



AN ACT GENERALLY REVISING LAWS GOVERNING STATE EMPLOYEE CLASSIFICATION AND COMPENSATION; INCREASING THE EMPLOYER CONTRIBUTION FOR GROUP BENEFITS; APPROPRIATING FUNDS TO IMPLEMENT PAY AND BENEFIT REVISIONS, FOR PERSONAL SERVICE CONTINGENCIES, AND FOR A LABOR-MANAGEMENT TRAINING INITIATIVE; AMENDING SECTIONS 2-18-101, 2-18-202, 2-18-301, 2-18-303, 2-18-703, 2-18-1204, 13-37-106, 15-2-102, AND 44-1-504, MCA; REPEALING SECTIONS 2-18-110 AND 2-18-207, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. 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) "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.

(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.

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

(9) "Competitive pay zone" means that portion of the pay range for a band level of an occupation that is most consistent with the pay being offered by competing employers for fully competent employees within that occupation.

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

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

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

~~(11)~~ "Entry salary" means the entry-level base salary for each occupational pay range.

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

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

(14) "Market salary" means the midpoint in an occupational pay range, based on the average median 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 positions 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)~~(16) "Pay band" means a wide salary range covering a number of different occupations.

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

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

~~(20)~~(19) "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.

~~(21)~~(20) "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.

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

~~(23)~~(22) "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.

~~(24)~~(23) "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.

~~(25)~~(24) "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.

~~(26)~~(25) "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.

~~(27)~~(26) "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 2. Section 2-18-202, MCA, is amended to read:

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

~~(2) Similar pay may be provided to individuals with the same occupation within an occupational pay range."~~

Section 3. Section 2-18-301, MCA, is amended to read:

"2-18-301. ~~Purpose and intent~~ 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)~~(1) 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, in part, 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)~~(2) ~~Except as provided in 2-18-110, pay~~ Pay adjustments, if any, provided for in 2-18-303 supersede any other plan or systems established through collective bargaining after the adjournment of the legislature.

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

~~(5)~~(3) Total funds required to implement the pay increases, if any, provided for in 2-18-303 for any employee group or bargaining unit may not be increased through collective bargaining over the amount appropriated by the legislature.

~~(6)~~(4) The department shall administer the pay program established by the legislature on the basis of merit competency, internal equity, and competitiveness to external labor markets when fiscally able.

~~(7)(5)~~ 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.~~

~~(6)(6)~~ Based on the biennial salary survey, the department shall:

- (a) identify current market rates for all occupations;
- (b) establish salary ranges for each pay band levels; and
- (c) ~~set occupational pay ranges for all occupations~~ recommend competitive pay zones.

~~(9)(7)~~ 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.

~~(10)(8)~~ 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 4. Section 2-18-303, MCA, is amended to read:

"2-18-303. Procedures for administering broadband pay plan. (1) ~~(a)~~ On the first day of the first complete pay period in fiscal year ~~2008~~ 2010, each employee is entitled to the amount of the employee's base salary as it was on June 30, ~~2007~~ 2009.

~~(b)~~ Effective on the first day of the first complete pay period that includes October 1, 2007, the base salary of each employee must be increased by 3%. Effective on the first day of the first complete pay period that includes October 1, 2008, the base salary of each employee must be increased by 3%.

(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.~~

~~(3)(2)~~ An employee's base salary may be no less than the minimum salary of the pay band entry salary for the to which the employee's assigned occupation position is allocated.

(3) All full-time employees whose base pay is \$45,000 or less annually will receive a one-time lump-sum payment of \$450 for the first full pay period after July 1, 2009. All part-time employees who are regularly scheduled to work 20 hours or more per week and whose base pay is \$21.635 per hour or less will receive a one-time lump-sum payment of \$225 for the first full pay period after July 1, 2009.

(4) (a) (i) A member of a bargaining unit may not receive the pay ~~increase~~ adjustment provided for in subsection ~~(4)(b)~~ (3) until the employer's collective bargaining representative receives written notice that the employee's collective bargaining unit has ratified a collective bargaining agreement.

(ii) If ratification of a collective bargaining agreement, as required by subsection (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 consistent with the purpose of this part and necessary to properly implement the pay adjustments provided for in this section may be provided for in collective bargaining agreements.

~~(5) The current wage or salary of an employee may not be reduced by the implementation of the broadband pay plan.~~

~~(6)(5)~~ (a) Montana highway patrol officer base salaries and biennial salary increases must be established through 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.~~ 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 to the office of budget and program planning as a part of the information required by 17-7-111.

(d) The salary survey and plan must be completed at least 6 months before the start of each regular legislative session."

