:

- What is a pay plan?
- What pay plans are currently operating in state government, what is the history and timeline of the establishment of each plan?
- How are the various plans administered?
- What are the policies and requirements for each plan?
- How did the previous system of grades and steps work and what were the deficiencies identified that resulted in the broadband pay plan?
- What are the challenges to the broadband pay plan?
- What types of pay plans are used in the surrounding states?

WHAT IS A PAY PLAN?

A pay plan is the system developed to compensate employees for services rendered an employer. In Montana, statute outlines personnel administration as programs for recruitment and selection of capable persons for employment and for the improvement of employee effectiveness. Within Montana state government the term “compensation” refers to the combination of salaries and benefits provided employees. Compensation includes salary, holiday, vacation, and sick leave as well as benefits consisting of state contributions for health insurance and retirement, the employer share of social security and Medicare, and payment of unemployment insurance and workers’ compensation insurance premiums.

Benefits and Paid Leave

While the state has a number of pay plans, other requirements govern benefits and paid leave.

- The awarding of holiday, vacation, and sick leave is consistent among state agencies regardless of the pay plan, with the exception of the Montana State Fund
 - The Montana State Fund uses an alternative personal leave plan that allows employees 21 days of personal leave accrued annually and six days of extended leave accrued annually for serious medical need
- Federal law governs payment of the employer and employee share of social security and Medicare regardless of the pay plan
- State statutes, state agency experience, and other factors determine the premium rates for unemployment insurance and workers’ compensation insurance
- Monthly contribution amounts for the state share of employee health insurance premiums are outlined in statute and considered separately in the pay plan bill each legislative session
- Employer and employee contributions to retirement systems are outlined in statute and are governed by the employee eligibility for a specific retirement system not by the pay plan

Because consistent treatment for all state employees throughout Montana state government is governed by these requirements, , paid leave and benefits are not discussed further in this report.

WHAT PAY PLANS DOES MONTANA HAVE?

To address the number and variety of positions needed to conduct the work of state government, a number of compensation plans, also known as pay plans, have been approved. By statute, the pay program is to be based on competency, internal equity, and competitiveness when fiscally able. As of August 28, 2013 the employees included in each pay plan were:

- 1) Broadband pay plan – 11,706 employees;
- 2) Judicial Branch pay plan – 383 employees;
- 3) Commissioner of Higher Education pay plan – 88 employees;

- 4) Exempt (non-classified) employees – 1,156 employees, which includes elected officials;
- 5) Blue collar classification plan – 747 employees;
- 6) Legislative Branch pay plan – 151 employees; and
- 7) State Fund pay plan – 276 employees.

It should be noted that the number of employees listed above is all employees, including regular, seasonal, temporary, short term workers, and student interns. Therefore, the actual full-time-equivalent (FTE) will likely differ.

Evolution of the Various Pay Plans

The various pay or classification plans were established independently of each other beginning in the 1970s. This section of the report discusses each of the various plans, and outlines the initial establishment of each plan and the history and time period related to the evolution of the current compensation plans used by the State of Montana.

Broadband Pay Plan

According to statute 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. The broadband pay plan has nine broad pay bands and competitive pay zones.

History

The 1973 Legislature required the Department of Administration to develop a classification plan. The plan eventually consisted of 25 grades with 13 steps in each grade. The steps corresponded with the number of years an employee was in their position. In addition to any changes in the pay for each grade provided by the legislature and/or any pay grade changes, employee salaries were increased as they moved through the various steps. Until 1997 the executive was required to include a schedule showing the number of employees that were given a pay grade change and the net cost to the agency for the biennium as part of the budget data available to the legislature.

The Legislative Fiscal Division has previously examined the change from this classification plan to the use of the broadband pay plan. The following edited excerpts from Alternative Compensation Plan (Broadbanding) issued in June 2002 discuss the reasons and timeline for the establishment of the broadband pay plan.

Prior to 1991, employees' pay was determined by a 25-grade, 13-step classification and compensation system. Based upon a salary matrix, employees were rewarded for the amount of time they devoted to state service. This combination of grade and "steps" was used to "promote" employees within a pay grade. Under this system, a grade 12 with 8 steps would earn more than a grade 12 with 6 steps. The reasoning behind the plan was that when an employee spent more time in a position, he or she became more valuable as experience was earned. The compensation system (Statewide Classified Plan) used for most state employees consisted of a job evaluation methodology with seven factors¹ for determining job placement in the compensation system. By using this seven-factor process, each job was classified into a pay grade.

