

HOUSE LABOR AND EMPLOYMENT RELATIONS COMMITTEE MINUTES
March 15, 1983

The House Labor and Employment Relations Committee convened on March 15, 1983, at 12:30 p.m., in Room 224K of the State Capitol with Chairman Williams presiding and all members present. Chairman Williams opened the meeting to a hearing on House Bill 902.

HOUSE BILL 902

REPRESENTATIVE FRANCIS BARDANOUVE, District 6, chief sponsor, said two years ago he was the hero of the state employees as he sponsored the biggest pay raises ever, but he felt now they would relegate him to the same category as the university professors have. He said if you combine the two increases it would come out about average. He said the first two matrices are for the majority of the employees, about 8,900, and allows a 1 1/2 percent increase of the base each year, and a 2 percent step increase on the anniversary date. There would be a \$10 increase in insurance each year on all four matrices. He said the teachers matrix is on the second page and covers about 65 teachers and would get a 3 1/2 percent increase each year but their steps are frozen. He said they can move across if they increase their education. He said on page 7 is the section for liquor store employees and there are a couple of hundred of them. He said they will get a 3 percent increase in their base each year and no increase in the step. He said page 8 is the blue collar matrix and they will get an increase of 30 cents per hour per year.

On page 15 the appropriation of \$750,000 to help out the smaller agencies that may not have vacancy savings and a small turnover. He said they may not have enough money within their budget to pay for the pay plan. He said there is a provision that you can transfer balances from the first year to the second year. He said the bill also permits transferring of money within programs within agencies.

He said it is possible there may be layoffs in some agencies that do not manage their agencies as carefully. He said this is the administration pay plan for this session.

DENNIS TAYLOR, Department of Administration, spoke in support of the bill. He presented a booklet which is a summary on collective bargaining for public employees of the state of Montana and a copy of this is Exhibit 1. Exhibit 1 also contains a copy of the codes that apply and the Labor Relations Status Report #17, dated January 17, 1983. He said the pay plan suggested here is appropriate to the austere times we are facing in Montana right now.

ROD SUNDSTED, chief negotiator, State Labor Relations, Department of Administration, said he supports the bill. He went through the bill and gave a background on it. He said they met almost every day for a total of 100 sessions. He said HB 902 represents the present status of the negotiations. He said as far as the teacher matrices it represents a tentative one for the teachers at Warm Springs State Hospital. He said the increase counting insurance is about four percent for each employee that continues his employment with the state. He said it includes having the steps cut off for the higher paid employees. He said there will be flexibility to move funds within an agency as one bureau may have a higher turnover than another, which would result in vacancy savings. If someone quits who is a grade 15, the new one coming in would start at step 1 and so there would be a savings, and there is also a vacancy factor while you are refilling the position. He said in general our matrix is below the states with matrices but above Montana employers. He said in a survey Montana was right in the middle of the states when comparing pay scales (about 26th); and when compared to private employers we are 10th. He presented a booklet entitled State Employee Salary and Benefit Survey to the members (Exhibit 2).

DAVE LEWIS, Office of Budget and Program Planning, spoke next in support, and a copy of his testimony is Exhibit 3 of the minutes.

REPRESENTATIVE DANIEL KEMMIS, District 94, Speaker of the House, said he appears as a proponent in a limited sense. He said the bill does reflect collective bargaining and an effort to come to a level of salary increases that are indeed responsive to austere times in Montana. He said as far as the increases included they would be by anybody's calculation modest. He said, though, there is another element of the bill that also reflects austere times and he couldn't support the bill in its present form because of it. He said the bill reflects an abdication of legislative responsibility that he could not support. He said there were some things he would like to bring to the committee's attention. He said from the point of view of the legislature it is bad legislation and he felt it was bad government, and he said he just could not advocate what is anticipated on this bill with the most conservative figures available. He said the bill assumes there will be something like a 3.5 percent vacancy savings. He felt this was a liberal estimate. He said the legislative fiscal analyst puts it at 2.7 percent. He said given that and given the availability of the money saved, the bill still anticipates. He said he would challenge the budget office to show otherwise. If you pass the bill in this form you will in effect be telling the appropriation committee and telling the executive branch there are

at least 265 too many positions in the budget. He said the only way to pay for the bill is to use all the vacancy savings anticipated and lay off 265 employees - lay them off on July 1, 1983. He said since that isn't going to happen, what it really means is in the course of the biennium we will have to lay off many more employees than that. He said it depends on when you lay off - if not until 1985, you will need to lay off 530 employees or right in the neighborhood to make this thing work. He said if we don't need those employees, it is the job of the Legislature to decide up front that we can do without them. It is the job of the Legislature as an equal branch of government to determine what is needed for state government and do it. He said if we pass the bill, we are saying there are several hundred too many employees and what we are doing is passing on legislative decision to the executive branch. He said he didn't want any part of that. He said if we are going to legislate, let's legislate. He said pay for the state pay plan or take the employees out of the budget now. He suggested amending the bill so the pay plan would be paid for, otherwise take those FTEs out of the budget.

THOMAS E. SCHNEIDER, Executive Director, Montana Public Employees Association, spoke in support and a copy of his testimony is Exhibit 4 of the minutes.

R. NADIEAN JENSEN, American Federation of State, County, and Municipal Workers, spoke in opposition and a copy of her testimony is Exhibit 5 of the minutes.

REPRESENTATIVE JERRY DRISCOLL, District 69, spoke as an opponent. He said when figuring vacancy savings they forget about vacation and sick leave that has been built up by the people leaving state employment. He figured there would need to be 603 lay offs to come out.

JIM MCGARVEY, American Federation of Teachers, spoke in opposition. He said they have teachers under both the big pay matrix and the teacher matrix. He said in his estimation the state didn't come to the collective bargaining table in good faith. He said it was more like "Here it is, take it." He said there should be sufficient funding. He said in the area of education you don't have vacancy savings unless a position isn't filled and that would dilute education. He said we should not choose a diluted education to save a few dollars. He said the word "cannibalism" is a term that is being heard this session - agency pitted against agency to survive; public employee against public employee with this bill. He said they have not arrived at an agreement yet and are disappointed with the agreements reached.

JOE GERAGHTY, AFSCME, representing the Boulder local and himself, said he concurred with the sentiments of Speaker Kemmis. He said their settlement this year is 1 1/2 percent less than when they went on strike but they realized the state's financial crunch. He said he would like to see state agency positions come out line itemed. He said expecting a 4.5% vacancy saving is dangerous and what it will do is perpetrate an economic cannibalism by asking state employees to feed off other state employees to get a pay raise.

EILEEN ROBBINS, Montana Nurses Association, said Mr. Taylor had said they were the first to have received a shift differential under collective bargaining in the state. She reminded the committee that the shift differential was never funded. She also mentioned that registered nurses working anywhere else gets \$1 to \$1.50 more per hour. She felt the legislature should fund adequately for the grades and said the pay matrix does not reflect an adequate pay increase for registered nurses.

DAVID SEXTON, Montana Education Association, said the teachers they represent have not negotiated an agreement with the state on the pay matrices. He said the salary schedules for the teachers in state institutions are in no way comparable to that in public schools - \$1,000-\$2,000 below the average comparable position. He felt that collective bargaining was a sham and conducted by the state with a take it or leave it attitude. He said the method of funding is irresponsible as it pits state programs and employees one against the other.

REPRESENTATIVE JOHN VINCENT, District 78, said there is a responsibility factor we need to look at. We would be setting in motion an approach that would necessitate lay offs of certain workers to pay those that survive. He left two exhibits for the committee. The first was from the Office of Budget and Program Planning, Exhibit 6, explaining the executive budget proposal for the pay plan. He said this mentions the possibility of having to lay off 256 as a worst case in order to fully fund the pay plan. The second exhibit is from the Office of the Legislative Fiscal Analyst, Exhibit 7, and their calculations after vacancy savings are a lay off of 235 in 1984 and 616 in 1985. Rep. Vincent said we should be up front about this and recognize these FTEs are not necessary now and not wait for vacancy savings to cause their lay off. He said it is a fundamental issue of fairness even given the tight budget conditions we are in.

REPRESENTATIVE BARDANOUVE closed. He said he knew two years ago we would find ourselves in a bind this session when the revenue was cut. He said we have to face reality and it is a harsh world - the budget is curtailed and there is not enough to fund all that we would like to. He said he doubted very much that it would be possible to get a major revenue bill

through the house, the Senate is almost solidly against it and the Governor has said no. So he said this makes two nos and a maybe, which does not make for good prospects. He said he admits there could be a few problems and maybe some lay offs but not as bad as opponents predict. He said he had come through Governor Nutter's cut-to-the-bone budget and he said when he came back in 1963 no agency had shut down and most employees were still working. He said the bill isn't all that bad. He said averaging the increase of last session with the one from this comes out to an 8% annual increase. He said he didn't know where the opponents would find the extra \$8,000,000 to fund the pay plan. He said it would have to come from somewhere else - cut some program. He said it is an impossible dream. He urged the opponents to put their feet on the carpet and take their heads down from the ceiling.

Questions were asked by the committee.

Rep. Farris asked about the number of lay offs. Rep. Bardanouve said he thought the number was exaggerated. He said he didn't know how many. He said where there are retirements those positions would not need to be filled and so in effect have a hiring freeze. He said some positions have to be filled but discretion could be used.

Rep. Miller asked Mr. Lewis if the state can function successfully with the cutbacks it has had - 1100 positions. Mr. Lewis said in a period from January 1, 1981 to the present 3100 people had left the state employment. He said a cutback of 200 to 250 positions wouldn't be a major problem.

Rep. McCormick asked why institution teachers received less pay than their public counterparts. The answer was that there is different benefit packets and they do not have related things to do after work. They are compared to other state employees rather than to other teachers. Mr. McGarvey also responded that the salary was deplorable in comparison and they have to work longer days and not as good insurance benefits. Mr. McGarvey said they usually have specialized training as they are working with special people. He said they work under more stressful situations, also.

Chairman Williams closed the hearing on this bill and opened the hearing on HB 904.

HOUSE BILL 904

REPRESENTATIVE JERRY DRISCOLL, District 69, chief sponsor, said this bill provides state employee pay increases for

1984 and 1985 and increases the employer's contribution for group benefits. He said this is an attempt to have salaries on the same footing as operating expenses, where money not used goes back to the general fund. The unused pay money could be used for sick leave and vacation, and any unused would revert back to the general fund. Rep. Driscoll said agencies are not usually fully funded because of the allowance for vacancy funding, where this bill would fully fund and anything left over would be paid back. He said there is a \$17,000,000 appropriation request.

ROD SUNDSTED, chief negotiator for the state, State Labor Relations, Department of Administration, spoke as an opponent. He said on page 4, line 19, the present language is changed for employee. He said he had proposed this addition as a way to recognize longevity and had agreed to support it. He said he opposed the bill but supported this part.

EILEEN ROBBINS, Montana Nurses Association, spoke in support with a wish to add an amendment. A copy of this amendment which deals with shift differential is Exhibit 8.

GENE FENDERSON, Laborers' Local #254, spoke in support of the bill.

JIM MCGARVEY, American Federation of Teachers, registered as a proponent but said he wasn't sure if he was an opponent or a proponent.

REPRESENTATIVE DRISCOLL closed.

Meeting adjourned at 2:20 p.m.

Respectfully submitted,


J. MELVIN WILLIAMS, CHAIRMAN

Emelia A. Satre, Sec.

*Exhibit 1
Alumni*

SUMMARY OF COLLECTIVE BARGAINING FOR PUBLIC EMPLOYEES OF THE STATE OF MONTANA

I. THE LAWS

In 1969 the Registered Professional and Licensed Practical Nurses were afforded the right to bargain collectively by the forty-first Legislative Assembly. Only minor changes to the original statute have been made in subsequent legislative sessions; the most notable change being the delegation of authority to administer the Nurses' Act and determine the appropriate units, to the Department of Labor and Industry (specifically the Board of Personnel Appeals). The rest of the Act remains essentially in tact from the original. (See Attachment A.)

The teachers were the next group allowed by Montana law to bargain collectively in the public sector. The Professional Negotiations Act for Teachers was passed by the Forty-second Legislature in 1971. This Act was repealed in 1975 (Section 3, Chapter 117, Laws of 1975), at which time teachers and the university were included in the Act adopted in 1973, entitled "Collective Bargaining for Public Employees," (Section 39-31-101, M.C.A., et seq. See Attachment B.)

The 1973 Collective Bargaining for Public Employees Act has been modified only slightly since its passage. As mentioned before, the teachers and University System were added in 1975. Other minor modifications have been made in subsequent sessions, but no substantive amendments have been adopted. (See Attachment B.)

II. BARGAINING UNITS

A breakdown of bargaining units, their representative union, location and composition are included in this report as Attachment C. The Personnel Division, Labor Relations Bureau negotiates 76 of the 93 labor agreements found in state government. The remaining 17 are the responsibility of the University System. Fifty-five bargaining units were "grandfathered in" since they were in existence prior to the passage of the 1973 Act. In the nine years since the passage of the Act, an average of four bargaining units have been added each year.

The size of the units (number of covered employees) range from two members to approximately 800 members. Professionals, white collar, blue collar, crafts and law enforcement personnel are included in the various units (see Attachment C), with approximately 6,800 organized employees, or approximately 45% of the state's workers.

III. COLLECTIVE BARGAINING AGREEMENTS

There are four basic types of contracts negotiated by the Personnel Division.

A. Master Agreements

1. The Montana Public Employees Association (representing approximately 3,000 state employees) negotiates a master agreement which is applicable to eighteen of their 23 units.

This agreement establishes working conditions, etc., for all the covered employees except that the terms of this master agreement may be modified by the various "supplemental" agreements. Supplemental agreements will be discussed later in this section.

2. The American Federation of State, County and Municipal Employees (representing approximately 1,000 state employees) negotiates a master agreement which covers the employees represented by their organization at two institutions, Boulder River School and Hospital and Galen State Hospital. AFSCME has two other units which are not affected by their master agreement.
3. The Montana Nurses' Association has a master agreement which covers the professional nurses at Galen State Hospital and Warm Springs State Hospital.

B. Supplemental Agreements

1. The Montana Public Employees Association has eighteen supplemental agreements to their master contract. These agreements, as previously mentioned, modify their master contract. They are negotiated separately from the master negotiations and are applicable to only specific bargaining units.
2. The American Federation of State, County and Municipal Employees has two supplementals which are applicable to the two institutions previously mentioned, Boulder River School and Hospital and Galen State Hospital. These are negotiated separately from the master.
3. The Montana Nurses Association master agreement has two supplementals which are applicable to the two institutions (Galen and Warm Springs) covered by their master. These are generally negotiated simultaneously with the master agreement.

C. Contracts in Common

Several of the craft unions have common contracts which cover employees in several units. As an example, the Electricians in Boulder River School and Hospital, Galen State Hospital, Montana State Prison, and Warm Springs State Hospital belong to separate bargaining units, but have identical contracts. The bargaining for these agreements is done on a coalition basis. For more detail, please see Attachment C.

D. Separate Contracts

Those organizations which have master agreements as well as all other unions, have separate contracts for various units. These, of course, are negotiated separately and are not affected by the master contracts previously discussed.

IV. NEGOTIATIONS

The 55 collective bargaining agreements in existence prior to 1973 were negotiated in various ways. The now defunct Board of Examiners negotiated several contracts and pay plans, as did various agencies and local managers. Negotiations were handled in a hodge-podge manner at best. No one agency had the responsibility to oversee the labor relations aspect of state government.

Both collective bargaining and classification and pay plan legislation were adopted by the 1973 Legislature. The Collective Bargaining Act of 1973 granted organizational and bargaining rights to all state, county and municipal employees. Teachers and university faculty were later included under the Act. In enacting Senate Bill 411, the 1973 Legislature directed the Department of Administration to develop a classification and pay plan for state employees. In 1975 the legislature implemented the classification and pay plan by passing House Joint Resolution 37.

Prior to the adoption of the classification and pay plan, each department or agency maintained their own separate plans. Some of the plans were formalized, others were not. It was not uncommon for two employees performing similar duties in two different departments to be making considerably different salaries.

In Executive Order 1-76, the Governor designated the Administrator of the Personnel Division in the Department of Administration as the state's representative in collective bargaining with exclusive representatives of certified employee bargaining units. The Personnel Division negotiates contracts for all state agencies, except the University System. The Personnel Division is also responsible for the implementation and maintenance of the state classification and pay plan; in this regard the Personnel Division has jurisdiction (and responsibility) over all classified state employees, including those in the University System.

There are some conflicting elements in the collective bargaining and pay plan process. The primary conflict is between: (1) the obligation of the employer to bargain with each bargaining unit on wages, hours, fringe benefits, and other conditions of employment, and (2) the obligation of the employer to provide equal benefits to all employees regardless of whether they are organized or unorganized.

The Labor Relations Bureau in the Personnel Division will therefore, generally negotiate each contract twice; once for economics, and second for the "other terms and conditions of employment." The economic negotiations begin in late summer prior to the legislative year, after extensive conferences with the Office of Budget and Program Planning and the Governor's Collective Bargaining Policy Task Force. The result of these conferences is the establishment of guidelines for the economic round of negotiations. After the guidelines have been developed, the initial proposals drawn up and the bargaining tactics discussed, the state's negotiators begin meeting with the various units considered to be the "trendsetters." The Montana Public Employees Association, American Federation of State, County and Municipal employees, and the Warm Springs Independent Union have often been the trendsetting units for the general state pay matrix. The other three matrices

(blue collar, teachers, and liquor division) have had other unions as their trendsetting, "bell weather" units. Negotiations with all trendsetters generally take place simultaneously.