Section 5. 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 ~~\$557~~ \$626 a month from January ~~2007~~ 2009 through December ~~2007~~ 2009, ~~\$590~~ \$679 a month from January ~~2008~~ 2010 through December ~~2008~~ 2010, and ~~\$626~~ \$733 for January ~~2009~~ 2011 and for each succeeding month. For employees of the Montana university system, the employer contribution for group benefits is ~~\$557~~ \$626 a month from July ~~2006~~ 2008 through June ~~2007~~ 2009, ~~\$590~~ \$679 a month from July ~~2007~~ 2009 through June ~~2008~~ 2010, and ~~\$626~~ \$733 for July ~~2008~~ 2010 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 6. 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 in the same ~~occupational pay range~~ competitive pay zone 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 7. Section 13-37-106, MCA, is amended to read:

"13-37-106. Salary. (1) The commissioner of political practices is entitled to receive a salary within the ~~occupational pay range~~ pay band, 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~~ pay band for the commissioner of political practices in the same manner that it determines the occupation and ~~occupational pay range~~ pay band 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~~ pay band 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 8. 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 shall possess knowledge of the subject of taxation and skill in matters relating to taxation. 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 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 attached to the department of administration for administrative purposes only as provided 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 must be paid a salary within the ~~occupational pay range~~ pay band, 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 state employees in 2-18-303 and 2-18-304. The member designated as presiding officer as provided for in 15-2-103 must receive an additional 5% in salary. All members of the board must receive travel expenses as provided for in 2-18-501 through 2-18-503 when away from the capital on official business.

(3) The department of administration shall determine the appropriate occupation and ~~occupational pay range~~ pay band for the state tax appeal board members in the same manner that it determines the occupation and ~~occupational pay range~~ pay band 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 pay band established by the department of administration."

Section 9. 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(6)~~ 2-18-303(5):

- (a) the base salary and associated operating costs for highway patrol officer positions; and
- (b) biennial salary increases for highway patrol officers."

Section 10. Appropriations. (1) The following money for the indicated fiscal years is appropriated to the listed agencies to implement the adjustments provided for in 2-18-703:

Fiscal Year 2010

	General Fund	State Special	Federal Special	Proprietary
Legislative Branch	\$41,022			
Consumer Counsel		\$1,908		
Judicial Branch	\$133,322	\$6,360	\$239	
Executive Branch	\$1,629,967	\$1,284,249	\$782,932	\$35,373
MUS	\$1,429,997	\$636	\$54,060	
Total	\$3,234,308	\$1,293,153	\$837,231	\$35,373

Fiscal Year 2011

	General Fund	State Special	Federal Special	Proprietary
Legislative Branch				

	\$123,840			
Consumer Counsel		\$5,760		
Judicial Branch				
	\$408,240	\$19,200	\$720	
Executive Branch				
	\$4,931,731	\$3,881,955	\$2,364,781	\$106,782
MUS				
	\$2,885,088	\$1,284	\$109,140	
Total				
	\$8,348,899	\$3,908,199	\$2,474,641	\$106,782

(2) The following money for fiscal year 2010 is appropriated as one-time-only appropriations to the listed agencies to implement the adjustments provided for in 2-18-303(3):

	General Fund	State Special	Federal Special	Proprietary
Legislative Branch				
	\$19,744			
Consumer Counsel		\$527		
Judicial Branch				
	\$124,649	\$2,633	\$395	
Executive Branch				
	\$1,838,668	\$1,344,238	\$765,219	\$37,480
MUS				
	\$1,082,390	\$527	\$28,958	
Total				
	\$3,065,451	\$1,347,925	\$794,572	\$37,480

(3) 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:

General Fund	State Special	Federal Special	Proprietary
\$4,000,000	\$2,400,000	\$500,000	\$100,000

(4) The amount of \$75,000 is appropriated from the general fund to the department of administration for the biennium for a labor-management training initiative.

Section 11. Repealer. Sections 2-18-110 and 2-18-207, MCA, are repealed.

Section 12. Effective date. [This act] is effective July 1, 2009.

- END -

I hereby certify that the within bill,
HB 0013, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2009.

President of the Senate

Signed this _____ day
of _____, 2009.

HOUSE BILL NO. 13

INTRODUCED BY HUNTER

BY REQUEST OF THE OFFICE OF BUDGET AND PROGRAM PLANNING

AN ACT GENERALLY REVISING LAWS GOVERNING STATE EMPLOYEE CLASSIFICATION AND COMPENSATION; INCREASING THE EMPLOYER CONTRIBUTION FOR GROUP BENEFITS; APPROPRIATING FUNDS TO IMPLEMENT PAY AND BENEFIT REVISIONS, FOR PERSONAL SERVICE CONTINGENCIES, AND FOR A LABOR-MANAGEMENT TRAINING INITIATIVE; AMENDING SECTIONS 2-18-101, 2-18-202, 2-18-301, 2-18-303, 2-18-703, 2-18-1204, 13-37-106, 15-2-102, AND 44-1-504, MCA; REPEALING SECTIONS 2-18-110 AND 2-18-207, MCA; AND PROVIDING AN EFFECTIVE DATE.