The legislature began to question the effectiveness of paying employees based upon the amount of time spent within a particular grade. Instead of paying employees based upon time, the legislature explored a pay and classification system based upon competitive labor markets. While the 25-grade system with step salary increases was in place, the legislature directed staff to study the state employee classification and compensation system. Consequently, during the 1989/1990 interim, a study of the system was conducted that involved a large committee made up of representatives from the private sector, state agencies, and legislative staff. Legislative staff documented the study in a report titled, Montana State Employee Compensation: A Market-Based Plan.

¹ Job complexity; working conditions; occupational knowledge; skills and abilities; management and supervision of others; supervision received; scope and effect; and personal contacts

The interim study report discussed three major problem areas in the classification and compensation system discussed above: 1) state salary ranges were not competitive with the external labor market (other Montana employers and other state governments); 2) the 13-step design of the then-existing structure created inequities between individual employees and compressed the pay distribution at certain step levels; and 3) the structure didn't allow for general salary increases to keep pace with changes in the market and progression increases to move employees through the pay ranges. The study concluded that low state salaries compared to the regional market were contributing to recruitment and retention issues. The study also identified that the employee compensation plan contributed to: 1) pay inequities between individual employees and the market; and 2) instances where experienced employees were being paid less than new employees.

Based on the study, the legislature began the development of a new, more flexible compensation system for state employees.

- In 1990, step progressions were removed as part of the state pay plan
- In 1995, legislation was adopted that substituted a target market ratio factor to the market salary for the grade. The target market ratio was first determined using a formula. However, later pay plan bills included the ratio in a table that used years of uninterrupted state service and pay grade
- The 1997 Legislature allowed development of pilot projects exploring alternative pay plans
- The 1999 Legislature included competencies as part of state alternative pay plan, allowing pay based on competency, accomplishments, and the labor market
- The 2001 Legislature passed legislation approving an alternative compensation and classification plan to provide for market-based compensation known as the broadband pay plan. This allowed state agencies to choose between pay plans, the statewide plan, or the broadband pay plan
- The 2007 Legislature required that, except for exempt positions and those classified as blue collar, all positions be grouped into occupations and that the occupations be placed in pay bands, meaning that all employees were to be part of the broadband pay plan.²
- The 2007 Legislature included a separate appropriation of \$2.0 million in FY 2008 and \$2.7 million in FY 2009 in HB 13 for moving employees to 80% of the market salary for each occupational wage range. Appropriations of \$3.4 million in FY 2008 and \$8.1 million in FY 2009 were also included in the bill for state agencies to use for market progression, pay for performance, or competency. The amount of this appropriation was determined based on 6/10 of 1% of the salary for each full-time equivalent position

Exempt Employees

In 1973 the legislature required a classification plan and also provided for exemptions to the requirement.

Originally the following groups were exempted from the statewide classification plan:

- Elected officials and their chief deputy and executive secretary
- Officers and employees of the Legislative Branch
- Judges and employees of the Judicial Branch
- Members of boards and commissions appointed by the Governor, appointed by the legislature, or appointed by other elected state officials
- Officers or members of the militia
- Agency heads appointed by the Governor
- Academic and professional administrative personnel with individual contracts under the authority of the Board of Regents of Higher Education
- Personal staff of elected officials

² See Appendix A for 2-18-103, MCA and 2-18-104 MCA outlining the exceptions. In addition, 2-18-203, MCA requires that the State Human Resource Division review the job evaluation factor for positions on a regular basis. If adjustments are to be made to benchmarks or criteria used for allocating positions to pay bands the statute contains an exception for positions factored in the blue-collar pay plan which must remain a mandatory negotiable item effectively exempting blue collar occupations from the broadband pay plan.

Those employees with a separate pay plan (including the Legislative and Judicial Branches, the Office of the Commissioner of Higher Education, and the Montana State Fund) are not included in the exempt employee category. The employees of the Legislative and Judicial Branches and Montana University System (MUS) are exempted due to separation of powers required under the Montana Constitution. The Legislative Branch pay plan and the Judicial Branch pay plan are discussed in detail later in the report. The MUS pay plan is not included in the report as it is under the authority of the Board of Regents. Officers and members of the militia (National Guard) are paid by the federal government and as a result are not considered state employees. Statewide elected officials including Supreme Court Justices and the district court judges are paid according to a salary survey conducted by the Department of Administration. Salaries for Representatives of the House and Senators also have their salary outlined in statute.

Agency director salaries are determined at the discretion of the Governor and have been since the implementation of the statute. In addition, historically each elected official is granted personal staff. Personal staff salaries are determined at the discretion of the elected official. Supreme Court justices and district court judges do not have personal staff exempt from the Judicial Branch pay plan.

Figure 1 shows the exempt employees by exemption type.