Often the economic negotiations are not completed prior to the beginning of the legislative session. In 1979 negotiations on economic matters were not completed prior to the beginning of the legislative session. The American Federation of State, County and Municipal employees at three institutions went on strike during that session for 37 days. This past legislative session began with the economic negotiations completed. Tentative economic settlements had been reached pending funding by the Legislature. Both situations have merit as well as drawbacks. The four matrices are then submitted for legislative funding. All of the state's employees, union and non-union, are then paid according to one of the four matrices appropriate to their classification.

At the conclusion of the economic negotiations, usually in the spring, the state's negotiators begin negotiating the parts of the contract which are considered to be non-economic, primarily the working conditions. The majority of the contracts negotiated by the Personnel Division, expire on July 1, and the Division is generally through with the non-economic negotiations by that date. Naturally, some contracts may take longer than others to complete; it depends upon many variables. Additionally, those contracts which were less difficult to complete one year may be the most difficult in a subsequent year. There are no absolutes when it comes to predicting the outcome or duration of negotiations.

ATTACHMENT A

CHAPTER 32

COLLECTIVE BARGAINING FOR NURSES

Part 1 — General Provisions

Section

- 39-32-101. Purpose of chapter.
- 39-32-102. Definitions.
- 39-32-103. Rules.
- 39-32-104. Hearings for determination of appropriate unit.
- 39-32-105. General classifications for health care facilities and appropriate units — petition for removal from general classification.
- 39-32-106. Determination of appropriate bargaining unit.
- 39-32-107. Evidence required to show status as designated representative.
- 39-32-108. Determination of status as designated representative.
- 39-32-109. Improper employment practices.
- 39-32-110. Unlawful strikes.
- 39-32-111. Proceedings in district court.

Part 1

General Provisions

39-32-101. Purpose of chapter. The purpose of this chapter is to encourage effective measures to assure uninterrupted continuation of sufficient competent nursing care of the ill and infirm in the state and further to encourage the practice of mutually and peacefully agreeing upon the establishment and maintenance of desirable employment practices between nurse employees, professional and practical, and their health care facility employers, either public or private.

History: En. Sec. 1, Ch. 320, L. 1969; R.C.M. 1947, 41-2201.

39-32-102. Definitions. As used in this chapter, unless the context clearly requires otherwise, the following definitions apply:

(1) "Appropriate unit" means a homogenous group of employees (as herein defined) of a health care facility having similar duties and qualifications determined pursuant to 39-32-106.

(2) "Employee" means a registered professional or licensed practical nurse performing services for compensation for a health care facility but does not include a member of a religious order assigned to a health care facility by the order as a part of her obligation to the order.

(3) "Health care facility" means a hospital or nursing home or other agency or establishment employing employees as defined in this chapter, whether operated publicly or privately, having as one of its principal purposes the preservation of health or the care of sick or infirm individuals or both.

(4) "Strike" shall mean any work stoppage caused by the employees of a health care facility, as defined in subsection (3) of this section, that interferes with the operation of the health care facility or affects the care of patients in the health care facility.

History: En. Sec. 2, Ch. 320, L. 1969; R.C.M. 1947, 41-2202(1) thru (3), (5).

39-32-103. Rules. The department of labor and industry may adopt and promulgate rules as to times and places for hearing and notice thereof so as to provide adequate notice and opportunity to be heard to all interested parties, as to elections, and so as to carry into effect the provisions of this chapter.

History: En. Sec. 7, Ch. 320, L. 1969; R.C.M. 1947, 41-2207(3).

39-32-104. Hearings for determination of appropriate unit. The department of labor and industry may set the time and place for hearings for determination of the composition of appropriate units when requested to make such determination under 39-32-106(2) or 39-32-108(1).

History: En. Sec. 7, Ch. 320, L. 1969; R.C.M. 1947, 41-2207(1).

39-32-105. General classifications for health care facilities and appropriate units — petition for removal from general classification. (1) The department of labor and industry may determine, on its own motion by holding hearings or conducting such investigations as it thinks necessary, general classifications for health care facilities and appropriate units.

(2) When such determination has been made hereunder and when an application has been made by a health care facility or an employee organization for a specific determination as to it, the department may make such determination on the basis of such general classification.

(3) The health care facility or employee organization may, within 30 days after notice to it of such determination, file a request for a hearing upon written petition which shall set forth the facts which it believes remove it from such general classification, and hearing shall be held on such petition.

History: En. Sec. 7, Ch. 320, L. 1969; R.C.M. 1947, 41-2207(2).

39-32-106. Determination of appropriate bargaining unit. (1) The composition of an appropriate unit in a health care facility, for purposes of this law, may be determined by mutual consent between such facility and the employees thereof.

(2) In the event no such mutual consent is available, then either the facility or representatives of employees may apply to the department of labor and industry and said department, through a duly designated agent, shall make a determination of the composition of such an appropriate unit.

(3) In determining such appropriate unit, professional employees may not be included in the same unit with nonprofessional employees unless a majority of professional employees in a proposed unit desire such inclusion. Weight shall be accorded similarity of duties, licensure, and conditions of employment, among other relevant factors, in determining an appropriate unit.

History: En. Sec. 4, Ch. 320, L. 1969; R.C.M. 1947, 41-2204.

39-32-107. Evidence required to show status as designated representative. An employee organization is considered to be the duly designated representative of all the employees in an appropriate unit for the purpose of 39-32-109 if it can show evidence that bargaining rights have been assigned to it by a majority of the employees in that unit.

History: En. Sec. 5, Ch. 320, L. 1969; R.C.M. 1947, 41-2205.

39-32-108. Determination of status as designated representative. (1) If the right of an employee organization to represent the employees in an appropriate unit is questioned by the authority in charge of the facility employing the employees, the employee organization may petition the department of labor and industry for a determination. The department or its representative shall investigate and determine the composition of an appropriate unit, if such determination has not previously been made under 39-32-106, and shall determine the representative, if any, designated to represent the employees in the appropriate unit.

(2) An employee organization found by the department to be authorized by at least 30% of the employees in an appropriate unit may apply for an election by secret ballot to determine its right to represent the employees in that unit. If more than one employee organization claims to represent employees in that unit, the department may conduct an election by secret ballot to determine which is authorized to represent the unit. If any employee organization receives a majority of the valid votes cast at the election, it is considered to be authorized to represent all the employees in that unit for the purpose of 39-32-109.

(3) A determination under this section remains in effect for at least 1 year and until either the health care facility or an employee organization shall apply for a redetermination.

History: En. Sec. 6, Ch. 320, L. 1969; R.C.M. 1947, 41-2206.

39-32-109. Improper employment practices. It is an improper employment practice for a health care facility to do one or more of the following:

(1) interfere with or restrain or coerce employees in any manner in the exercise of their right of self-organization;

(2) initiate, create, dominate, contribute to, or interfere with the formation or administration of any employee organization that has collective bargaining as one of its principal functions;

(3) discriminate in regard to hire terms or conditions of employment when a purpose of such is to discourage membership in an employee organization that has collective bargaining as one of its principal functions;

(4) refuse to meet and bargain in good faith with the duly designated representatives of an appropriate bargaining unit of its employees. For the purpose of this subsection, it is a requirement of bargaining in good faith that the parties be willing to reduce in writing and have their representative sign any agreement arrived at through negotiations and discussion.

(5) unilaterally exclude from work or prevent from working or discharge any one or more employees when the purpose of such action is in whole or in part to interfere with or coerce or intimidate an employee in the exercise of rights assured in this law.

History: En. Sec. 3, Ch. 320, L. 1969; R.C.M. 1947, 41-2203.

39-32-110. Unlawful strikes. It shall be unlawful for any employee of a health care facility, as defined in 39-32-102, to participate in a strike if there is another strike in effect at another health care facility within a radius of 150 miles. Employees of a health care facility, as defined in 39-32-102, or their duly elected representative must give the health care facility 30 days' written notice of any strike by them and must specify in the notice the day the strike is to begin.

History: En. Sec. 9, Ch. 320, L. 1969; R.C.M. 1947, 41-2209.

39-32-111. Proceedings in district court. The department of labor and industry, a health care facility, or an employee organization qualified to apply for an election under 39-32-108 may, in the name of its members or in its name, institute proceedings to restrain the commission of any improper practice listed in 39-32-109 or appeal from any determination by the department. The proceeding may be instituted in the district court for any county in which the health care facility does business. The court in such an action may grant mandatory or prohibitory relief or, on appeal, adjudicate whether the department has acted in abuse of discretion or upon arbitrary or discriminatory rules, in which event the court may reverse or modify such determination.

History: En. Sec. 8, Ch. 320, L. 1969; R.C.M. 1947, 41-2208.

ATTACHMENT B

CHAPTER 31 COLLECTIVE BARGAINING FOR PUBLIC EMPLOYEES

Part 1 — General Provisions

- Section
- 39-31-101. Policy.
 - 39-31-102. Chapter not a limit on legislative authority.
 - 39-31-103. Definitions.
 - 39-31-104. Rules.
 - 39-31-105. Administrative procedure act applicable.
 - 39-31-106. Board authorized to subpoena witnesses and administer oaths.
 - 39-31-107. Service of subpoenas, notices of hearing, and other process.
 - 39-31-108. Counsel for public parties to litigation.
 - 39-31-109. Existing collective bargaining agreements not affected.

Part 2 — Public Employee Self Organization and Certification of Bargaining Representative

- 39-31-201. Public employees protected in right of self-organization.
- 39-31-202. Board to determine appropriate bargaining unit — factors to be considered.
- 39-31-203. Deduction of dues from employee's pay.
- 39-31-204. Right of nonassociation with labor organization on religious grounds — requirements and procedure for assertion of right.
- 39-31-205. Designated labor organizations to represent employees without discrimination.
- 39-31-206. Labor organization to guarantee certain rights and safeguards prior to certification.
- 39-31-207. Petition on representation question — investigation by board — hearing.
- 39-31-208. Representation election at direction of board.
- 39-31-209. Consent election.
- 39-31-210. Election in twelve-month period following valid election prohibited.
- 39-31-211. Labor organizations representing employees of the board to be unaffiliated.

Part 3 — Bargaining

- 39-31-301. Representative of public employer.
- 39-31-302. Participation by student representative when public employer is board of regents.
- 39-31-303. Management rights of public employers.
- 39-31-304. Negotiable items for school districts.
- 39-31-305. Duty to bargain collectively — good faith.
- 39-31-306. Collective bargaining agreements.
- 39-31-307. Mediation of disputes.
- 39-31-308. Initiation of factfinding — designation of fact finder.
- 39-31-309. Factfinding proceedings.
- 39-31-310. Submission of issues to arbitration.
- 39-31-311. Training of fact finders and arbitrators.

Part 4 — Unfair Labor Practices

- 39-31-401. Unfair labor practices of public employer.
 - 39-31-402. Unfair labor practices of labor organization.
 - 39-31-403. Remedies for unfair labor practices.
 - 39-31-404. Six-month limitation on unfair labor practice complaint — exception.
 - 39-31-405. Unfair labor practice complaint — notice of hearing — service — answer.
 - 39-31-406. Hearing on complaint — findings — order.
 - 39-31-407. Amendment of complaint.
 - 39-31-408. Modification by board of findings and order.
 - 39-31-409. Court enforcement and review of board order.
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General Provisions

39-31-101. Policy. In order to promote public business by removing certain recognized sources of strife and unrest, it is the policy of the state of Montana to encourage the practice and procedure of collective bargaining to arrive at friendly adjustment of all disputes between public employers and their employees.

History: En. Sec. 1, Ch. 441, L. 1973; R.C.M. 1947, 59-1601.

39-31-102. Chapter not a limit on legislative authority. This chapter does not limit the authority of the legislature, any political subdivision, or the governing body relative to appropriations for salary and wages, hours, fringe benefits, and other conditions of employment.

History: En. Sec. 5, Ch. 441, L. 1973; amd. Sec. 1, Ch. 36, L. 1975; amd. Sec. 1, Ch. 97, L. 1975; amd. Sec. 2, Ch. 384, L. 1975; R.C.M. 1947, 59-1605(5).

39-31-103. Definitions. When used in this chapter, the following definitions apply:

(1) "Public employer" means the state of Montana or any political subdivision thereof, including but not limited to any town, city, county, district, school board, board of regents, public and quasi-public corporation, housing authority or other authority established by law, and any representative or agent designated by the public employer to act in its interest in dealing with public employees.

(2) (a) "Public employee" means:

(i) except as provided in subsection (2)(b) of this section, a person employed by a public employer in any capacity; and

(ii) an individual whose work has ceased as a consequence of or in connection with any unfair labor practice or concerted employee action.

(b) "Public employee" does not mean:

(i) an elected official;

(ii) a person directly appointed by the governor;

(iii) a supervisory employee, as defined in subsection (3) of this section;

(iv) a management official, as defined in subsection (4) of this section;

(v) a confidential employee, as defined in subsection (12) of this section;

(vi) a member of any state board or commission who serves the state intermittently;

(vii) a school district clerk;

(viii) a school administrator;

(ix) a registered professional nurse performing service for a health care facility;

(x) a professional engineer; or

(xi) an engineer-in-training.

(3) "Supervisory employee" means any individual having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, discipline other employees, having responsibility to direct them, to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment.

(4) "Management official" means a representative of management having authority to act for the agency on any matters relating to the implementation of agency policy.

(5) "Labor organization" means any organization or association of any kind in which employees participate and which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, fringe benefits, or other conditions of employment.

(6) "Exclusive representative" means the labor organization which has been designated by the board as the exclusive representative of employees in an appropriate unit or has been so recognized by the public employer.

(7) "Board" means the board of personnel appeals provided for in 2-15-1705.

(8) "Person" includes one or more individuals, labor organizations, public employees, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.

(9) "Unfair labor practice" means any unfair labor practice listed in 39-31-401 or 39-31-402.

(10) "Labor dispute" includes any controversy concerning terms, tenure, or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

(11) "Appropriate unit" means a group of public employees banded together for collective bargaining purposes as designated by the board.

(12) "Confidential employee" means any person found by the board to be a confidential labor relations employee and any person employed in the personnel division, department of administration, who acts with discretionary authority in the creation or revision of state classification specifications.

History: En. Sec. 2, Ch. 441, L. 1973; amd. Sec. 1, Ch. 117, L. 1975; amd. Sec. 1, Ch. 384, L. 1975; R.C.M. 1947, 59-1602(part); amd. Sec. 1, Ch. 271, L. 1979; amd. Sec. 31, Ch. 397, L. 1979.

39-31-104. Rules. The board shall adopt, amend, or rescind such rules it considers necessary and administratively feasible to carry out the provisions of this chapter.

History: En. Sec. 13, Ch. 441, L. 1973; R.C.M. 1947, 59-1613(4).

39-31-105. Administrative procedure act applicable. All hearings and appeals shall be in accordance with the appropriate provisions of the Montana Administrative Procedure Act.

History: En. Sec. 17, Ch. 441, L. 1973; R.C.M. 1947, 59-1616.

39-31-106. Board authorized to subpoena witnesses and administer oaths. (1) To accomplish the objectives and to carry out the duties prescribed by this chapter, the board may subpoena witnesses and may administer oaths and affirmations.

(2) In cases of neglect or refusal to obey a subpoena issued to any person, the district court of the county in which the investigations or the public hearings are taking place or the district court of the first judicial district of this state, upon application by the board, may issue an order requiring such person to appear before the board or agent to produce evidence or give testimony about the matter under investigation. Failure to obey such order may be punished by the court as contempt.

History: En. Sec. 13, Ch. 441, L. 1973; R.C.M. 1947, 59-1613(1), (2).

39-31-107. Service of subpoenas, notices of hearing, and other process. Any subpoena, notice of hearing, or other process or notice of the board issued under the provisions of this chapter shall be served as provided by the rules of civil procedure.

History: En. Sec. 13, Ch. 441, L. 1973; R.C.M. 1947, 59-1613(3).

39-31-108. Counsel for public parties to litigation. In any action brought under the provisions of this chapter in the courts of this state, the public employer shall be represented by the attorney general or attorney of subdivision and the board shall be represented by counsel hired to represent the board for purposes of that proceeding.

History: En. Sec. 11, Ch. 441, L. 1973; R.C.M. 1947, 59-1611.

39-31-109. Existing collective bargaining agreements not affected. Nothing in this chapter shall be construed to remove recognition

of established collective bargaining agreements already recognized or in existence prior to the effective date of this act.

History: En. Sec. 16, Ch. 441, L. 1973; R.C.M. 1947, 59-1615.

Part 2

Public Employee Self Organization and Certification of Bargaining Representative

39-31-201. Public employees protected in right of self-organization. Public employees shall have and shall be protected in the exercise of the right of self-organization, to form, join, or assist any labor organization, to bargain collectively through representatives of their own choosing on questions of wages, hours, fringe benefits, and other conditions of employment, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection free from interference, restraint, or coercion.

History: En. Sec. 3, Ch. 441, L. 1973; amd. Sec. 1, Ch. 244, L. 1974; R.C.M. 1947, 59-1603(1).

39-31-202. Board to determine appropriate bargaining unit — factors to be considered. In order to assure employees the fullest freedom in exercising the rights guaranteed by this chapter, the board or an agent of the board shall decide the unit appropriate for the purpose of collective bargaining and shall consider such factors as community of interest, wages, hours, fringe benefits, and other working conditions of the employees involved, the history of collective bargaining, common supervision, common personnel policies, extent of integration of work functions and interchange among employees affected, and the desires of the employees.

History: En. Sec. 6, Ch. 441, L. 1973; amd. Sec. 1, Ch. 136, L. 1975; R.C.M. 1947, 59-1606(2).

39-31-203. Deduction of dues from employee's pay. Upon written authorization of any public employee within a bargaining unit, the public employer shall deduct from the pay of the public employee the monthly amount of dues as certified by the secretary of the exclusive representative and shall deliver the dues to the treasurer of the exclusive representative.

History: En. Sec. 12, Ch. 441, L. 1973; R.C.M. 1947, 59-1612.