Figure 1

Exempt Positions by Category As of August 28, 2013		
Category	Number	% of Total
Agency Head	18	1.56%
Board of Education	76	6.57%
Board of Investments	8	0.69%
Boards and Commissions	1	0.09%
Chief Business Development Officer	1	0.09%
Consumer Counsel	7	0.61%
Elected Officials	215	18.60%
Emergency National Guard	5	0.43%
Judicial Administrator	1	0.09%
Oil and Gas Conservation Board	3	0.26%
Other Professionals	38	3.29%
Personal Staff	87	7.53%
Policy Specialists	4	0.35%
Short-term workers	591	51.12%
Student interns	50	4.33%
Teachers - Montana School for the Deaf and Blind	51	4.41%
Total Exempt Positions	1,156	100.00%

Since the adoption of the original language a number of employees were added as exemptions from the classification plan. The largest number was included in 2005 with the exemption of some employees within the newly created Office of the Public Defender. See Appendix B for a listing of the various exemptions and the year the statute was changed.

In addition, short-term workers and student interns are not considered regular employees and as such are not under the broadband pay plan. As shown in Figure 1, the various state agencies had 591 short-term workers or 51% of the exempt positions and 50 student interns reported as of August 28, 2013. For a listing of the exempt positions by agency see Appendix C.

Blue Collar Classification Plan

The blue collar pay plan started in the Department of Transportation (DOT) as part of settlement negotiations with the International Brotherhood of Teamsters around 1976. The plan was developed based on a job factoring system for the Anaconda Company. The factors include:

- Education and trade knowledge
- Experience
- Initiative and ingenuity
- Physical demands
- Mental or visual demands
- Responsibility for equipment or process
- Responsibility for material or produce
- Responsibility for safety of others
- Responsibility for work of others

- Working conditions
- Hazards

Each factor includes five degrees or levels of requirements. In addition, “working conditions” also has seven subfactors that are assessed based on degree of exposure. (For a more detailed discussion, see Appendix D.)

As the number of the degree increases the requirements also increase, requiring a higher level of skill, knowledge, and experience. Once the job is factored it is placed into a grade, each of which has a defined pay schedule. At this time, the plan has 14 grades.

For a period of time the labor relations staff within the division negotiated separately with each trade group and union such as unions representing electricians, plumbers, painters, or snow plow operators. In many state agencies the various groups have formed craft councils and the negotiations are conducted with the craft council members rather than each trade individually.

During the period that the statewide classification plan was used, the pay schedule for blue-collar occupations was included in 2-18-315, MCA. This statute was repealed by the 2005 Legislature.

Judicial Branch

Prior to 2001 when the state assumed the district courts, the Judicial Branch did not use an established classification plan. The state assumed county employees of both the trial courts and the youth court. The number of employees within the branch grew from 119.25 FTE (including more than 40 elected judges) to 357.43 FTE. Employees assumed by the branch included:

- 108.48 FTE district courts
- 129.70 FTE youth courts

For FTE added by Judicial Branch in 2001 see Appendix F.

SB 176 of the 2001 Legislature required that employees transferred to the state retain the compensation they received while working for the county. This resulted in disparities between employees within the branch as various counties compensated employees performing the same duties in the same positions at varying amounts. The Judicial Branch contracted with the National Center for State Courts in 2002 to develop a classification plan for the branch. The classification plan was adopted in 2003. However, the branch was unable to implement all of the components of the plan because of the costs.

In 2005 the branch was sued for an equal pay violation; the case was ultimately dismissed. The case centered around an employee that was receiving between \$2 and \$3 an hour less than an employee in the same position with fewer years of service. The 2007 Legislature provided \$0.3 million in FY 2008 and \$0.4 million in FY 2009 for the branch to equalize pay among its employees in the District Court Operations Program.

Unlike the Legislative and Executive Branches, the Judicial Branch has not regularly examined the competitiveness of its employees’ salaries through a salary survey (the methodology for determining judges’ salaries is included in statute). Instead, the Judicial Branch has focused on internal salary equity.

In 2013 the Judicial Branch contracted for a pay plan study. The purpose of the study was to review the classification system, the pay ranges of the employees compared to the market, and to make recommendations on potential changes for the branch. Results of the study are expected by the end of September.

Legislative Branch

Until 1995 the individual divisions within the Legislative Branch administered the pay for their employees separately, working with the three standing committees of the legislature that each division reports to. Following consolidation, the branch adopted a single pay plan for its employees in 1996, which included a classification plan as required by statute. The branch moved to a broadband classification plan in 2007 when the

legislature adopted the broadband plan for all executive branch state agencies with noted exceptions. This broadband classification plan was adopted separately from that of the Executive Branch

As part of its pay plan the Legislative Branch conducts a biennial salary survey to determine market competitiveness for its positions, similar to the process used by the Executive Branch. For further information on the differences see HJR 17 – Data Related to Pay Plans.

Montana State Fund (MSF)

Until 1989, workers' compensation insurance was provided by the State Compensation Insurance Fund as a bureau under the Workers' Compensation Division of the Department of Labor and Industry. The 1989 Legislature separated the workers' compensation function from the Department of Labor and Industry and created the State Compensation Mutual Insurance Fund as a nonprofit, independent public corporation. At the same time the legislature exempted the employees of the newly created mutual insurance fund from the requirements of the statewide classification plan.

The establishment of the agency's pay plan has been at the direction of the Board of Directors of the Montana State Fund (MSF) since that time. MSF's compensation program is a market based, pay for performance plan. In 1993 MSF contracted for job classification and benchmarking. The consultant conducts an annual salary survey using other state funds and private insurance companies.

The Montana State Fund Board also approved an executive incentive plan in FY 1995. Between 1997 and 1998, the management team was included in the plan. The amount of the incentives is determined through a weighted formula depending on MSF achievement of incentive targets. This was changed to an employee incentive plan in FY 2002. In its June 2013 board meeting the Montana State Fund Board eliminated the use of the employee incentive program from FY 2014 forward.

HOW ARE THE PLANS ADMINISTERED?

As discussed above, the pay plans that were developed for exempt employees are administered by directors or boards of directors of the applicable state agency, set in statute, or in the case of the elected officials determined through a statutorily required process. The Blue Collar Classification Plan administration is outlined in the negotiated settlement for each union or craft council. This section of the report discusses the administration of the broadband pay plan developed for executive branch employees.

State Human Resources Division Oversight and Authority

The Department of Administration through the State Human Resources Division is responsible, among other duties, for :

- Providing leadership in the development of effective personnel administration for state agencies which includes developing effective policies for the administration of the broadband pay plan. It does not include ensuring that the policies and requirements are adhered to by state agencies as enforcement is not included as one of the duties of DOA
- Developing programs for recruitment and selection of eligible candidates for state employment
- Investigating the operation and effect of the broadband pay statues related to state employee classification, compensation, and benefits. Once the investigation is completed the division is to report the results and potential recommendations to the Governor

As discussed above, the division can delegate authority to state agencies if the state agency has demonstrated the ability to carry out the requirements. One of the areas that is delegated is the administration of state agency classification plans. In this regard, the division has issued two Montana Operating Manual (MOM) policies related to broadband pay plan to provide state agencies guidance in pay plan administration:

- Broadband Classification Policy providing guidelines and requirements for the broadband classification plan
- Broadband Pay Plan Policy providing guidelines and requirements for agencies when creating pay rules

State Agency Oversight and Authority

The broadband pay plan policy issued by DOA provides guidelines and requirements for agencies when creating pay rules for the plan. Each agency is to design, implement, and administer written pay rules. The pay rules must:

- Be fiscally responsible, actively managed, and consistent with the agency's mission and objectives
- Identify procedures to implement all aspects of pay
- Be filed with DOA

Under the broadband pay plan state agencies establish:

- Pay philosophy
- Pay plan rules
- Pay ranges
- Base pay
- Methods for pay placement and progression
- Types of pay adjustments

Under the broadband classification policy state agencies determine:

- Job descriptions for the positions within the agency
- Occupation and pay band for the position based on the complexity of the work and the knowledge and skills required to do the work
- Reclassification of positions based on changes in job duties

To determine the placement of positions within occupations and related pay ranges state agencies have the authority to develop job descriptions for each of their positions. Once the description is complete, managers use the information included in the job description to place the position onto the related pay range. The State Human Resources Division (SHRD) certifies trained classifiers, who are individuals who receive training in the methodology used to classify positions on the broadband pay plan for individual agencies. The training is completed over the period of a year during which SHRD staff monitor the work of the trainee and review their results. At the end of the year, classifiers must pass a test.

Should an employee disagree with the classification of their position, they can appeal. SHRD staff review classifications if they are appealed. In addition, classifiers are required to comply with standards and policies developed by DOA. However, SHRD does not audit position classifications which are not the subject of appeal once a classifier has been trained.

Classifying positions correctly and appropriately placing the positions onto the pay bands drives the pay system, costs of personal services, and measurement of the competitiveness of salaries. In most cases this is done individually by state agencies, which may allow for differences in the job descriptions between agencies and differences in classification of positions on the various pay bands.

WHAT ARE THE CHALLENGES FOR THE BROADBAND PAY PLAN?