39-31-204. Right of nonassociation with labor organization on religious grounds — requirements and procedure for assertion of right. (1) No public employee who is a member of a bona fide religious sect or division thereof, the established and traditional tenets or teachings of which oppose a requirement that a member of such sect or division join or financially support any labor organization, may be required to join or financially support any labor organization as a condition of employment if such public employee pays in lieu of periodic union dues, initiation fees, and assessments, at the same time or times such periodic union dues, initiation fees, and assessments would otherwise be payable, a sum of money equivalent to such periodic union dues, initiation fees, and assessments to a nonreligious, nonunion charity designated by the labor organization. Such public employee shall furnish to such labor organization written receipts evidencing such payments, and failure to make such payments or furnish such receipts shall subject the employee to the same sanctions as would nonpayment of dues, initiation fees, or assessments under the applicable collective bargaining agreement.

(2) A public employee desiring to avail himself or herself to the right of nonassociation with a labor organization as provided in this section shall make written application to the chairman of the board of personnel appeals. Within 10 days of the date of receipt of such application, the chairman shall appoint a committee of three, consisting of a clergyman not connected with the sect in question, a labor union official not directly connected with the labor organization in question, and a member of the public at large who shall be the chairman. The committee shall within 10 days of the date of its appointment meet at the locale of either the employee's residence or place of employment and, after receiving written or oral presentations from all interested parties, determine by a majority vote whether or not such public employee qualifies for the right of nonassociation with such labor organization. The committee's decision shall be made in writing within 3 days of the meeting date, and a copy thereof shall be forthwith mailed to such public employee, labor organization, and the chairman of the board of personnel appeals.

History: En. Sec. 3, Ch. 441, L. 1973; amd. Sec. 1, Ch. 244, L. 1974; R.C.M. 1947, 59-1603(5).

39-31-205. Designated labor organizations to represent employees without discrimination. Labor organizations designated in accordance with the provisions of this chapter are responsible for representing the interest of all employees in the exclusive bargaining unit without discrimination for the purposes of collective bargaining with respect to rates of pay, hours, fringe benefits, and other conditions of employment.

History: En. Sec. 3, Ch. 441, L. 1973; amd. Sec. 1, Ch. 244, L. 1974; R.C.M. 1947, 59-1603(3).

39-31-206. Labor organization to guarantee certain rights and safeguards prior to certification. Certification as an exclusive representative shall be extended or continued, as the case may be, only to a labor or employee organization the written bylaws of which provide for and guarantee the following rights and safeguards and whose practices conform to such rights and safeguards as:

- (1) provisions are made for democratic organization and procedures;
- (2) elections are conducted pursuant to adequate standards and safeguards;
- (3) controls are provided for the regulation of officers and agents having fiduciary responsibility to the organization; and
- (4) requirements exist for maintenance of sound accounting and fiscal controls, including annual audits.

History: En. Sec. 3, Ch. 441, L. 1973; amd. Sec. 1, Ch. 244, L. 1974; R.C.M. 1947, 59-1603(4).

39-31-207. Petition on representation question — investigation by board — hearing. (1) The board or an agent of the board shall investigate the petition and, if it has reasonable cause to believe that a question of representation exists, it shall provide for an appropriate hearing upon due notice whenever, in accordance with such rules as may be prescribed by the board, a petition has been filed:

(a) by an employee or group of employees or any labor organization acting in their behalf alleging that 30% of the employees:

(i) wish to be represented for collective bargaining by a labor organization as exclusive representative; or

(ii) assert that the labor organization which has been certified or is currently being recognized by the public employer as bargaining representative is no longer the representative of the majority of employees in the unit; or

(b) by the public employer alleging that one or more labor organizations have presented to it a claim to be recognized as the exclusive representative in an appropriate unit.

(2) In this hearing, the board is not bound by common law and statutory rules of evidence.

History: En. Sec. 6, Ch. 441, L. 1973; amd. Sec. 1, Ch. 136, L. 1975; R.C.M. 1947, 59-1606(part).

39-31-208. Representation election at direction of board. (1) If the board or an agent of the board, in the hearing provided for in 39-31-207, finds that there is a question of representation, it shall direct an election by secret ballot to determine whether and by which labor organization the employees desire to be represented or whether they desire to have no labor organization represent them and shall certify the results thereof.

(2) Only those labor organizations which have been designated by more than 10% of the employees in the unit found to be appropriate shall be placed on the ballot.

(3) The board or an agent of the board shall determine who is eligible to vote in the election and shall establish rules governing the election.

(4) Unless the majority vote is for no representation by a labor organization and in any election where none of the choices for a representative on the ballot receives a majority, a runoff election shall be conducted, the ballot providing for selection between the two choices receiving the largest and the second largest number of valid votes cast in the election.

(5) A labor organization which receives the majority of the votes cast in an election shall be certified by the board as the exclusive representative.

History: En. Sec. 6, Ch. 441, L. 1973; amd. Sec. 1, Ch. 136, L. 1975; R.C.M. 1947, 59-1606(part); amd. Sec. 32, Ch. 397, L. 1979.

39-31-209. Consent election. Nothing in 39-31-207 or 39-31-208 prohibits the waiving of hearings by stipulation for the purpose of a consent election in conformity with the rules of the board.

History: En. Sec. 6, Ch. 441, L. 1973; amd. Sec. 1, Ch. 136, L. 1975; R.C.M. 1947, 59-1606(part).

39-31-210. Election in twelve-month period following valid election prohibited. An election shall not be directed in any bargaining unit or in any subdivision thereof within which in the preceding 12-month period a valid election has been held.

History: En. Sec. 6, Ch. 441, L. 1973; amd. Sec. 1, Ch. 136, L. 1975; R.C.M. 1947, 59-1606(part).

39-31-211. Labor organizations representing employees of the board to be unaffiliated. A labor organization representing employees of the board may not affiliate or associate itself with a labor organization that represents any employees other than employees of the board. The board may not certify a labor organization as the exclusive representative of the employees of the board if, at the time of certification or thereafter, the labor organization is associated or affiliated with a labor organization that represents employees other than employees of the board.

History: En. Sec. 2, Ch. 271, L. 1979.

Compiler's Comments

Codification. Sec. 3, Ch. 271, L. 1979, provided: "It is intended that section 2 be codified

as an integral part of Title 39, chapter 31, part 2; and the provisions of Title 39, chapter 31, apply to section 2."

Part 3

Bargaining

39-31-301. Representative of public employer. The chief executive officer of the state, the governing body of a political subdivision, the commissioner of higher education, whether elected or appointed, or the designated authorized representative shall represent the public employer in collective bargaining with an exclusive representative.

History: En. Sec. 9, Ch. 441, L. 1973; amd. Sec. 3, Ch. 313, L. 1974; amd. Sec. 1, Ch. 35, L. 1975; R.C.M. 1947, 59-1609.

39-31-302. Participation by student representative when public employer is board of regents. When the board of regents is the public employer defined in 39-31-103, the student government at an institution of higher education may designate an agent or representative to meet and confer with the board of regents and the faculty bargaining agent prior to negotiations with the professional educational employees, to observe those negotiations and participate in caucuses as part of the public employer's bargaining team, and to meet and confer with the board of regents regarding the terms of agreement prior to the execution of a written contract between the regents and the professional educational employees. The student observer is obliged to maintain the confidentiality of these negotiations.

History: En. Sec. 2, Ch. 441, L. 1973; amd. Sec. 1, Ch. 117, L. 1975; amd. Sec. 1, Ch. 384, L. 1975; R.C.M. 1947, 59-1602(part).

39-31-303. Management rights of public employers. Public employees and their representatives shall recognize the prerogatives of public employers to operate and manage their affairs in such areas as, but not limited to:

- (1) direct employees;
- (2) hire, promote, transfer, assign, and retain employees;
- (3) relieve employees from duties because of lack of work or funds or under conditions where continuation of such work be inefficient and non-productive;
- (4) maintain the efficiency of government operations;
- (5) determine the methods, means, job classifications, and personnel by which government operations are to be conducted;
- (6) take whatever actions may be necessary to carry out the missions of the agency in situations of emergency;
- (7) establish the methods and processes by which work is performed.

History: En. Sec. 3, Ch. 441, L. 1973; amd. Sec. 1, Ch. 244, L. 1974; R.C.M. 1947, 59-1603(2).

39-31-304. Negotiable items for school districts. Nothing in this chapter shall require or allow boards of trustees of school districts to bargain collectively upon any matter other than matters specified in 39-31-305(2).

History: En. Sec. 2, Ch. 117, L. 1975; R.C.M. 1947, 59-1617.

39-31-305. Duty to bargain collectively — good faith. (1) The public employer and the exclusive representative, through appropriate officials or their representatives, shall have the authority and the duty to bargain collectively. This duty extends to the obligation to bargain collectively in good faith as set forth in subsection (2) of this section.

(2) For the purpose of this chapter, to bargain collectively is the performance of the mutual obligation of the public employer or his designated representatives and the representatives of the exclusive representative to meet at reasonable times and negotiate in good faith with respect to wages, hours, fringe benefits, and other conditions of employment or the negotiation of an agreement or any question arising thereunder and the execution of a written contract incorporating any agreement reached. Such obligation does not compel either party to agree to a proposal or require the making of a concession.

(3) For purposes of state government only, the requirement of negotiating in good faith may be met by the submission of a negotiated settlement to the legislature in the executive budget or by bill or joint resolution. The failure to reach a negotiated settlement for submission is not, by itself, prima facie evidence of a failure to negotiate in good faith.

History: (1)En. Sec. 4, Ch. 441, L. 1973; Sec. 59-1604, R.C.M. 1947; (2), (3)En. Sec. 5, Ch. 441, L. 1973; amd. Sec. 1, Ch. 36, L. 1975; amd. Sec. 1, Ch. 97, L. 1975; amd. Sec. 2, Ch. 384, L. 1975; Sec. 59-1605, R.C.M. 1947; R.C.M. 1947, 59-1604, 59-1605(3), (4).

39-31-306. Collective bargaining agreements. (1) Any agreement reached by the public employer and the exclusive representative shall be reduced to writing and shall be executed by both parties.

(2) An agreement may contain a grievance procedure culminating in final and binding arbitration of unresolved grievances and disputed interpretations of agreements.

(3) An agreement between the public employer and a labor organization shall be valid and enforced under its terms when entered into in accordance with the provisions of this chapter and signed by the chief executive officer of the state or political subdivision or commissioner of higher education or his representative. A publication of the agreement is not required to make it effective.

(4) The procedure for the making of an agreement between the state or political subdivision and a labor organization provided by this chapter is the exclusive method of making a valid agreement for public employees represented by a labor organization.

History: En. Sec. 10, Ch. 441, L. 1973; amd. Sec. 4, Ch. 313, L. 1974; R.C.M. 1947, 59-1610.

39-31-307. Mediation of disputes. If, after a reasonable period of negotiation over the terms of an agreement or upon expiration of an existing collective bargaining agreement, a dispute concerning the collective bargaining agreement exists between the public employer and a labor organization, the parties shall request mediation.

History: En. Sec. 14, Ch. 441, L. 1973; amd. Sec. 1, Ch. 18, L. 1975; R.C.M. 1947, 59-1614(1).

39-31-308. Initiation of factfinding — designation of fact finder. (1) If, upon expiration of an existing collective bargaining agreement or 30 days following certification or recognition of an exclusive representative, a dispute concerning the collective bargaining agreement exists between the employer and the exclusive representative, either party may petition the board to initiate factfinding.

(2) Within 3 days of receipt of such petition, the board shall submit to the parties a list of five qualified, disinterested persons from which the parties shall alternate in striking two names. The remaining person shall be designated fact finder. This process shall be completed within 5 days of receipt of the list. The parties shall notify the board of the designated fact finder.

(3) If no request for factfinding is made by either party before the expiration of the agreement or 30 days following certification or recognition of an exclusive representative, the board may initiate factfinding as provided for in subsection (2) above.

History: En. Sec. 14, Ch. 441, L. 1973; amd. Sec. 1, Ch. 18, L. 1975; R.C.M. 1947, 59-1614(2) thru (4).

39-31-309. Factfinding proceedings. (1) The factfinder shall immediately establish dates and place of hearings.

(2) The public employer and the exclusive representative are the only proper parties to factfinding proceedings.

(3) Upon request of either party or the factfinder, the board shall issue subpoenas for hearings conducted by the factfinder. The factfinder may administer oaths.

(4) Upon completion of the hearings, but no later than 20 days from the date of appointment, the factfinder shall make written findings of facts and recommendations for resolution of the dispute and shall serve such findings on the public employer and the exclusive representative. The factfinder may make this report public 5 days after it is submitted to the parties. If the dispute is not resolved 15 days after the report is submitted to the parties, the report must be made public.

(5) The cost of factfinding proceedings must be equally borne by the board and the parties concerned.

(6) Nothing in 39-31-307 through 39-31-310 prohibits the factfinder from endeavoring to mediate the dispute in which he has been selected or appointed as factfinder.

History: En. Sec. 14, Ch. 441, L. 1973; amd. Sec. 1, Ch. 18, L. 1975; R.C.M. 1947, 59-1614(5) thru (8); amd. Sec. 33, Ch. 397, L. 1979.

39-31-310. Submission of issues to arbitration. Nothing in 39-31-307 through 39-31-310 prohibits the parties from voluntarily agreeing to submit any or all of the issues to final and binding arbitration, and if such agreement is reached, the arbitration shall supersede the factfinding procedures set forth in those sections. An agreement to arbitrate and the award issued in accordance with such agreement shall be enforceable in the same manner as is provided in this chapter for enforcement of collective bargaining agreements.

History: En. Sec. 14, Ch. 441, L. 1973; amd. Sec. 1, Ch. 18, L. 1975; R.C.M. 1947, 59-1614(9).

39-31-311. Training of fact finders and arbitrators. The board of personnel appeals shall establish a course of education for the training of fact finders and arbitrators. No person may serve as a fact finder or as an arbitrator under this chapter until he has successfully completed the course or equivalent education.

History: En. 59-1614.1 by Sec. 1, Ch. 57, L. 1977; R.C.M. 1947, 59-1614.1.

Part 4

Unfair Labor Practices

39-31-401. Unfair labor practices of public employer. It is an unfair labor practice for a public employer to:

(1) interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in 39-31-201;

(2) dominate, interfere, or assist in the formation or administration of any labor organization; however, subject to rules adopted by the board under 39-31-104, an employer is not prohibited from permitting employees to confer with him during working hours without loss of time or pay;

(3) discriminate in regard to hire or tenure of employment or any term or condition of employment in order to encourage or discourage membership in any labor organization; however, nothing in this chapter or in any other statute of this state precludes a public employer from making an agreement with an exclusive representative to require, as a condition of employment, that an employee who is not or does not become a union member, must have an amount equal to the union initiation fee and monthly dues deducted from his wages in the same manner as checkoff of union dues;

(4) discharge or otherwise discriminate against an employee because he has signed or filed an affidavit, petition, or complaint or given any information or testimony under this chapter; or

(5) refuse to bargain collectively in good faith with an exclusive representative.

History: En. Sec. 5, Ch. 441, L. 1973; amd. Sec. 1, Ch. 36, L. 1975; amd. Sec. 1, Ch. 97, L. 1975; amd. Sec. 2, Ch. 384, L. 1975; R.C.M. 1947, 59-1605(1); amd. Sec. 34, Ch. 397, L. 1979.

39-31-402. Unfair labor practices of labor organization. It is an unfair labor practice for a labor organization or its agents to:

(1) restrain or coerce employees in the exercise of the right guaranteed in 39-31-201 or a public employer in the selection of his representative for the purpose of collective bargaining or the adjustment of grievances;

(2) refuse to bargain collectively in good faith with a public employer if it has been designated as the exclusive representative of employees;

(3) use agency shop fees for contributions to political candidates or parties at state or local levels.

History: En. Sec. 5, Ch. 441, L. 1973; amd. Sec. 1, Ch. 36, L. 1975; amd. Sec. 1, Ch. 97, L. 1975; amd. Sec. 2, Ch. 384, L. 1975; R.C.M. 1947, 59-1605(2).

39-31-403. Remedies for unfair labor practices. Violations of the provisions of 39-31-401 or 39-31-402 are unfair labor practices remediable by the board pursuant to this part.

History: En. Sec. 7, Ch. 441, L. 1973; R.C.M. 1947, 59-1607(part); amd. Sec. 35, Ch. 397, L. 1979.

39-31-404. Six-month limitation on unfair labor practice complaint — exception. No notice of hearing shall be issued based upon any unfair labor practice more than 6 months before the filing of the charge with the board unless the person aggrieved thereby was prevented from filing the charge by reason of service in the armed forces, in which event the 6-month period shall be computed from the day of his discharge.

History: En. Sec. 7, Ch. 441, L. 1973; R.C.M. 1947, 59-1607(part).

39-31-405. Unfair labor practice complaint — notice of hearing — service — answer. (1) Whenever a complaint is filed alleging that any person has engaged in or is engaging in any such unfair labor practice, the board or any agent designated by the board for such purposes shall issue and cause to be served upon the person a copy of the complaint and a notice of hearing before the board, a member thereof, or before a designated agent at a time and place therein fixed, not less than 5 working days after the date of service.

(2) The person upon whom the charge is served shall file an answer to the complaint.

History: En. Sec. 7, Ch. 441, L. 1973; R.C.M. 1947, 59-1607(part).

39-31-406. Hearing on complaint — findings — order. (1) The complainant and the person charged shall be parties and shall appear in person or otherwise give testimony at the place and time fixed in the notice of hearing. In the discretion of the board or its agent conducting the hearing, any other person may be allowed to intervene in the proceeding and present testimony.

(2) In any hearing the board is not bound by the rules of evidence prevailing in the courts.

(3) The testimony taken by the board or its agent shall be reduced to writing and filed with the board. Thereafter, in its discretion the board upon notice may take further testimony or hear argument.

(4) If, upon the preponderance of the testimony taken, the board is of the opinion that any person named in the complaint has engaged in or is engaging in an unfair labor practice, it shall state its findings of fact and shall issue and cause to be served on the person an order requiring him to cease and desist from the unfair labor practice and to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this chapter. The order may further require the person to make reports from time to time showing the extent to which he has complied with the order. No order of the board shall require the reinstatement of any individual as an employee who has been suspended or discharged or the payment to him of any back pay if it is found that the individual was suspended or discharged for cause.

(5) If, upon the preponderance of the testimony taken, the board is not of the opinion that the person named in the complaint has engaged in or is engaging in the unfair labor practice, then the board shall state its findings of fact and shall issue an order dismissing the complaint.

(6) If the evidence is presented before a member of the board or before an examiner, the member or the examiner, as the case may be, shall issue and cause to be served on the parties to the proceeding a proposed decision, together with a recommended order, which shall be filed with the board, and if no exceptions are filed within 20 days after service thereof upon the parties or within such further period as the board may authorize, the recommended order shall become the order of the board. The board shall issue a final order within 5 months after a complaint is submitted to the hearing officer.

History: En. Sec. 7, Ch. 441, L. 1973; R.C.M. 1947, 59-1607(part); amd. Sec. 1, Ch. 369, L. 1979.

39-31-407. Amendment of complaint. Any complaint may be amended by the complainant at any time prior to the issuance of an order based thereon, provided that the charged party is not unfairly prejudiced thereby.

History: En. Sec. 7, Ch. 441, L. 1973; R.C.M. 1947, 59-1607(part).

39-31-408. Modification by board of findings and order. Until the record in a proceeding has been filed in district court, the board at any time, upon reasonable notice and in such manner as it considers proper, may modify or set aside, in whole or in part, any finding or order made or issued by it.

History: En. Sec. 7, Ch. 441, L. 1973; R.C.M. 1947, 59-1607(3).

39-31-409. Court enforcement and review of board order. (1) The board or the complaining party may petition for the enforcement of the order of the board and for appropriate temporary relief or a restraining order and shall file in the district court at its own expense the record in the proceedings.

(2) Upon the filing of the petition, the district court shall have jurisdiction of the proceeding. Thereafter, the district court shall set the matter for hearing and shall order the party charged to be served with notice of hearing at least 20 days before the date set for hearing.

(3) No objection that has not been raised before the board shall be considered by the court unless the failure or neglect to raise the objection is excused because of extraordinary circumstances.

(4) The findings of the board with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

(5) If either party applies to the court for leave to present additional evidence and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to present it in the hearing before the board, the court may order the additional evidence to be taken before the board and to be made part of the record. The board may modify its findings as to the facts or make new findings by reason of additional evidence so taken and filed, and it shall file the modifying or new findings with the district court.

(6) After the hearing, the district court shall issue its order granting such temporary or permanent relief or restraining order as it considers just and proper, enforcing as so modified or setting aside, in whole or in part, the order of the board. Any order of the district court shall be subject to review by the supreme court in accordance with rules of civil procedure.

(7) The commencement of proceedings under subsections (1) through (6) of this section shall not, unless specifically ordered by the court, operate as a stay of the board's order.

History: En. Sec. 8, Ch. 441, L. 1973; R.C.M. 1947, 59-1608.

ATTACHMENT C

LABOR RELATIONS STATUS REPORT
#17

January 17, 1983

State of Montana
State Personnel Division
Labor Relations Bureau
Room 130, Mitchell Building
Helena, Montana

Compiled By: Labor Relations Bureau
State Personnel Division

NEW UNITS (1982)

Department of Administration

**Carpenters - United Brotherhood of Carpenters, Local #153, Montana
State Council of Carpenters

Board of Education

**Carpenters - United Brotherhood of Carpenters, Local #153, Montana
State Council of Carpenters

ANTICIPATED NEW UNITS

Department of Institutions

Women's Correctional Facility - Montana Public Employees Association

**Carpenters have one unit in common for Department of Administration and Board
of Education/Montana Historical Society

Agency & Agent*	File Code Number	Number of Employees Covered	Type of Unit (See keys, page 4)	Pay Plan
Department of Administration				
1. MFT-Data Processing	043	45	w	ST
2. Montana Maint. Painters	045	4	c	BC
3. MPEA-Pub. Emp. Ret. Div.	064	16	w-p	ST
4. Laborers-Security Guards	062	16	b	ST
5. Laborers-Custodians	074	13	b	ST
** 6. Carpenters-Carpenters	076	2	b	BC
Department of Agriculture				
7. MPEA Department Wide	041	52	w-p	ST
Board of Education				
<u>MT School for Deaf & Blind</u>				
8. MFT	072	47	p-w	0
<u>MT Historical Society</u>				
** 9. Carpenters	076	2	b	BC
Department of Fish, Wildlife & Parks				
10. MPEA- Game Wardens	040	63	l	ST
Department of Health				
11. Montana Nurses Assn.	054	5	n	ST
12. MPEA	034	159	p-w	ST
Department of Highways				
13. AFSCME-Maintenance	001	385	b-c	BC
14. Craft Council-Maint.	002	320	b-c	BC
15. MPEA Non-Maintenance	035	644	p-w-l	ST
Department of Institutions				
<u>Boulder</u>				
16. AFSCME	003	347	p-c-w-b-n	ST
17. Carpenters	021	5	c	BC
18. Electricians	060	1	c	BC
19. MFT-Teachers	048	22	p	ST-T
20. MFT-Hab. Train. Spec.	057	8	p	ST
***21. Machinists	047	1	c	BC
22. Operating Engineers	007	8	c	BC
****23. Montana Maint. Painters	044	4	c	BC
<u>Center for the Aged</u>				
24. MPEA	059	82	p-b-w	ST
<u>Eastmont Training Center</u>				
25. MEA	029	16	p-w	T-ST
26. MPEA	056	15	b-c	ST

* See back page for full spelling of bargaining agent names shown as acronyms.

** Carpenters have one unit in common for Dept. of Administration and Board of Education.

*** Machinists have one unit in common (with exception of Dept. of State Lands).

**** Painters at Boulder and Prison are in combined unit.

Agency & Agent*	File Code Number	Number of Employees Covered	Type of Unit (See keys, Page 4)	Pay Plan
<u>Department of Institutions (Cont'd)</u>				
<u>Mountain View</u>				
27. MEA	053	12	p	T
28. MPEA	039	37	p-b-w-c	ST
<u>Pine Hills</u>				
29. MEA	051	13	p	T
30. MPEA-Cottage Life Atts.	068	33	p-w	ST
31. MPEA-Professional Unit	069	8	p	ST
<u>Prison</u>				
32. MPEA	005	267	p-c-w-b-n	ST-T
33. Carpenters	022	1	c	BC
34. Electricians	012	2	c	BC
*** Machinists	047	1	c	BC
35. UFCW-Meatcutters	052	2	c	BC
36. Plumber/Boilermakers	018	2	c	BC
37. Teamsters	028	2	c	BC
38. MFT-Social Workers	050	6	p	ST
**** Montana Maint. Painters	044	1	c	BC
<u>Swan River Youth Forest Camp</u>				
39. Teamsters	006	11	p-w	ST
<u>Veterans' Home</u>				
40. MPEA	070	49	p-w-b	ST
41. MPEA-Nurses	075	7	n	ST
<u>± Warm Springs/Galen</u>				
42. AFSCME	004	167	p-c-b-n	ST
43. Carpenters-Wm. Springs	019	3	c	BC
44. Carpenters-Galen	020	2	c	BC
45. Electricians-Wm. Springs	010	2	c	BC
46. Electricians-Galen	011	1	c	BC
47. Hotel/Motel & Rest. Employees-Wm. Springs	023	34	b	ST
48. Indep. Union-Wm. Springs	025	295	b	ST
49. MPEA-Warm Springs	049	55	p	ST-T
*** Machinists-Wm. Springs	047	1	c	BC
50. MFT-Alc./Drg. Couns.- Galen	065	8	w	ST
51. MNA-Warm Springs	058	27	n	ST
52. MNA-Galen	013	15	n	ST
53. Operating Eng.-Wm. Sprgs.	009	5	c	BC
54. Operating Eng.-Galen	008	6	c	BC
55. Painters-Warm Springs	015	4	c	BC
56. Painters-Galen	014	2	c	BC

* See back page for full spelling of bargaining agent names shown as acronyms.

*** Machinists have one unit in common (with exception of Dept. of State Lands).

**** Painters at Boulder and Prison are in combined unit.

± The administration of Warm Springs State Hospital and Galen State Hospital have been combined as an administration for Warm Springs/Galen State Hospital. Negotiations are currently in process to combine the formerly separate bargaining units where possible, however, until the negotiations are completed, the separate bargaining units will continued to be identified.

Agency & Agent*	File Code Number	Number of Employees Covered	Type of Unit	Pay Plan
(See keys, Page 4)				
Department of Institutions (Cont'd)				
<u>Warm Springs/Galen</u>				
57. Plumbers-Warm Sprgs	016	3	c	BC
58. Plumbers-Galen	017	2	c	BC
59. Practical Nurses-Wm.Spr.	024	51	p	ST
60. Teamsters-Wm. Sprgs.	026	7	b	BC
61. Teamsters-Galen	027	5	c	BC
Department of Justice				
62. AFSCME-Registrar's Bur.	030	60	w	ST
63. MPEA-Highway Patrol	036	158	l	ST
Department of Labor & Industry				
64. MPEA-ESD	038	419	p-w	ST
65. MPEA-Workers' Comp.	067	129	p-w	ST
66. Labor Relations & Appeals Union - Personnel Appeals Division	071	5	p	ST
67. MPEA-Employment & Training Division	073	11	p	ST
Department of Revenue				
68. MPEA-Liquor Warehouse	031	11	b	BC
69. MPEA-Income Tax Div.	037	49	w	ST
70. UFCW-Clerks-Liq. Div.	032	104	b	LS
71. UFCW-Managers-Liq. Div.	033	73	w	LS
72. MFT-Data Entry Operators	055	11	w	ST
Department of Social & Rehabilitative Services				
73. MPEA-Central/Dist. Off.	061	264	w-p	ST
74. MPEA-County Welfare Offices	042	264	w-p	ST
Department of State Lands				
75. Machinists-Forestry Div.	046	8	c	BC
76. Machinists-Swan Forestry Unit	066	5	b	ST
Office of Superintendent of Public Instruction				
77. MPEA	063	103	p-w	ST

KEYS

Types of Unit

p - professional
w - white collar
b - blue collar
c - craft worker
l - law enforcement
n - nurse

Pay Plan

ST - State Matrix
BC - Blue Collar Plan
LS - Liquor Store
T - Teacher's Salary Schedule
O - Other

* See back page for full spelling of bargaining agent names shown as acronyms.

APPROXIMATE TOTALS BY AGENT UNITS

AGENT	# COVERED	RANK
AFSCME (American Federation of State, County & Municipal Employees, AFL-CIO)	959	2
CARPENTERS (United Brotherhood of Carpenters, AFL-CIO)	15	15
CRAFT COUNCIL* (Public Employees Craft Council)	320	3
ELECTRICIANS (International Brotherhood of Electrical Workers, AFL-CIO)	6	20
HOTEL/MOTEL (Hotel, Motel & Restaurant Employees)	34	10
LABOR RELATIONS & APPEALS UNION	5	19
LABORERS (Laborers' International Union, AFL-CIO)	29	11
MACHINISTS (International Association of Machinists, AFL-CIO)	16	14
MEA (Montana Education Association)	41	9
MFT (Montana Federation of Teachers, AFT, AFL-CIO)	147	6

*Voluntary coalition consisting of: Laborers (LIU), Machinists (IAM), Operating Engineers (IUOE), Painters (IBAT), and Teamsters (IBT).

APPROXIMATE TOTALS BY AGENT (Cont.)

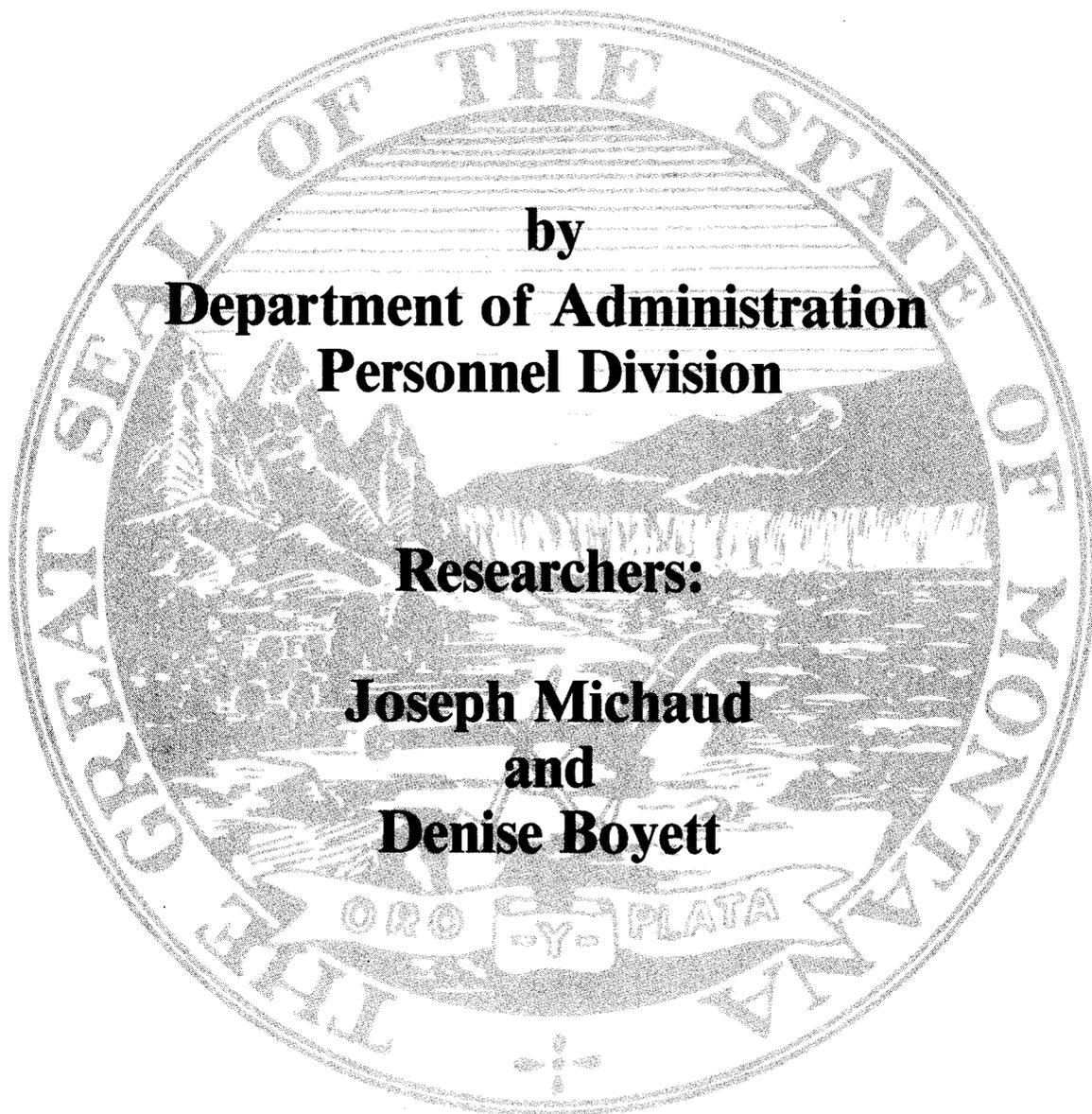
AGENT	UNITS	# COVERED	RANK
MPEA (Montana Public Employees Association)	Admin., Agriculture, F.W. & Parks, Health, Highways, Center for Aged, Veterans' Home, Mountain View, Pine Hills, Prison, Eastmont, Warm Springs/Galen, Highway Patrol, E.S.D., Liquor Warehouse, Income Tax, County Welfare, S.R.S., OPI, Workers' Comp., P.E.R.S., Emp. & Training Div.	2,895	1
MNA (Montana Nurses Association)	Health, Warm Springs/Galen	47	8
OPERATING ENGINEERS (International Union of Operating Engineers, AFL-CIO)	Boulder, Warm Springs/Galen	19	13
PAINTERS (International Brotherhood of Painters, AFL-CIO)	Warm Springs/Galen	6	18
MONTANA MAINTENANCE PAINTERS	Administration, Boulder, and Prison	9	16
PLUMBERS/BOILERMAKERS (United Association of Plumbers, AFL-CIO/International Brotherhood of Boilermakers, AFL-CIO)	Prison, Warm Springs/Galen	7	17
UFCW (United Food & Commercial Workers, AFL-CIO)	Liquor Division, Revenue & Meatcutters, Prison	179	5
TEAMSTERS (International Brotherhood of Teamsters)	Prison, Warm Springs/Galen, Swan River Youth Camp	25	12
WARM SPRINGS INDEPENDENT UNION	Warm Springs/Galen and Security Guards at Galen	295	4
WARM SPRINGS PRACTICAL NURSES (Licensed Practical Nurses Assn.)	Warm Springs/Galen	51	7
		<u>5,105</u>	

STATE EMPLOYEE SALARY AND BENEFIT SURVEY 1982

by
**Department of Administration
Personnel Division**

Researchers:

**Joseph Michaud
and
Denise Boyett**



DEPARTMENT OF ADMINISTRATION
PERSONNEL DIVISION



TED SCHWINDEN, GOVERNOR

ROOM 130, MITCHELL BUILDING

STATE OF MONTANA

(406) 449-3871

HELENA, MONTANA 59620

February 1, 1983

The Honorable Ted Schwinden
Governor of Montana
State Capitol
Helena, Montana 59620

Dear Governor Schwinden:

Attached is the 1982 Montana Salary and Benefit Survey conducted by the Personnel Division. This report was prepared in compliance with Title 2, Chapter 18, MCA, which requires that the Department of Administration continually maintain the state classification and pay plan. A critical element in the maintenance of the plan is to assure that state employees are appropriately compensated for their services.