Increased Personal Services Costs Not Considered By Previous Legislature

The broadband pay plan grants flexibility to state agencies that can result in an increase to the personal services base used to develop budgets. If a state agency awards an employee a broadband pay raise in the base year, the new base salary that includes the raise is used to project the annual costs of the position in the upcoming biennia. This flexibility can create difficulties and complexities that make it difficult to control personal service costs. The LFD estimated changes in pay awarded in FY 2012 increased personal services costs by more than 5.8% in FY 2014. While the state agency must be able to fund the changes in the current biennium, the legislature is expected to provide additional funding for the increases in the next biennium. The Legislative Finance Committee is currently discussing options for funding personal services. The recommendations made through this process can be forwarded to the full legislature as part of the HJR 17 recommendations.

Competitiveness Among State Agencies

By statute, the pay program is to be based on competency, internal equity, and external competitiveness *when fiscally able* (emphasis added). The SHRD defines internal equity as job related qualifications and existing pay relationships within the agency. External competitiveness includes other state agencies. There can be wide discrepancies among agencies that in some cases can result in agencies paying different amounts for comparable duties.

For example, attorneys within the Department of Justice (DOJ) and the Office of the Public Defender (OPD) are classified in pay bands 7 and 8. An attorney within the Department of Justice assists county attorneys in the determination of whether a case is eligible for the death penalty and provides assistance to the county attorney in the case. If a defendant is found guilty the DOJ attorney is responsible for all proceedings after imposition of a sentence of death. Attorneys within DOJ that handle death penalty cases are classified in pay band 8. At June 5, 2012 attorneys within DOJ in pay band 8 were at 62.74% of the market midpoint of \$125,980. An attorney within the Office of the Public Defender may handle the case for the accused in the death penalty case. If the defendant is found guilty the OPD attorney within the Appellate Defender's Office handles the appeal and other proceedings. At June 5, 2012 all attorneys representing clients in the OPD were in pay band 7 at 59.95% of the market midpoint of \$90,930.³

To further complicate the discussion, other agencies have appropriately classified attorneys at pay band 7 that do not have comparable duties as discussed above. Attorneys within the Department of Administration are also included in pay band 7 but rather than working in the criminal system the work they do may set legal precedence for a single issue within the legal system. Attorneys within DOA in pay band 7 were at 79.89% of the market midpoint.

To further examine differences between state agencies two tables are presented:

- Personal service changes between FY 2013 and FY 2014
- Percentage of the 2012 market midpoint using the average hourly base pay

Figure 2 shows average changes in personal services costs for each state agency between what was budgeted in FY 2013 and the funding requested by agencies in FY 2014. The chart shows the impacts of agency personal services increases prior to legislative appropriation decisions. There are likely a number of reasons for the differences shown, including the fiscal resources available to an agency. Therefore, the table also shows the primary funding source within the agency.

³ It should be noted that the legislature worked to address some of the pay related issues within OPD by providing funding for a career ladder for its attorneys. Further discussion of the changes implemented in FY 2014 will be provided to the LFC in December.

Figure 2

Personal Services Changes Between Budgeted FY 2013 and Proposed FY 2014		
Agency	Primary Funding Source	Percentage Change
Legislative Branch	General Fund	-0.68%
Consumer Counsel	State Special	3.95%
Judicial Branch	General Fund	0.40%
Governor's Office	General Fund	5.35%
Secretary of State	Proprietary	1.04%
Commissioner of Political Practices	General Fund	2.85%
State Auditor	State Special	6.18%
Office of Public Instruction	General Fund	0.65%
Board of Crime Control	Federal Funds	4.72%
Department of Justice	State Special	3.50%
Public Service Commission	State Special	1.96%
Board of Public Education	General Fund	-3.43%
Commissioner of Higher Education	General Fund	7.36%
Montana School for the Deaf and Blind	General Fund	-1.14%
Montana Arts Council	Federal Funds	10.68%
Montana State Library	General Fund	0.55%
Montana Historical Society	General Fund	0.97%
Fish, Wildlife, & Parks	State Special	5.07%
Department of Environmental Quality	State Special	0.84%
Department of Transportation	Federal Funds	1.14%
Department of Livestock	State Special	1.42%
Department of Natural Resources and Conservation	State Special	2.61%
Department of Revenue	General Fund	3.69%
Department of Administration	General/State Special	2.66%
Montana State Fund	Proprietary	5.28%
Office of the Public Defender	General Fund	0.82%
Department of Agriculture	State Special	5.32%
Department of Corrections	General Fund	1.01%
Department of Commerce	Federal Funds	13.40%
Department of Labor & Industry	State Special	5.17%
Department of Military Affairs	Federal Funds	5.07%
Department of Public Health and Human Services	Federal Funds	<u>5.16%</u>
Total		5.08%

Figure 3 shows the percentage of market for each agency as of June 2012, which is the date of the last biennial market survey, and the primary source of funding for each agency.