The attached report describes the methods used and the data obtained in the survey. The information included in this report was gathered and analyzed in order to help address a variety of issues regarding employee compensation and benefits in Montana state government.

I wish to express my thanks for the cooperation and assistance received from the many employers who provided the information that made this study possible.

Sincerely,

A handwritten signature in cursive script that reads "Dennis M. Taylor".

Dennis M. Taylor
Administrator
Personnel Division

**STATE EMPLOYEE SALARY
AND
BENEFIT SURVEY
1982**

by DEPARTMENT OF ADMINISTRATION

PERSONNEL DIVISION

**RESEARCHERS:
JOSEPH MICHAUD
and
DENISE BOYETT**

ABSTRACT

The primary purpose of the salary survey is to compare salaries and benefits paid to occupational skills that the state needs to carry out mandated services. The competitiveness of state salaries at those grade levels having the bulk of state employees is also considered. Key classes were selected to represent both occupational groups and grade levels. Data were solicited for these selected classes to determine the state's ability to compete for qualified people in various occupational groups and at various grade levels.

The survey was divided into an in-state survey of Montana based employers and an out-of-state survey of surrounding state governments to reflect the different labor markets in which the state competes. Forty-two key classes were selected for the in-state survey, 107 key classes were selected for the out-of-state survey, and twelve classes were selected to be common to both surveys.

For the in-state survey, 424 Montana based employers were sampled. The out-of-state survey was conducted among nine states in the Rocky Mountain area. The survey was conducted during September of 1982. All 9 states and 172 of the 424 Montana employers responded. These responding employers employ a total of 154,686 employees. The survey produced 2,470 job matches representing the salaries of at least 37,741 job incumbents.

In general, the following conclusions can be drawn from this salary and benefit survey:

1. Most lower graded state salaries are near or above market averages, while state salaries at classified grades 11 and above tend to be below market averages.
2. Except for teachers, state salaries of employees paid by special pay matrices (retail clerks, blue collar, etc.) are at or above market averages.
3. The salaries of most of the state's experienced professionals and managers continue to be significantly below market averages.
4. There is evidence that most employers in both labor markets increase the salaries of satisfactory employees faster than the State of Montana. The state's minimum salaries are generally more competitive than its maximum and average or midpoint salaries.
5. Evidence from both surveys suggest that the state's classification system allocates grade levels from a perspective of value to the organization and treats predominatly female occupations the same as predominantly male occupations. There tends to be more salary differences of this type in the market place than within the state's system.

6. The state's group insurance contribution is about in line with the market.
7. The state's retirement contribution is below the average of neighboring state contributions but slightly above the average of Montana employer contributions.
8. State employees receive more paid leave time than those employed elsewhere in the two labor markets.
9. State pay and benefit increases during this biennium maintained the state's market position for experienced professionals and managers and improved the state's market position for lower graded positions.
10. This biennium's percentage rather than flat dollar adjustments to classified grades 15 and above kept the state's market position at these levels from further deterioration and prevented further salary compression.

The general recommendations resulting from this survey are as follows:

1. In providing general pay adjustments for the next biennium, anticipate what the labor market and economy will be like. If inflation continues its decline and economic growth is sustained, then small or negative adjustments could be costly to the state by lowering its competitive position in the labor market. On the other hand, if interest rates rise again and unemployment continues to climb, larger increases would cause the state and other employers to have excessive personal service costs as voluntary terminations would be deterred and qualified replacements could be obtained for less from a larger source. History and the prevailing optimism of human nature predict that over the next two years average salaries will be somewhat higher than they are now.
2. Be cautious with flat dollar type wage settlements. The effects on grade relationships should be studied in advance of such settlements.
3. Pay adjustments to special occupational groups, such as engineers, not involving classification actions do not seem warranted at this time.
4. More of an effort should be made to coordinate skill levels among the state's various pay systems. Gradual corrections should be made to move toward equity throughout state government.
5. Work toward feasible pay mechanisms that reward above average productivity and performance of assigned job duties.

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1982 State of Montana Salary and Benefit Survey

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STATE EMPLOYEE SALARY AND BENEFIT SURVEY 1982

SURVEY DEVELOPMENT

For pay purposes, all Montana state employees are in one of the following categories:

1. Elected legislators.
 2. Legislative staff.
 3. Elected judges (7 Supreme Court Justices and 32 District Court Judges) and the Clerk of the Supreme Court.
 4. Judicial staff.
 5. Exempt staff of the Montana University System.
 6. University System staff under academic contract.
 7. Teachers at the State School for the Deaf and Blind.
 8. Blue collar and other non-classified employees of the University System.
 9. Elected executive officials (Governor, Lieutenant Governor, Secretary of State, Attorney General, State Auditor, Superintendent of Public Instruction, and five Public Service Commissioners).
 10. Personal staff of elected executive officials including department directors.
 11. Board eligible physicians at state institutions.
 12. Teachers at state institutions.
 13. Blue collar crafts not under the state classification system.
 14. State liquor store employees.
 15. Classified employees in the Executive branch and in the University System.
- The overwhelming majority of state employees (approximately 12,400 of 15,000) are in category 15. Previous state salary surveys conducted by the

State Personnel Division covered only classified employees. Since the Personnel Division is responsible for overseeing the pay systems of employees in categories 11 through 15, this survey attempts to represent each of these.

Employees in general perform their assigned job duties in anticipation of rewards or out of fear of punishment. Pay is only one of the various positive or negative work motivators. When pay is less than what employees expect for their efforts expended, increased turnover, absenteeism, job dissatisfaction and adverse performance modification will most likely follow.* These employee pay expectations result from employees making pay comparisons with those employed elsewhere but performing similar duties (external equity) and making pay comparisons with other state employees through consideration of perceived efforts expended and importance of organizational goals attained (internal equity). Of the two, perceived internal equity has a greater impact on pay satisfaction than perceived external equity.**

* Nan Weiner, "Determinants and Behavioral Consequences of Pay Satisfaction: A Comparison of Two Models," *Personnel Psychology*, 33, 1980, p.741.

** Lee Dyer, Donald P. Schwab and John A. Fossum, "Impacts of Pay on Employee Behaviors and Attitudes: An Update," *The Personnel Administrator*, 23, 1978, pp.51-58.

Because the objective of pay and benefits administration is to make the best use personal service expenditures, this survey is primarily concerned with identifying pay inequities. Even though the focus of the survey is on external comparisons; resulting analyses, decisions and recommendations should also consider internal factors.

When making pay decisions, whether general or individual, the following factors should be studied:

1. budget and cash flow;
2. the effectiveness of management in recruiting and selecting employees;
3. economic and labor market conditions;
4. prevalent social attitudes;
5. personal attributes of those recruited, selected and retained;
6. the nature of duties and responsibilities inherent in the job;
7. the way management values positions in relation to one another;
8. the effectiveness of management in developing and using the skills of employees;
9. employee expectations, perceptions and observations;
10. organizational attitudes about accomplishing its goals and objectives; and
11. organizational attitudes about motivating employees to accomplish its goals and objectives.*

* Lee Dyer, Donald P. Schwab and John A. Fossum, "Impacts of Pay on Employee Behaviors and Attitudes: An Update," *The Personnel Administrator*, 23, 1978, pp. 51-58.

Historically, the practice of providing annual state employee salary increases has been to negotiate wage settlements with unions based on a general formula. Prior to agreeing to a general pay increase formula, both negotiating parties reasonably conceptualize such things as budget and cash flow; economic and labor market conditions; and employee expectations, perceptions and observations. In the past, the settlement formula has consisted of a flat dollar increase coupled with a percentage increase. Thus, the positive aspect of this procedure is that it allows the opportunity to consider all of the above pay decision factors. On the negative side, these formulas tend to gradually reduce pay differentials between grades and create less competitive salaries at the higher skill level.

This practice can be contrasted with the prevailing wage principle used by some other government jurisdictions as a general standard of wage determination. As an example, the law applied to pay for Federal employees specifies that pay rates be "comparable with private industry pay rates for the same levels of work." Michigan and Colorado are examples of states that emphasize the prevail-

ing wage principle in providing annual pay adjustments.

Using the prevailing wage principle as the primary factor for setting salaries will benefit the employer in hiring and keeping highly demanded and skilled employees. However, strict adherence to the prevailing wage principle also has its problems.

One problem is that this practice has the tendency to break down established internal pay relationships. Internal pay dissatisfaction can result in increased turnover, absenteeism, and an overall decline in employee productivity.

Another problem is that the average pay practice of surveyed employers becomes the state's pay practice. This may or may not reflect management's values and priorities regarding state goals and objectives. In addition, those actively pursuing the "equal pay for work of comparable worth" principle oppose tying wage increases directly to prevailing wage standards because they feel that the market tends to perpetuate institutional biases in certain organizational categories.

One of the most important pay decisions to be made is establishing and maintaining internal pay relationships. This salary survey was designed to reveal how the state is doing in this regard. Key classes were selected to represent all of the relevant classified skill levels (grades 4 through 22). Several classes of non-classified positions were also included.

Occasionally, state managers feel that they need to pay more to recruit or retain highly qualified and demanded job skills. Substantiation of these contentions is easier if comparative survey data are available on all state occupations. The key classes selected for this survey provide a representation of all state occupations.

General pay increases should be designed to maintain the purchasing power of state employees in relation to those employed elsewhere. Failure to do this, unless reasonably justified and explained, will probably result in pay dissatisfaction with its adverse consequences. The salary survey attempts to tell what is happening to the purchasing power of these other employees.

HYPOTHESIZED RESULTS

Previous state salary surveys resulted in the following general conclusions:

1. Most state employee salaries have been at

least slightly below market averages.

2. The salaries of the state's experienced professionals and managers have been significantly below market averages.
3. Other employers have increased the salaries of satisfactory employees faster than the state of Montana.
4. With a few exceptions, the state has valued job skills similar to other employers.
5. The state group insurance and retirement contributions have been slightly less than those provided by other employers.

Two changes were made during this biennium that could slightly alter this year's salary survey findings. First, since state salary ranges were increased by at least 8.7% in each of two consecutive years, market disparity may have been offset. Second, since percentage increases, instead of a settlement formula including flat dollar adjustments, were used to provide increases to salaries in grades 15 and above, further market disparity and salary compression for these levels may have been avoided.

SELECTION OF KEY CLASSES

The survey is designed to make salary comparisons to two different labor markets. It is assumed that recruitment for clerical, technical, crafts and miscellaneous personnel is generally carried out within the state of Montana. It is also assumed that the state competes for professional talent in-state, regionally and sometimes nationally. However, migration statistics suggest that most of our professional employees are recruited from the Rocky Mountain area, West Coast or from the northernmost Midwestern states. Previous salary surveys have suggested that average data obtained from the Rocky Mountain states do not significantly change with the addition of West Coast or Midwest states. It is also assumed and known to some extent that the other Rocky Mountain states design their salary systems to compete for qualified professional and non-professional talent within their own state and region.

Key classes for both the in-state and out-of-state surveys were selected in the same manner. Key classes had to represent the range of work in state government and be capable of producing matches with other employers. Enough key classes were selected to represent all state occupational groups

and most skill levels whether classified or not. Yet, the number of selected classes were limited so that employers would not be unnecessarily discouraged from participating in the survey. The exact steps taken to select key classes are listed on pages 13a — 15a of the Technical Report.

The final list consisted of 161 key classes. Forty-two of these were to be matched in the in-state labor market, 107 in the out-of-state market, and 12 in both labor markets. The table on pages 16a and 17a of the Technical Report represents the degree to which grades (skill levels) are represented by the selected key classes, while the table on pages 18a and 19a of the Technical Report presents the degree to which occupational groups are represented by the selected key classes. Pages 20a through 25a of the Technical Report lists each key class by occupational group.

IN-STATE EMPLOYERS

As mentioned earlier in this report, it is assumed that recruitment for clerical, technical, crafts and miscellaneous personnel is generally carried out within the state of Montana. In order to make pay comparisons, the in-state employer sample was selected in a similar manner as past state salary surveys. The Department of Labor and Industry publishes a list of firms whose employees are covered by the unemployment insurance program. This list includes nearly every employer operating within the state of Montana.

The Department of Labor and Industry lists employers according to the number of people employed. This list made it possible to stratify a random selection of employers by size.

The sample was set up so that larger firms would have a greater chance to be selected for the survey. This method was used to control the costs of obtaining adequate job matches and to compare salaries with those employers most apt to have competitive job openings. Smaller firms were screened because they were less likely to have jobs that match those found in state government. Having used smaller employers in previous state salary surveys has confirmed these contentions.

Every employer with 250 or more people employed in Montana was selected to be surveyed. As in the 1980 survey, two of three firms with 100 to 250 employees and one of three firms with 50 to 100 employees were chosen in a random fashion.

Only 57 firms with 20 to 50 employees are included in the in-state employer sample. The reason for including these few smaller firms was to ensure more job matches for those classes where insufficient responses were expected unless these employers were added. The expectation was based on previous survey experience and on Department of Labor and Industry reports that estimate various occupational employment by industry. These reports suggest that most plumbers in Montana are employed by plumbing firms; that most mechanics are employed by automobile dealers and repair establishments; that most laundry workers are employed by laundry and cleaning establishments; that many custodians are employed by firms offering this type of personal service; that computer personnel are often employed by firms offering business services, and; that drafters are usually employed by engineering/architecture firms. These

conclusions are obvious but are worthy of mention because without expanding the employer sample to include more of these types of firms, sufficiently reliable data for the classes could not have been possible.

The resulting employer sample is reflected in the following table as is the number of selected employers that responded to the survey. The response rate of 41% is about what was expected.

Despite the fact that the employer sample is stratified, there is no need to weigh response results. The logic behind this decision is that during any given period of time, larger firms are more apt to compete with the state for specific types of personnel. Thus, what the smaller firms are paying their employees will not matter as much as the larger firms because smaller firms have fewer employees and are not as often in the labor market looking for qualified talent.

IN-STATE EMPLOYER SAMPLE AND RESPONSE

<u>Size of firm by # of Employees</u>	<u># of Responding Employers</u>	<u># of Surveyed Employers</u>	<u># of Employers in Montana</u>
1000 or more	12	12	12
500-999	14	25	25
250-499	20	44	44
100-249	60	155	225
50- 99	44	141	420
1- 19	—	—	21,000
TOTAL	172	424	23,228

OUT-OF-STATE EMPLOYERS

In previous state salary surveys, migration statistics, per capita income, population density, and physical proximity were among the factors used to select the states from which to solicit salary data. Migration statistics indicate that Montana jobs taken by out-of-stater's are most likely taken by people moving from the rest of the Rocky Mountain states, from the West Coast, or perhaps from the northernmost midwestern states and are not likely to be taken by people from the deep South or East Coast. In the last survey, data from 9 Rocky Mountain states were analyzed and found to be fairly similar to data provided by an expanded list of 15 regional states and to data provided by all 50 states. Thus, data obtained from the following selected nine states seem to sufficiently meet our

needs: Arizona, Colorado, Idaho, Nevada, New Mexico, North Dakota, South Dakota, Utah and Wyoming.

TOOLS USED TO ANALYZE DATA

The Statistical Package for the Social Sciences (SPSS) was used to calculate basic statistics on most of the data collected. For ordinal and nominal data, SPSS was used to provide absolute, relative and cumulative response frequencies. For interval data, SPSS was used to calculate mean, median, mode, range, standard deviation, standard error and sample size.

CULPRIT programs were prepared to make the statistics derived from SPSS most presentable to the reader and to calculate Montana z-scores by using the means and standard deviation of the sal-

ary data collected. SPSS and CULPRIT are simply software packages available in the state's computer system used to help make the results of this survey more easily understood and meaningful for making corrective decisions.

An explanation of the statistics used to compare the survey responses to state practices is provided on page 26a of the Technical Report. These statistics include sample mean as an estimate of the universe mean, standard error of the sample mean, standard deviation of the sample mean, Montana z-score, and the lowest reported salaries.

SALARY DATA AND TOTAL COMPENSATION

The "Job Match Response Form" as explained on pages 1a and 2a of the Technical Report asks for minimum, maximum and actual average salaries. All three figures are necessary because conflicting results obtained from any two could indicate differences among employer pay practices.

In the in-state survey, 69% of the total job matches resulted in the reporting of minimum and maximum salaries. Naturally this figure varies by occupation. For example, in more than half of the cases, minimums and maximums were not provided for the craft occupations. Actual average salaries and the number of actual incumbents were reported in 90% of the job matches provided by Montana employers.

In the survey of neighboring states, minimum and maximum salaries were provided in all but 6 of 866 job matches. Because one state was unable to provide actual average salaries and because there were occasionally no job incumbents in the matches provided, the actual average salary was

unavailable in 15% of the cases. In 5% of the cases, the number of incumbents was not provided.

Wherever actual average salaries are not provided, midpoints were calculated and combined with the actual average salaries provided for comparison purposes. This allows for every job match to be illustrated by one statistic.

The "General Compensation and Benefit Questionnaire" (shown on pages 4a to 7a of the Technical Report) asks for some information in a way that is easiest to calculate comparable total compensation figures. Leave costs equal "average days paid leave usage per employee" (question 13) divided by 260 (the number of potential working days per year) less the response to question 13 times average salary, if available, otherwise midpoint salary. Social security costs, for employers answering "yes" to question 14, equal average or midpoint salary times 0.067 (the effective social security tax rate) not to exceed \$167.50 per month. Retirement and profit-sharing costs (question 15) equal the percent employer contributions times average or midpoint salary. These three costs plus the insurance contribution (question 16) plus average or midpoint salary equals total compensation.

GENERAL SURVEY RESULTS

The following table depicts the general survey results for all grades and classes. In-state 54 classes were matched a total of 1,604 times involving 16,732 employees, while out-of-state 119 classes were matched a total of 866 times involving 21,009 employees. Montana continues to rank behind its neighbor states but not necessarily behind other employers within the state in paying competitive salaries.

<u>Employer Sample</u>	<u>Salary</u>	<u>Percent Montana is Above (Below) Survey</u>
Neighboring States	Minimum	(4.8)*
	Maximum	(11.3)
	Average or Midpoint	(7.8)
	Total Compensation	(7.0)
Montana Employers	Minimum	7.0
	Maximum	7.7
	Average or Midpoint	5.0
	Total Compensation	9.7

* Excludes classes paid according to special pay matrices as these statistics would unreasonably change the results.

Montana's average classified grade level is 11. The average grade of classes surveyed within the neighboring states is 13 while that for classes surveyed within Montana is 9. It is important to note this as it generally explains why the overall results of the survey of neighboring states differ from the overall results of the survey of Montana employers.

SURVEY RESULTS FOR ALL KEY CLASSES

Overall, the survey of neighboring states indicates that Montana salaries are generally less than the average of these nine states. This discrepancy averages about 8% below market, which is nearly the same as in 1980 when the discrepancy averaged about 9% below market. The 8% difference may be tolerated but may also be signalling external pay inequity and potential pay dissatisfaction. If the latter is true, then pay adjustments that put the state further behind could be costly due to productivity losses and added personnel costs. State salaries at the lower grade levels are generally above the average salaries paid by other Montana employers.

The total value of the state's benefits is generally greater than that provided by employers in both selected labor markets. Thus, the competitiveness of state jobs improves by adding benefits to average salaries to be emphasized as a total compensation package.

GRADE LEVEL COMPARISONS

Graph 1 illustrates the state's salary competitiveness within the various classified grade levels. The exact percentage differences are shown on pages

27a and 28a of the Technical Report. It appears that the state is noticeably paying below average and increasingly less competitive at grades 11 through 22. At these higher grades the neighboring state comparisons are more representative of grade levels since more diverse classes were surveyed. The state seems to be fairly competitive at grades 10 and below.

The physicians pay plan is represented by grades 31 and 32. These state salaries are above average.

Pay for liquor store clerks represented by grade 44 is at or slightly above average. Crafts (grades 57, 59 and 60) according to both labor markets are paid satisfactory salaries by the state.

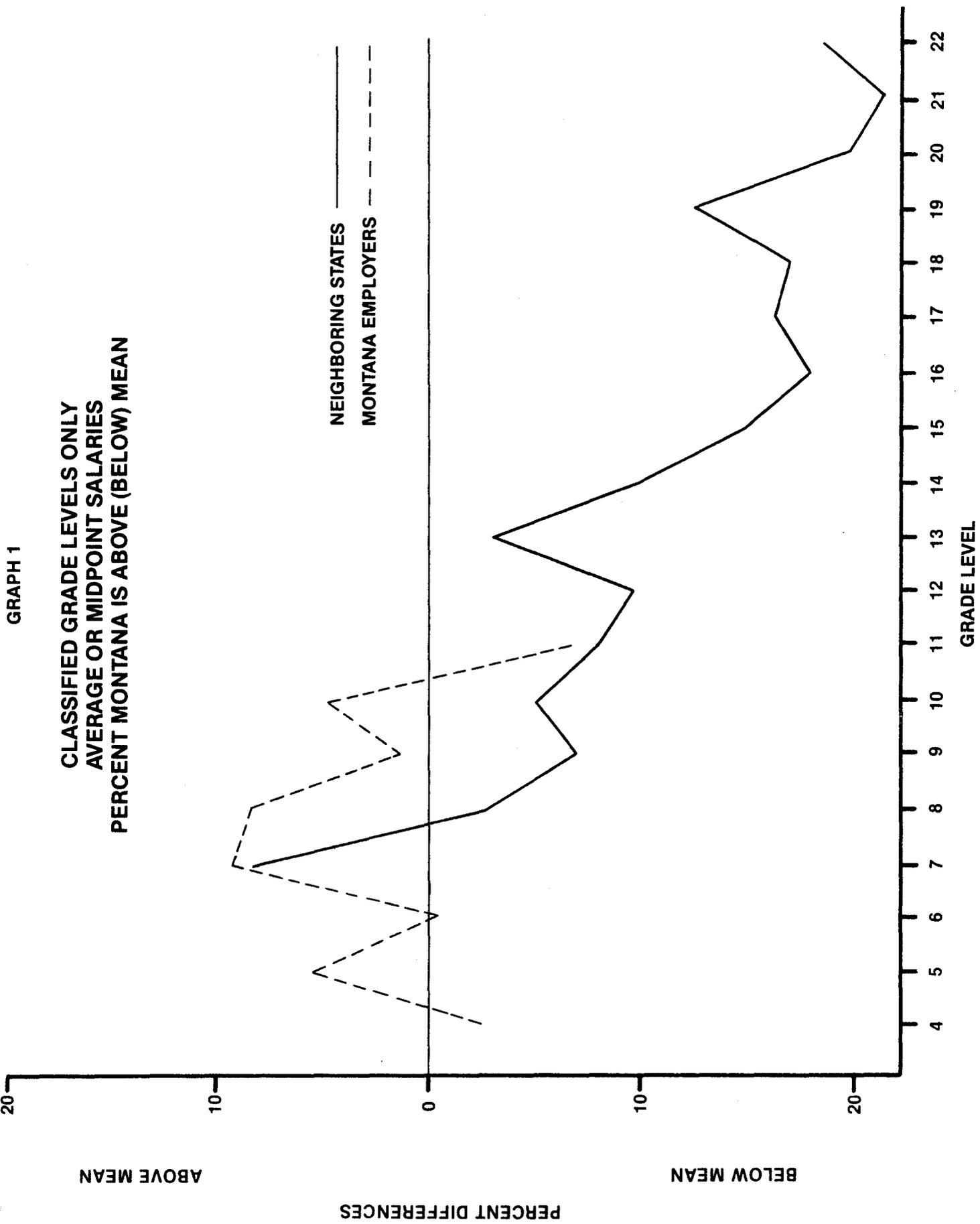
The state's institutional teachers, on the other hand, are paid less than their counterparts in the larger school districts in Montana. The larger school districts were used, since the in-state employer sample was stratified by size. In this one instance, more reliable figures might have been obtained if the smaller districts were more represented. A survey conducted by the Montana Education Association provides evidence of significant salary differences between the larger and the smaller school districts. The larger districts are more apt to be organized and generally pay higher salaries.

AVERAGE OR MIDPOINT SALARY COMPARISONS BY OCCUPATIONAL GROUP

The table on page eight shows the competitiveness of Montana average or minimum salaries by general occupational group. With the exception of professional and some technical classes, state pay is generally competitive with the averages.

GRAPH 1

CLASSIFIED GRADE LEVELS ONLY
AVERAGE OR MIDPOINT SALARIES
PERCENT MONTANA IS ABOVE (BELOW) MEAN



**COMPETITIVENESS OF MONTANA AVERAGE OR MIDPOINT
SALARIES BY GENERAL OCCUPATIONAL GROUP**

<u>General Occupational Group</u>	<u>Employer Sample</u>	<u>Percent Montana is Above (Below) Survey</u>
Professional	Neighboring States	(9.6)
	Montana	(0.4)*
Technical	Neighboring States	(7.4)
	Montana	20.8
Clerical	Neighboring States	(0.3)
	Montana	(0.6)
Crafts	Neighboring States	13.9
	Montana	(2.9)
Miscellaneous	Neighboring States	1.4
	Montana	6.9

* Includes base salaries for teachers.

There is a difference between the state's competitiveness with other states and within the state. For professional classes in general, the -9.6% figure is most revealing. Computer programmers, accountants, nurses and librarians make up the list of professional classes surveyed within the state. State nurses are paid substantially higher than the average of those employed elsewhere in Montana. This explains most of the difference between -0.4 and -9.6. Perhaps this indicates that the state's classification system, at least in this instance, does not differentiate between predominantly female and predominantly male occupations.

The technical classes surveyed within Montana are also heavily weighed in favor of predominatly female classes (health technicians, teacher aides, library assistants.) This could explain much of the difference between -7.4 and 20.8.

The salaries for crafts are 13.9 percent above neighboring states surveyed, yet 2.9 percent below the in-state employers. These different figures could be partly attributable to the idea that state classified blue collar classes are paid relatively less than those on the special state blue collar pay system. Classified blue collar classes were surveyed within but not outside Montana.

PROFESSIONAL OCCUPATIONS

The salary survey indicates that in professional occupations, state salaries have lost competitive ground despite the large pay increases made in the current biennium. The 1980 survey suggested that this was one area where the state can least afford to fall behind.

The table on the following page and Graph 2 illustrate the comparison of Montana salaries grouped by professional occupation with mean survey salaries.

Montana is 5 to 21% below mean for most professional groups. Groups where Montana salaries are slightly behind or ahead of average survey salaries include Medicine, Veterinary Medicine and Art, Photography, Journalism, and Radio/TV. Montana salaries are significantly higher than average for the following groups: Nursing, Library and Archival Sciences and Health professionals.

The survey indicates that neighboring states place more value on dentists and pharmacists in relation to other health professionals than Montana. The state's practice of assigning grades based on skill level distinctions warrants this relationship. However, the state should be aware of possible problems in being able to attract, keep and motivate qualified personnel in these fields.

**PROFESSIONAL GROUPS
PERCENT MONTANA IS ABOVE (BELOW) MEAN**

<u>Occupational Group</u>	<u>Neighboring States</u>	<u>Montana Employers</u>
Top Officials	(18.7)	*
Engineering & Architecture	(19.7)	*
Computer Science	(16.1)	(8.4)
Forestry & Agriculture Sciences	(5.3)	*
Biological Sciences	(11.0)	*
Other Physical & Life Sciences	(8.1)	*
Behavioral Sciences	(7.9)	*
Medicine	(2.9)	*
Dentistry	(20.9)	*
Veterinary Medicine	2.4	*
Pharmacy	(12.5)	*
Nursing	(0.1)	24.9
Other Health Professionals	15.8	*
Education	(18.4)	(13.2)**
Library & Archival Sciences	11.3	1.0
Law	(9.9)	*
Art/Photography/Journalism & Radio/TV	1.7	*
Accounting	(13.2)	(4.1)
General Business & Economics	(11.0)	*
Hospital Administration	(6.1)	*
Protective Services	(13.0)	*
Planning	(15.9)	*
Aviation	(10.8)	*
Total	(9.6)	(0.4)

* No data available.

** Only base (minimum) salaries are available.

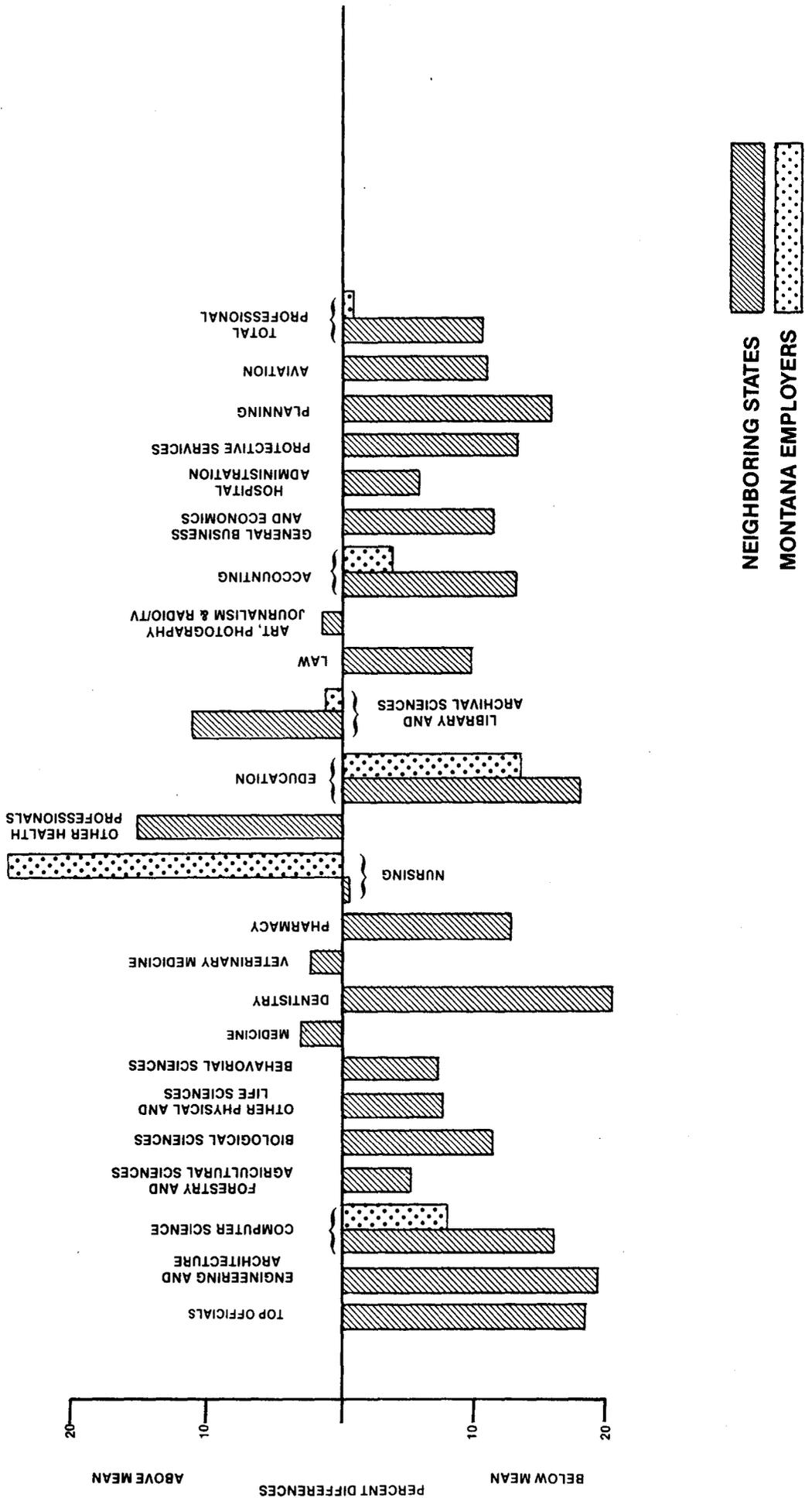
Examining specific professional classes outside the realm of occupational groups produces a list of only four other classes, not previously mentioned as part of a group, where state salaries are above average. These are: Vocational Rehabilitation Counselor I, Social Worker I, Employment Interviewer, and Management Analyst I. It is interesting to note that all of these are at the first level of a professional class series.

For most professional occupations and classes, state of Montana pay is lower than average. This statement applies to scientists, behavioral scientists, managers, program managers, and for protective service and other specialized professionals with only a few exceptions.

These exceptions are few enough to be addressed through a review of the job evaluation system and how it affects these few classes. With this conclusion and current economic conditions, there is no current justification for adjusting the salaries of specific professional occupations unless the performance of mandated services is jeopardized. A state decision to pay professional employees more in line with the labor market should be universally rather than selectively applied. Using selective remedies to correct a few market inequities could be more costly than doing nothing, because internal pay dissatisfaction would be added to many unaffected occupations where external inequity already exists.

GRAPH 2

**AVERAGE OR MIDPOINT SALARIES
PROFESSIONAL GROUPS
PERCENT MONTANA IS ABOVE (BELOW) MEAN**



TECHNICAL OCCUPATIONS

Salary comparisons for technical occupations are shown on the following table and on Graph 3. Montana is experiencing noticeable pay problems with the following technical groups: Electronics; Engineering and Architecture; and General Business. Groups where Montana is slightly below average include Forestry and Agricultural Sciences; Other Physical and Life Sciences; Behavioral Sciences; and Protective Services. For the remaining technical groups, Montana salaries are generally above the mean survey salaries with the exception of the Computer Science group.

Depending upon which survey is examined, the Computer Science group shows conflicting results. Computer Operators I and III were surveyed in-state, while Input/Output Controller II was surveyed out-of-state. The Computer Operator series underwent a major classification revision during this biennium, thus explaining higher than average

state salaries and possibly some inadequate job matches since the term "supervisor" is no longer in the title of the higher level classes. Since only one class was surveyed out-of-state, the -24.9% figure is probably extreme but it could be indicative of below average salaries for the entire occupational group.

State salaries for Health, Education and Library Technicians are presumed to be substantially above average because the state tends to treat predominantly female occupations the same as predominantly male occupations.

Examining classes within occupational groups produces a few obvious differences. State salaries for Laboratory and Eligibility Technician supervisors seem low. State salaries paid to Farm/Ranch Hand IIs resulted in the Forestry and Agricultural Sciences group being paid less than average — the remaining two state classes are paid above average. In the Protective Services group, Correctional Officers are paid 10% below average, while GVW Enforcement Officers are paid 4% above average.