Figure 3

State Agencies Average of Hourly Base Pay As of 6/5/2012 Compared to 2012 Market Midpoints		
Agency	Primary Source of Funding	% of 2012 Market Midpoint
Governor's Office	General Fund	93.11%
Secretary of State	Proprietary	85.64%
Commissioner of Political Practices	General Fund	84.67%
State Auditor's Office	State Special	88.00%
Office of Public Instruction	General Fund	82.38%
Department of Justice	State Special	86.57%
Public Service Commission	State Special	86.74%
Board of Public Education	General Fund	82.87%
School for the Deaf and Blind	General Fund	99.49%
Montana Arts Council	Federal Funds	98.27%
Montana State Library	General Fund	84.97%
Montana Historical Society	General Fund	84.63%
Department of Fish, Wildlife, & Parks	State Special	87.79%
Department of Environmental Quality	State Special	85.67%
Department of Transportation	Federal Funds	89.18%
Department of Livestock	State Special	77.68%
Department of Natural Resources	State Special	83.59%
Department of Revenue	General Fund	81.24%
Department of Administration	General/State Special	84.68%
Office of the Public Defender	General Fund	67.29%
Department of Agriculture	State Special	86.39%
Department of Corrections	General Fund	89.39%
Department of Commerce	Federal Funds	82.31%
Department of Labor and Industry	State Special	92.25%
Department of Military Affairs	Federal Funds	84.49%
Department of Public Health and Human Services	Federal Funds	<u>87.09%</u>
Total		86.71%

There are many factors that play into the salary level of state workers including the entry level salary paid for positions, workload, and the workers' achievement of certain educational and experiential milestones as their career in state government progresses. However, the percentage of market midpoint for a state agency can provide the legislature with measurable data that can be used as part of the legislative discussion on personal services appropriation.

The differences in the attainment of the market midpoint may pose challenges for the legislature in terms of ensuring that state agencies are treated equitably in relation to appropriations for personal services. The Legislative Finance Committee will receive a staff report examining the attainment of market for state agencies once HB 13 is fully implemented. That report is currently scheduled for the December 2013 LFC meeting.

Classification Process

The total cost of the salaries for state government was \$1.2 billion over the 2013 biennium. While the State Human Resource Division may randomly review the job descriptions and pay band placement, it should be noted that a comprehensive audit to review the classification of occupations and placement of the occupations on the related pay bands has not been done since the broadband pay plan became the state's predominate pay system six years ago. (Pay Plan 20 06P-06) In addition, in the Personal Services Analysis report issued by the

LFD in September 2013, it was noted that it appears variations exist in how state agencies code changes in salaries. Such a review could examine:

- Consistency of the classification process followed by individual agencies
- Analysis and classification of jobs onto pay bands
- Pay band placement for similar occupations

In addition the appropriateness of the coding of pay changes could be examined.

The Legislative Finance Committee may wish to consider requesting that the Legislative Audit Division perform or contract for an audit of the classification of occupations and pay grades to ensure consistency and accuracy of the state's primary pay system.

SUMMARY

When the legislature adopted the use of the broadband pay plan for the majority of state employees, it granted state agencies a great deal of flexibility under broad guidelines and goals. The plan was primarily intended to provide agencies with a flexible tool that could:

- Reward employee performance
- Allow agencies to address market factors that contribute to recruitment and retention problems

At the same time, the broad guidelines and flexibility have resulted in some challenges in regard to the broadband pay plan including:

- Development and administration of individual pay plans by each state agency that may result in differences in pay ranges, base pay, methods for pay placement and progression, and types of pay adjustments
- Development of agency position classification that may result in differences in job descriptions between agencies as well as difference in position placement on the pay bands
- Increased personal services costs that come about due to broadband pay increases that were authorized under statute but not specifically funded through legislative appropriation by the previous legislature
- Differences among state agencies in the attainment of the market midpoint for occupations within the agency

Legislative Options

The Legislative Finance Committee may wish to consider:

- Requesting that the Legislative Audit Committee include a performance audit of the broadband pay plan classification of occupations and placement of occupation on the pay bands, including consistency among state agencies
- Requesting a bill to include enforcement of broadband pay and classification policies as one of the duties of DOA to ensure that the policies and requirements are adhered to by state agencies
- Recommendations to the 2015 Legislature for the use of the percentage of market as part of the consideration of the funding of personal services appropriations

APPENDIX A – CURRENT STATUTORY EXCEPTIONS TO BROADBAND

2-18-103. Officers and employees excepted. Parts 1 through 3 and 10 do not apply to the following officers and employees in state government:

- (1) elected officials;
- (2) county assessors and their chief deputies;
- (3) employees of the office of consumer counsel;
- (4) judges and employees of the judicial branch;
- (5) members of boards and commissions appointed by the governor, the legislature, or other elected state officials;
- (6) officers or members of the militia;
- (7) agency heads appointed by the governor;
- (8) academic and professional administrative personnel with individual contracts under the authority of the board of regents of higher education;
- (9) academic and professional administrative personnel and live-in house parents who have entered into individual contracts with the state school for the deaf and blind under the authority of the state board of public education;
- (10) investment officer, assistant investment officer, executive director, and five professional staff positions of the board of investments;
- (11) four professional staff positions under the board of oil and gas conservation;
- (12) assistant director for security of the Montana state lottery;
- (13) executive director and employees of the state compensation insurance fund;
- (14) state racing stewards employed by the executive secretary of the Montana board of horseracing;
- (15) executive director of the Montana wheat and barley committee;
- (16) commissioner of banking and financial institutions;
- (17) training coordinator for county attorneys;
- (18) employees of an entity of the legislative branch consolidated, as provided in 5-2-504;
- (19) chief information officer in the department of administration;
- (20) chief business development officer and six professional staff positions in the office of economic development provided for in 2-15-218;
- (21) chief public defender appointed by the public defender commission pursuant to the Montana Public Defender Act, Title 47, chapter 1, and the employees in the positions listed in 47-1-201(3)(a), who are appointed by the chief public defender; and
- (22) chief appellate defender in the office of appellate defender.

2-18-104. Exemption for personal staff -- limit. (1) Subject to the limitations in subsections (2) and (3), members of a personal staff are exempt from parts 1 through 3 and 10.

(2) The personal staff who are exempted by subsection (1) may not exceed 10 unless otherwise approved by the department according to criteria developed by the department. Under no circumstances may the total exemptions of each elected official exceed 15.

(3) The number of members of the personal staff of the public service commission who are exempted by subsection (1) may not exceed 10.

APPENDIX B – ADDITIONAL EXEMPT POSITIONS ADDED SINCE 1973

Since 2-18-103, MCA was passed by the legislature a number of other exemptions have been added. The following shows the positions and the dates they were added or removed:

- Academic and professional administrative personnel who have entered into individual contracts with the Montana School for the Deaf and Blind under the authority of the Board of Public Education (1975)
- Legal services staff and the special assistant attorneys general under the direct control of the attorney general (1977)
- Teachers under the authority of the Department of Institutions (1977) (currently the Departments of Corrections and Public Health and Human Services)
- County assessors and their chief deputies (1979)
- Investment officer and assistant investment officer of the Board of Investments (1979)
- Four professional staff positions under the Board of Oil and Gas Conservation (1979)
- Added live-in house parents to the exception granted for the Montana School for the Deaf and Blind (1983)
- Director for security within the Montana State Lottery(1987)
- Added executive director and three professional staff positions to the exception of the Board of Investments (1987)
- Executive director and senior investment officer of the Montana Board of Science and Technology Development (1989)
- Executive director and employees of the State Compensation Mutual Insurance Fund (1989) changed to State Compensation Insurance Fund (1993)
- State racing stewards employed by the executive secretary of the Montana Board of Horseracing (1991)
- Executive director of the Montana Wheat and Barley Committee (1991)
- Commissioner of Banking and Financial Institutions (1993)
- Training coordinator for county attorneys (1995)
- Employees of the Office of the Consumer Counsel (1995)
- Removed executive director and senior investment officer of the Montana Board of Science and Technology Development (1995)
- Added two additional employees to the exempt professional staff of the Board of Investments bringing the total to five (1997)
- Removed teachers under the authority of the Departments of Corrections and Public Health and Human Services from the exemptions (1997)
- Chief information officer in the Department of Administration (2001)
- Chief business development officer and six professional staff positions in the Office of Economic Development (2001)
- Chief public defender appointed by the Public Defender Commission and employees of the Public Defender Office (2005)
- Chief appellate defender (2011)