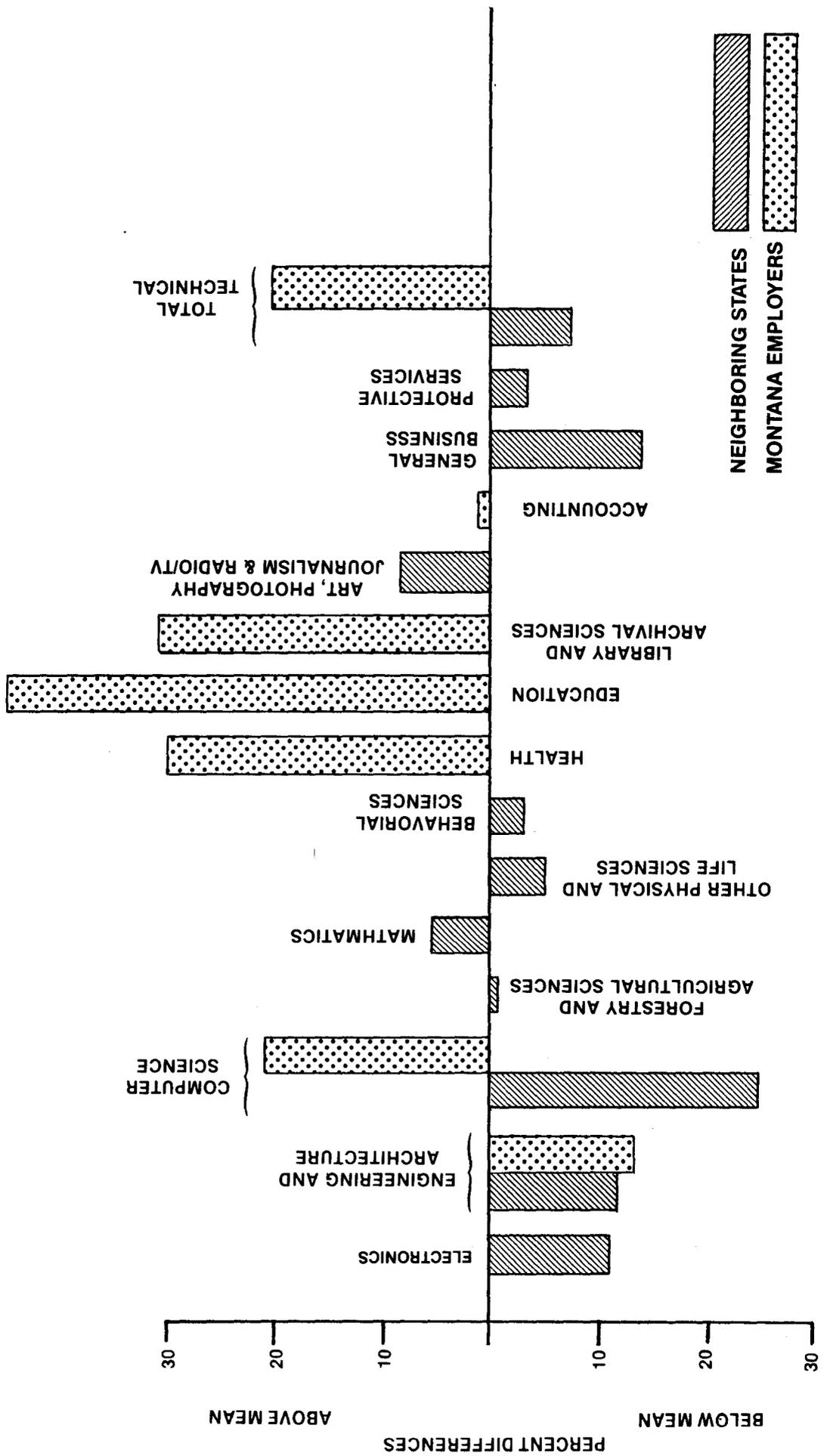
TECHNICAL GROUP PERCENT MONTANA IS ABOVE (BELOW) MEAN

<u>Occupational Group</u>	<u>Neighboring States</u>	<u>Montana Employers</u>
Electronics	(11.3)	*
Engineering & Architecture	(11.6)	(13.3)
Computer Science	(24.9)	21.4
Forestry & Agriculture Sciences	(0.2)	*
Mathematics	5.7	*
Other Physical & Life Sciences	(4.5)	*
Behavioral Sciences	(2.7)	*
Health	*	30.0
Education	*	46.5
Library & Archival Sciences	*	30.9
Art/Photography/Journalism & Radio/TV	8.3	*
Accounting	*	0.7
General Business & Economics	(13.9)	*
Protective Services	(2.9)	*
Total	(7.4)	20.8

* No data available.

GRAPH 3

**AVERAGE OR MIDPOINT SALARIES
TECHNICAL GROUP
PERCENT MONTANA IS ABOVE (BELOW) MEAN**



CLERICAL OCCUPATIONS

The following table and part of Graph 4 compare Montana clerical salaries with those found in the survey. For Shipping and Receiving Clerks, Montana salaries are significantly below the mean of those surveyed. Montana pays about average for the General and Accounting clerical groups. Shipping and Receiving Clerks tend to comprise a male dominant occupational group. Perhaps this explains the labor market salary difference. Despite this different result, a special pay adjustment is probably not necessary since the costs of the adjustment are likely to exceed the potential benefits.

Data Entry Supervisors are the only other individual clerical class or series where state salaries are below market averages. This may indicate that other employers attach greater value to the skills of clerical supervisors.

CLERICAL GROUP PERCENT MONTANA IS ABOVE (BELOW) MEAN		
Occupational Group	Neighboring States	Montana Employers
General	(0.3)	2.1
Accounting	*	(2.2)
Shipping & Receiving	*	(16.7)
Total	(0.3)	(0.6)

* No data available.

CRAFT OCCUPATIONS

The following table and the right side of Graph 4 depict Montana craft salaries compared to those of the survey. Although not fully evident in the salary figures grouped by occupation, Montana pays lower than average salaries to its classified craftsmen and above average salaries to craftsmen paid by the separate blue collar matrix.

In the structural group (plumbers, carpenters, electricians, etc.) where state salaries are below average, all of the classes surveyed are classified and are not on the blue collar pay system. One of the three machine operator/mechanic classes is classified and is the major reason why state salaries are 8.8% below average for this group. Despite being classified, personal service craftsmen (bakers, butchers, barbers, etc.) continue to be paid above average by the state.

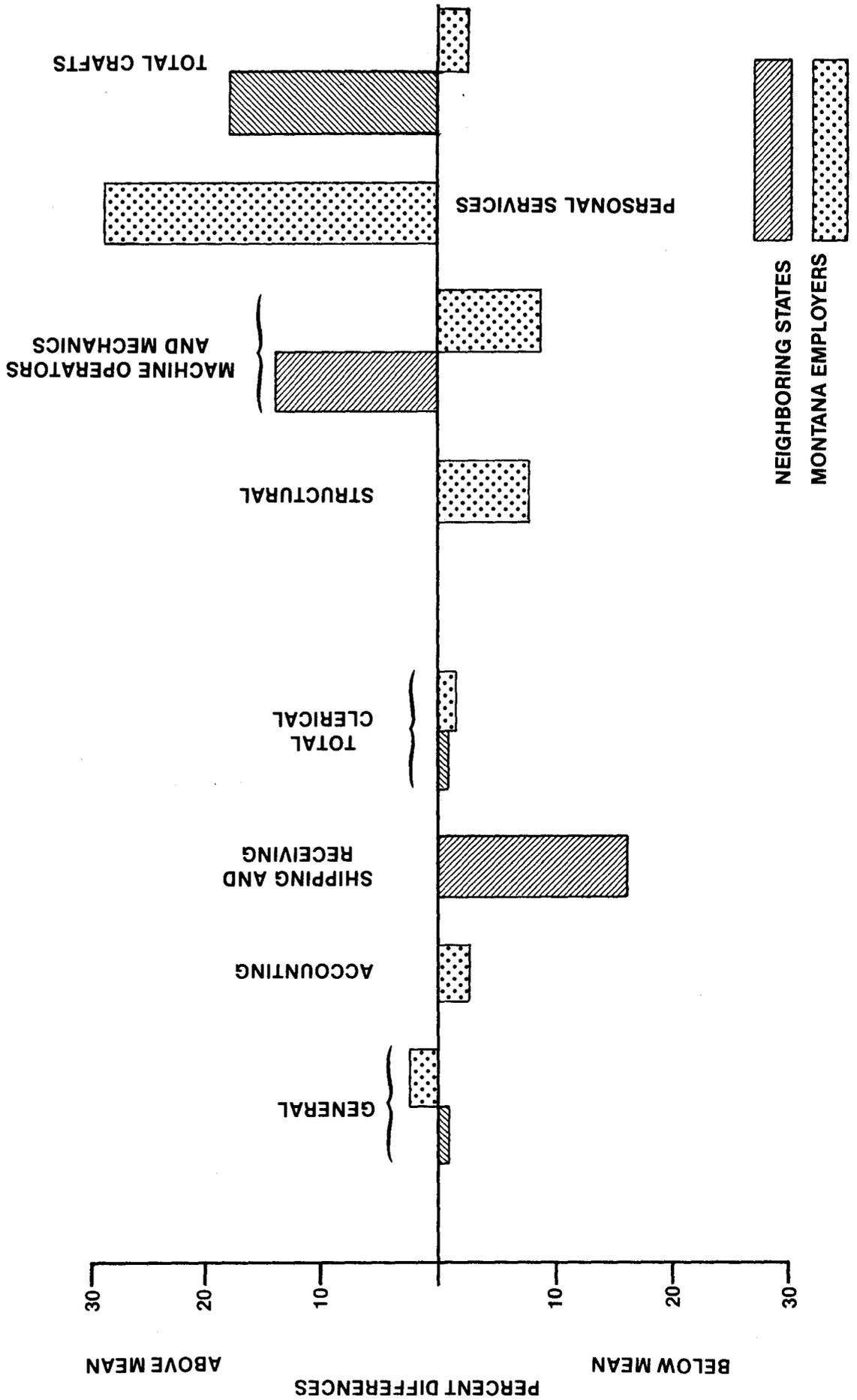
CRAFTS PERCENT MONTANA IS ABOVE (BELOW) MEAN		
Occupational Group	Neighboring States	Montana Employers
Structural	*	(7.3)
Machine Operators Mechanics	13.9	(8.8)
Personal Services	*	28.0
Total	13.9	(2.9)

* No data available.

GRAPH 4

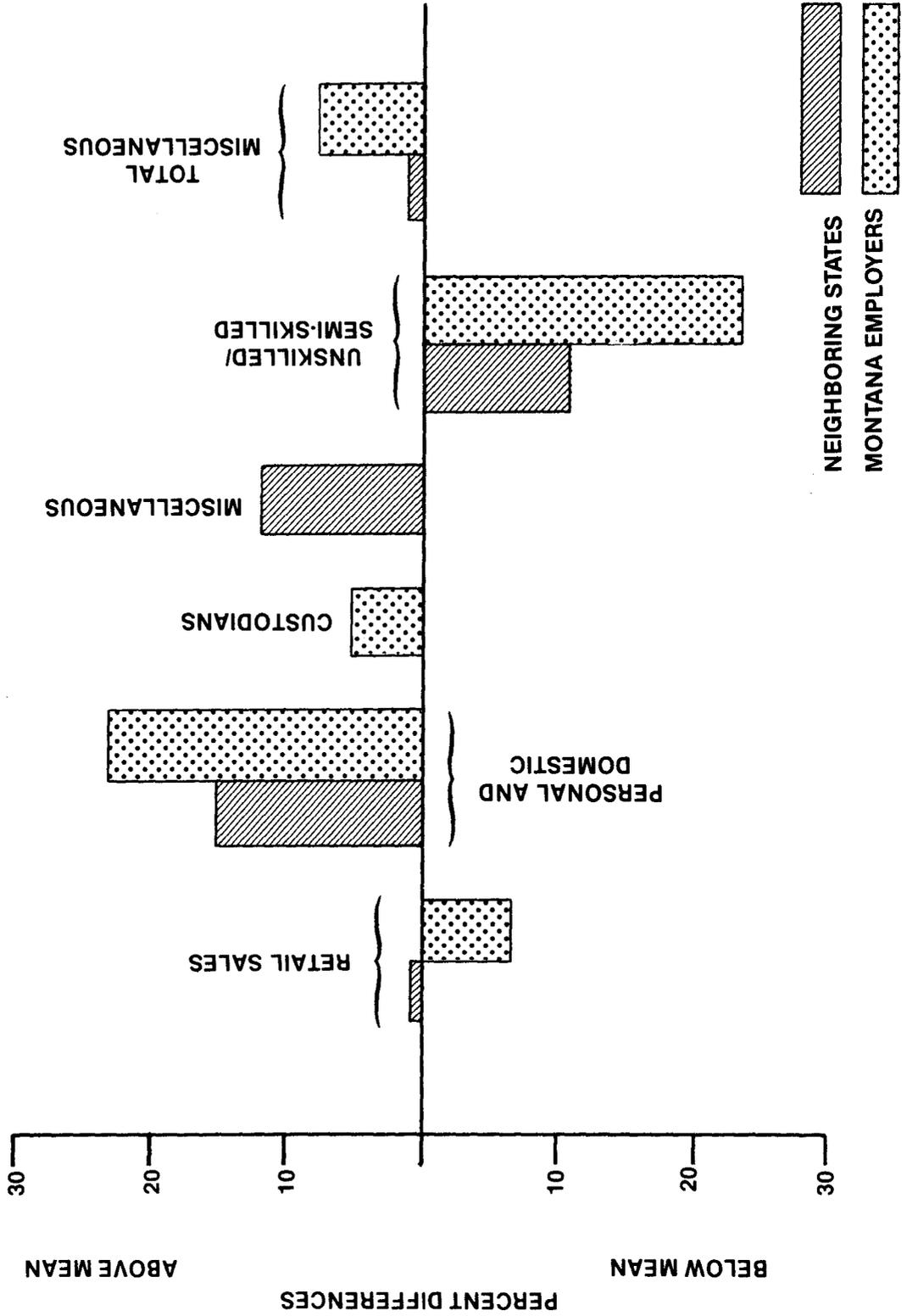
AVERAGE OR MIDPOINT SALARIES
CLERICAL GROUP
PERCENT MONTANA IS ABOVE (BELOW) MEAN

CRAFTS
AVERAGE OR MIDPOINT SALARIES
PERCENT MONTANA IS ABOVE (BELOW) MEAN



GRAPH 5

AVERAGE OR MIDPOINT SALARIES
MISCELLANEOUS GROUPS
PERCENT MONTANA IS ABOVE (BELOW) MEAN



MISCELLANEOUS OCCUPATIONS

In the following table and on Graph 5, the competitiveness of Montana salaries for Miscellaneous Groups is illustrated. Montana appears to be having pay problems with the Retail Sales group and with the Unskilled/Semi-skilled group. The state is above average in paying for Custodians, Personal and Domestic workers and workers in other miscellaneous occupations.

AVERAGE OR MIDPOINT SALARIES MISCELLANEOUS GROUPS PERCENT MONTANA IS ABOVE (BELOW) MEAN

Occupational Group	Neighboring States	Montana Employers
Retail Sales	0.9	(6.5)
Personal & Domestic	15.3	(23.3)
Custodians	*	5.1
Miscellaneous	12.4	*
Unskilled/Semi-skilled	(10.8)	(23.8)
Total	1.4	6.9

* No data available.

Detailed results of the salary comparisons are presented in the Technical Report. There the data are thoroughly analyzed by employer sample (neighboring states and Montana); by salary-type (minimum, maximum, average or midpoint, total compensation); by grade; by class; by occupational group; and by broad skill level. These tables begin on page 38a of the Technical Report.

GENERAL COMPENSATION AND BENEFIT DATA

General compensation and benefit data are presented in outline form and in the same order as the questionnaire. This outline includes the number of the question, the question, out-of-state summary of responses, and in-state summary of responses.

General Compensation and Benefit Questions:

1. When do you expect to grant your next general increase to your employees?
 - A. Out-of-state — 7 of 9 states answered the question. Six states are expecting a general pay increase during July, while another state expects the increase during June, 1983.
 - B. In-state — 134 of 172 employers answered the question. Many dates were reported with the most common being July, 1983 (47

responses); October, 1982 (12 responses); and January, 1983 (27 responses).

- C. The state of Montana is expected to grant its next general pay increase on July 10, 1983.
2. This general pay increase will average what percent?
 - A. Out-of-state — None of the nine states knew what their next general pay increase is expected to be.
 - B. In-state — 101 of 172 employers answered the question. The average expected increase reported is 6.7%.
 - C. The state of Montana's next general pay increase is not known at this time.
 3. In addition to general increases, do you also grant other automatic pay increases based directly upon percent changes in cost of living or consumer prices?
 - A. Out-of-state — All 9 states said no to having automatic COLA pay increases.
 - B. In-state — 156 of 172 employers answered the question. 142 said no to having automatic COLA pay increases.
 - C. The state of Montana does not grant COLA pay increases.
 4. Exclusive of general and cost of living type pay increases, do your employees receive additional pay increases based on their length of service with the organization?
 - A. Out-of-state — All 9 states answered the question. 4 said yes and 5 said no to having longevity type pay increases. Including automatic steps if performance is standard, changes the responses to 7 yes and 2 no.
 - B. In-state — 163 of 172 employers answered the question. 97 said no and 66 said yes to having longevity pay increases.
 - C. The state of Montana grants pay increases for longevity through its automatic steps and through a 1% adjustment for each five year service increment.
 5. If your answer to question 4 is yes, please explain your system by giving an illustration as to what percent increase is granted to reward an employee for a specific number of years service.