APPENDIX C – EXEMPT POSITIONS BY AGENCY

Exempt Employees As of August 28, 2013		
Agency	Positions	# of Positions
Consumer Counsel	Professional and Technical Staff	7
Legislative Branch	Representatives and Senators	149
Judicial Branch	Chief Justice, Supreme Court Justices, and district court judges	55
Governor's Office	Governor, Lieutenant Governor, Chief of Staff, Budget Director, Citizens' Advocate, Director of Indian Affairs, personal staff, and Office of Economic Development	30
Secretary of State	Secretary of Staff and personal staff	10
Commissioner of Political Practices	Commissioner	1
State Auditor's Office	State Auditor and personal staff	13
Office of Public Instruction	Superintendent, personal staff, and short-term part-time workers	105
Attorney General	Attorney General, personal staff, and short-term part-time workers, student interns	28
Department of Public Service Regulation	Public Service Commissioners and personal staff	8
Montana School for the Deaf and Blind	Board of Public Education professionals and teachers	129
Montana Arts Council	Short-term workers and student interns	3
Montana Library Commission	Student intern	1
Department of Fish, Wildlife, and Parks	Director and short-term workers	166
Department of Environmental Quality	Director, student interns, and other professional short-term workers	15
Department of Transportation	Director, student interns and short-term workers	22
Department of Livestock	Personal Staff (Director)	1
Department of Natural Resources and Conservation	Director, Oil and Gas Board and short-term workers	254
Department of Revenue	Director and short-term workers	7
Department of Administration	Director, Chief Information Officer, Commissioner of Banking and Finance, Lottery Director, lottery security, short-term workers, student interns	17
Montana Public Employees Retirement System	Short-term workers	1
Office of the Public Defender	Public Defender and professional staff	19
Department of Agriculture	Director, Executive Director of the Wheat and Barley Commission, short-term workers, and student intern	16
Department of Corrections	Director and professional short-term workers	28
Department of Commerce	Director, Executive Director, Chief Investment Officer, Assistant Investment Officer, professional staff Board of Investments, short-term workers, and student interns	17
Department of Labor and Industry	Director, Worker's Compensation Court Judge, Director Office of Community Services, short-term workers, and student interns	21
Department of Military Affairs	Adjutant General and emergency short-term workers for National Guard	6
Department of Public Health and Human Services	Director and short-term workers	<u>27</u>
Total Exempt Workers		1,156

APPENDIX D – BLUE COLLAR CLASSIFICATION PLAN

Montana Department of Transportation

American Federation of State, County, and Municipal Employees
Public Employees Craft Council

Department of Corrections

Montana State Prison Craft Council

Department of Military Affairs

International Brotherhood of Teamsters (2 agreements)

Department of Public Health and Human Services

Montana Developmental Center Craft Council
Warm Springs Craft Council

Department of Administration

Capitol Complex Craft Council

Department of Revenue

Montana Public Employees Association

Department of Natural Resources

International Association of Machinists

APPENDIX E – EXAMPLE OF FACTORS FOR BLUE COLLAR CLASSIFICATION PLAN

Under education and trade knowledge the degrees and explanations are:

- 1st – Requires the use of: reading and writing; adding and subtracting; carrying out instructions, and , fixed gauges or direct reading instruments and devices in which interpretation is not required. (Approximately equivalent to a grade school education.)
- 2nd-Requires the use of: addition, subtraction, multiplication, and division including decimals and fraction, computer skills, simple formulas, charts, tables, drawings, specifications, schedules and wiring diagrams; adjustable measuring instruments, graduates and the like requiring interpretation in their various application; and checking, posting, preparing, interpreting of reports, forms, records, and comparable data. (Approximately equivalent to a high school education)
- 3rd-Requires the use of: computers, advanced mathematics, complicated drawings, specifications, charts and tables; various types of precision measuring instruments; and/or training generally applicable in a particular or specialized occupation. (With/or the equivalent of a high school education.)
- 4th-Requires the use of: computers, advanced mathematics; complicated drawings, specifications, charts, tables and handbook formulas; all varieties of precision measuring instruments; and/or, broad training in recognized trade or craft equivalent to a complete accredited, indentured apprenticeship of three years. (With/or the equivalent of a high school education)
- 5th-Requires the use and working knowledge of: computers, more advanced mathematics; application of practical mechanical, electrical, chemical, civil, or like engineering methods and the performance of related, practical operations, and/or, broad training in a recognized trade or craft equivalent to a complete, accredited, indentured apprenticeship of four or more years. (With/or the equivalent of a technical college education)

APPENDIX F – FTE ADDED UNDER DISTRICT COURT ASSUMPTION

- Court reporters – 33.50 FTE
- Law clerks – 27.25 FTE
- Probation officers – 87.30 FTE
- Judicial administrative assistants – 23.00 FTE
- Office assistants – 27.50 FTE
- Office supervisor – 3.00 FTE
- Librarian – 1.00 FTE
- Bailiff – 3.00 FTE
- Standing master – 3.00 FTE
- District court administrator – 1.25 FTE
- District court administrative assistants – 7.45 FTE
- District court administrative coordinator – 1.00 FTE
- Intensive court case manager – 1.00 FTE
- Judicial professional – 2.53 FTE
- Family evaluation unit supervisor – 1.00 FTE
- Family evaluators – 3.50 FTE
- Probation program assistant – 4.90 FTE
- Youth hearing officer – 3.00 FTE
- Financial specialist – 2.00 FTE
- Community Supervision Program Supervisor – 1.00 FTE
- Community Supervision Specialist – 1.00 FTE