- A. Out-of-state — In one state, if performance is standard, a step amounting to 5% is allowed for each of the first five years of service. In another state 2.5% is allowed for each five year increment of service. In still another state, if performance is standard, employees with at least 8 years of service receive \$75 semi-annually with an increase of \$25 semi-annually each year to a maximum of 20 years. The fourth state pays \$30 per month for each five year service increment. Three other states provide annual step increases for standard performance. In two of these three states, the annual steps amount to 5% each.
- B. In-state — Eight employers start providing longevity pay adjustments after the completion of three months of service ranging from increases of a few cents per hour to 16% of base salary. Seven employers start providing longevity pay adjustments after the completion of six months of service ranging from a flat \$50 per month to a 4-5% raise to base salary. Thirty employers start providing longevity pay adjustments annually up to 15 years, in a few cases, ranging from 2¢ per hour to 7% of salary per annual increment. One employer provides 1% and another employer 4% for each three year service increment. Five employers start providing longevity pay adjustments after five years of service ranging from ½ to 5% for each five year service increment. Three employers have two systems similar to the practices used by the state of Montana. One employer provides for \$100 annually in lieu of 15 years of service. The remaining 13 employers providing for longevity increments did not explain service requirements or amounts allotted.
- C. The state of Montana has two systems for rewarding longevity with pay. Under the first system, an employee receives a 5% pay increase after the first six months of service and 2% for each year of service thereafter. Under the second system, an employee receives about 1% for each five year service increment.
6. Are your most productive employees given pay increases exceeding those given to average or less than average producing employees?
- A. Out-of-state — All 9 states answered the question. 6 said yes and 3 said no to having merit pay increases.
- B. In-state — 164 of 172 employers answered the question. 86 said yes and 78 said no. Since the last survey, significantly more employers are providing this type of pay increases.
- C. The state of Montana does not grant merit pay increases. A bonus system has been recommended by the Personnel and Labor Relations Study Commission.
7. If your answer to question 6 is yes, please briefly explain your merit pay system.
- A. Out-of-state — One state provides for a bonus of up to 10% for outstanding performance. Three states provide merit pay tied to relative budgetary allotments. The merit pay system in one state is not standardized and could vary by agency; this state also provides for some cash awards. One other state provides for merit pay adjustments as often as every six months.
- B. In-state — Two employers use a point system tied to budget allotments, to position in range and to performance for determining the amounts of merit raises. For three other employers, budgetary allotments connected to a point system are a major factor. Nine employers emphasize individual positions in range and performance for determining merit raises. Eight other employers determine merit raises from profit or cost containment that can be attributable to an individual or a group of employees. Four employers have committees established to review supervisory requests for merit raises. The other 60 employers with merit pay systems only indicate that such decisions are based on performance.
- C. A state of Montana merit pay system has not been implemented yet. However, the Personnel and Labor Relations Study Commission has recommended bonuses for deserving performances to be distributed throughout the grade levels for up to 20% of all unorganized personnel. The specifics of the system need to be developed by the

Department of Administration after approval is provided by the State Legislature.

8. If your answer to question 6 is yes, what tools do you use to distinguish among employee performance levels for pay purposes (i.e., management-by-objectives, results-oriented performance appraisals, attitude-type performance appraisals, forced employee ranking systems and/or supervisor discretion)?
 - A. Out-of-state — 5 of the 6 states providing merit-type pay increases answered the question. 2 of the 5 states use MBO type appraisals. 4 of the 5 states use results-oriented appraisals. None of the states used attitude-type appraisals. 2 of the 5 states used employee ranking systems. Only 1 state used supervisor discretion to distinguish among employee performance levels for pay purposes.
 - B. In-state — 81 of the 86 employers providing merit-type pay increases answered the question. 16 of the 81 employers use MBO type appraisals. 55 of the 81 employers use results-oriented appraisals. 29 of the 81 employers use attitude-type appraisals. Only 5 of the 81 employers use employee ranking systems. 33 of the 81 employers used supervisor discretion to distinguish among employee performance levels for pay purposes.
 - C. The state of Montana is likely to use a results-oriented performance appraisal system that is individually patterned for the performance of pre-determined goals and objectives. Some supervisor discretion is inevitable but will be limited by employee input in establishing objectives and performance standards. Employee attitudes will not be a factor.
9. If your answer to question 6 is yes, does your merit pay system increase or decrease employee satisfaction and increase or decrease productivity in your organization?
 - A. Out-of-state — Only 1 of the 6 states providing merit-type pay increases answered the question. In this case, it is said that the merit pay system results in increased employee satisfaction and increased productivity.
 - B. In-state — 62 of the 86 employers providing merit-type pay increases answered the question. 60 employers said that their merit pay system results in increased employee satisfaction and 1 employer said that their merit pay system results in decreased employee satisfaction. 61 employers said that their merit pay system results in increased productivity and one employer said that their system results in decreased productivity.
 - C. The state of Montana does not currently have a merit pay system and is unable to answer this question at this time.
10. Can your employees get cash awards for making suggestions to improve or streamline operations?
 - A. Out-of-state — All 9 states answered the question. 6 said yes and 3 said no to providing cash awards for worthy employee suggestions.
 - B. In-state — 163 of 172 employers answered the question. 23 said yes and 140 said no to providing cash awards for worthy suggestions.
 - C. The state of Montana has had a suggestion system since April, 1982.
11. Please explain any other system, other than promotion, by which your employees can increase their salaries.
 - A. Out-of-state — Only one state mentioned another pay increase system not previously discussed. This state provides for pay increases up to 5% for assuming additional responsibilities which do not result in a higher classification.
 - B. In-state — Six employers provide pay increases upon acquisition of professional registration/accreditation. Twelve employers provide bonuses in addition to their merit pay systems. Two employers allow employees to perform more work for additional pay. Two employers indicated that they pay shift differentials.
 - C. The state of Montana does not have any other major system for increasing salaries.
12. What other things do you do to increase employee productivity?
 - A. Out-of-state — One state uses some tuition reimbursement, training programs and per-

- formance appraisal to increase productivity. Another state uses a comprehensive benefit system and flex-time. One other state has established a productivity office.
- B. In-state — 49 employers specified that they use formal training and occasionally tuition reimbursement to enhance productivity. 23 employers specified using performance evaluations or MBO to improve productivity. 15 employers specified using a managerial style emphasizing good, frequent communication, employee participation and a pleasant working environment to enhance productivity. 4 employers conduct periodic staff meetings to improve productivity. 2 employers encourage internal promotions. 3 employers use varied work schedules or shift preferences to improve productivity. 5 employers offer good benefits to enhance productivity. 4 employers offer safety awards or service pins. One employer specified paying for professional membership fees. 4 employers use only the best equipment. One employer encourages job rotation. Two employers provide for employee assistance and counseling. Two employers use job security to encourage productivity. Two employers are cutting back on idle employee time by reduction in force through attrition.
- C. To improve productivity, the state of Montana provides some formal training, some tuition reimbursement, flex-time, results-oriented performance appraisals, and justified workforce reductions. A state employee assistance program is also under consideration. Individual agencies may do other things to improve productivity.
13. How many total days **paid** leave do your employees receive on the average per calendar year (include paid holidays, vacation leave, sick leave, military leave, and educational leave)?
- A. Out-of-state — All 9 states answered the question. The average leave usage reported is 35.4 days annually.
- B. In-state — 170 of 172 employers answered the question. The average leave usage reported is 26.4 days annually. Responses of no paid leave are included in the average.
- C. The state of Montana's estimated average usage is about 37 days annually.
14. Are your employees covered by Social Security?
- A. Out-of-state — All 9 states answered the question. Only two of these said no to being in the Social Security program.
- B. In-state — 170 of 172 employers answered the question. All of these said yes to being in the Social Security program.
- C. The state of Montana is in the Social Security program.
15. Excluding contributions to Social Security, what average percent of an employee's salary does your organization contribute toward retirement and/or profit-sharing?
- A. Out-of-state — All 9 states answered the question. The average retirement contribution reported is 8.9%.
- B. In-state — 155 of 172 employers answered the question. The average retirement and profit sharing contribution reported is 6.0%. Responses of no contribution are included in the average.
- C. The state of Montana's average retirement contribution is 6.3%.
16. What average monthly dollar amount does your organization contribute toward group insurance premiums for each employee (include payments on health, life, dental, vision, and disability insurance plans for the employee and his dependents)?
- A. Out-of-state — All 9 states answered the question. The average insurance contribution reported is \$74 per month.
- B. In-state — 161 of 172 employers answered the question. The average insurance contribution is \$86 per month. Responses of no contribution are included in the average.
- C. The state of Montana's insurance contribution is \$80 per month.
17. What percent of all your employees, including administrative, are formally organized for bargaining purposes?
- A. Out-of-state — 8 of 9 states answered the question. The average percent of bargaining organization is 7.2%. One state is 45% organized, while two others are 5% and 8% union. The other five states are completely non-union and are included in the average.

- B. In-state — 168 of 172 employers answered the question. The average percent of bargaining organization is 25.3%. Non-union employers are included in the average.
- C. Employees of the state of Montana are 60% organized in 76 different bargaining units.
18. If your answer to question 17 is greater than 0%, what effect has organized bargaining had on your pay system for non-organized employees?
- A. Out-of-state — In the state that is 45% unionized and in the state that is 8% unionized, bargaining for wages is not allowed. In the other state, organized bargaining has had no effect on the pay system.
- B. In-state — 36 employers stated that non-unionized pay increases have been about the same as unionized pay increases and in many cases pay for all employees is presumably somewhat higher because of some employees being unionized. 4 employers indicated that non-union pay increases have been offset by higher pay increases to unionized employees. 4 employers stated that unionized pay increases have had to result in special pay adjustments to some classes whose pay scales have been affected by compression. One employer said that unionization has reduced their range of rates paid for a given skill level. 3 employers simply stated that union and non-union employees are paid by separate pay schedules. 22 employers stated without qualification that unionization has had no effect on the pay system for non-organized employees.
- C. In the state of Montana organized and non-organized employees are both given the same average percentage increase each year. Often the distribution of this average increase is affected. For example, lower level employees could get higher percentages than others, thereby affecting relative relationships between grade levels.
19. On the average, how many promotions (include career ladder promotions) can your new hires expect to receive within the first five years of their employment?
- A. Out-of-state — 5 of 9 states answered the question. The average reported promotions within five years is 2.4.
- B. In-state — 122 of 172 employers answered the question. The average reported promotions within five years is 1.8.
- C. The average state of Montana employee can reasonably be expected to be promoted twice within the first five years of employment with the state.
20. What percent of all your employees do you expect to terminate their employment with your organization within the next twelve months?
- A. Out-of-state — 6 of 9 states answered the question. The average reported turnover rate is 19.9%
- B. In-state — 152 of 172 employers answered the question. The average reported turnover rate is 13.6%. Responses of no turnover are included in the average.
- C. The state of Montana currently has no reliable statewide estimate of turnover.
21. How many people do you currently employ (in Montana for in-state employers)?
- A. Out-of-state — All 9 states answered the question. The average reported number of people employed is 12,632. This figure is low for total state employment since several states did not include university staff. For all 9 states this sums to 113,687 employees.
- B. In-state — 168 of 172 employers answered the question. The average reported number of people employed in Montana by responding employers is 244. This sums to 40,999 employees.
- C. The state of Montana employs about 15,000 people including universities and about 10,500 people excluding universities.

The analyses of these general compensation and benefit questions are presented in tabular format in the Technical Report beginning on page 29a.

SUMMARY OF RESULTS

In general, the following conclusions can be drawn from this salary and benefit survey:

1. Most lower graded state employee salaries are at or above market averages, while state employee salaries at classified grades 11 and above are below market averages.

2. Except for teachers, state salaries of employees paid by special pay matrices (retail clerks, blue collar, etc.) are at or above market averages.
3. The salaries of most of the state's experienced professionals and managers continue to be significantly below market averages.
4. There is evidence that most employers in both labor markets increase the salaries of satisfactory employees faster than the State of Montana. The state's minimum salaries are generally more competitive than its maximum and average or midpoint salaries.
5. Evidence from both surveys suggest that the state's classification system allocates grade levels from a perspective of value to the organization and treats predominantly female occupations the same as predominantly male occupations. There tends to be more salary differences of this type in the marketplace than within the state's system.
6. The state's group insurance contribution is about in line with the market.
7. The state's retirement contribution is below the average of neighboring state contributions but slightly above the average of Montana employer contributions.
8. State employees receive more paid leave time than those employed elsewhere in the two labor markets.
9. State pay and benefit increases during this biennium maintained the state's market position for experienced professionals and managers and improved the state's market position for lower graded positions.
10. This biennium's percentage rather than flat dollar adjustments to classified grades 15 and above kept the state's market position at these levels from further deterioration and prevented further salary compression.

NOTES

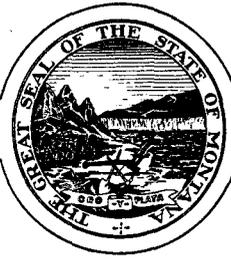
NOTES

NOTES

500 copies of this public document were published at an estimated cost of \$1.60 per copy, for a total cost of \$800.62, which includes \$675.62 for printing and \$125.00 for distribution.

*Jess
Exhibit 2*

OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING



TED SCHWINDEN, GOVERNOR

CAPITOL BUILDING

STATE OF MONTANA

(406) 449-3616

HELENA, MONTANA 59620

MARCH 15, 1983

ATTACHED IS THE OFFICE OF BUDGET AND PROGRAM PLANNING

TESTIMONY ON HOUSE BILL 902

Testimony On House Bill 902

Financing Of Pay Plan Costs

Since 1975 the appropriation committee has applied to agency personal services budgets various percentages of reduction known as vacancy savings.

This percentage varied from agency to agency depending on the amount of turnover experienced and the number of positions which were vacant in the preceding biennium. The amount reduced from agency budgets has run as high as 9% in years past. Most agencies averaged at least 3.5% reductions. At this point agency budgets have not been reduced by the amount of anticipated vacancy savings. All positions in the budgets have been fully funded at the step and grade currently assigned.

This means that most agencies have more available personal services funding than in the past. In addition, further funding is available from turnover savings realized when turnover occurs since positions are budgeted at the current step in the grade. When new employees are hired, they typically come in at step one or two.

We have also requested the authority to transfer all savings made in operating expenses in the first year of the biennium to the second year to fund pay plan shortages.

We believe that the combination of these three sources, vacancy savings, turnover savings, and operational expense savings in conjunction with the flexibility to transfer between years will allow us to fund the pay plan with a minimum of reductions in the level of employees.

An alternative method of funding would be to revert to the prior practice of reducing agency budgets by the amount of anticipated vacancy and turnover savings and placing this money in a pool for reallocation. However, this penalizes the Department of Institutions in particular. Since the large institutions suffer the highest turnover, they always have the highest vacancy savings. If these amounts are pulled out and put in a pool and the reallocation is on a per capita basis the Institutions actually come out shorter than if they kept all of their money and absorbed the cost of the pay plan.

We calculate that the normal turnover and vacancy savings result in savings of an average of 3.5% per year. In addition we believe that most agencies can save 2% operating expenses if saving jobs is offered as an incentive.

For example:

SMALL AGENCY (50 employees @ \$20,000)

First Year

Agency Personal Services	\$ 1,000,000
Vacancies and Turnover 3.5%	35,000
Agency Operating Expenses	150,000
2% Savings	3,000
Pay Plan Cost @ 4%	40,000
Total Possible Savings	<u>38,000</u>
Shortfall	\$ 2,000

Second Year

Agency Personal Service	\$ 1,040,000
Vacancies and Turnover 3.5%	36,400
Agency Operating Expenses	159,000
2% Savings	3,180
Pay Plan Costs @ 4%	81,600
Total Possible Savings	<u>39,580</u>
Shortfall	\$ 42,020

Vacancies required 1 position @ \$20,000 for 2 years.

LARGE AGENCY (1,000 employees @ \$20,000)

First Year

Agency Personal Services	\$20,000,000
Vacancies and Turnover @ 3.5%	700,000
Agency Operating Expenses	3,000,000
2% Savings	60,000
Pay Plan Costs @ 4%	800,000
Total Possible Savings	<u>760,000</u>
Shortfall	\$ 40,000

Second Year

Agency Personal Services	\$21,632,000
Vacancies and Turnover 3.5%	757,120
Operating Expenses	3,180,000
2% Savings	63,600
Pay Plan Cost @ 4%	\$ 1,632,000
Total Possible Savings	<u>820,000</u>
	\$ 811,280

Vacancy required, 20 positions @ \$20,000 for 2 years.

This means that 20 positions out of 1000 would have to be held vacant in the biennium to fund the pay plan. (2%)

In the current biennium we only funded approximately 92% of the pay plan. This required agencies to eat 8% of the 12 & 12 authorized by the last legislature.

This doesn't consider the fact that most agencies also had vacancy savings taken from their original budget request.

DAVE/4/3

PUBLIC

EMPLOYEES

ASSOCIATION

POSITION PAPER

House Bill 902

The Montana Public Employees Association would like to go on record as being strongly in support of HB 902 with one amendment. The matrices which appear in Sections 1 and 2 on pages 1, 2, and 3 are the result of three months of negotiations, mediation and--finally--a meeting on March 5 of the 75 member bargaining council of the Association.

Throughout negotiations, the MPEA bargaining team felt that a higher cost of living increase should be agreed to by the executive branch but settlement was finally reached when the State agreed to a modification of step 13 to accommodate the problem of employees who had reached step 13 and only would have received a 1½% increase.

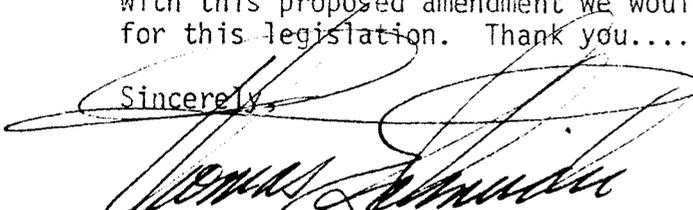
Our bargaining council, which represents some 4,000 employees, stated that even though they were not overly satisfied with the increase. They were more concerned with a settlement that would not result in large numbers of layoffs to fund the salary package.

We feel that items (2) and (3), lines 19 through 24, page 9, are as important as the salary figures. They are an important part of the funding to insure that no employees will be layed off as a result of these salary increases. We cannot support this legislation without this language.

Further, we would request that the committee amend line 6, page 15 by adding \$8,000,000 to the figure of \$750,000 to insure that no state employees will be layed off over the next two years. We know that this request will cause considerable reaction. We feel that it is very necessary because of the great amount of disagreement in calculating the cost of this legislation. The OBPP and the LFA are some nineteen million dollars apart in their calculations so we feel that splitting the difference would probably come close to the amount necessary.

With this proposed amendment we would respectfully request your support for this legislation. Thank you.....

Sincerely,


Thomas E. Schneider,
Executive Director



WITNESS STATEMENT

Name R. Nadian Jensen Committee On Labor
Address Helena Date 3-15-83
Representing AFSCME Support _____
Bill No. HB902 Oppose X
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. AFSCME opposes the amount of money appropriated as we do not believe \$750,000 will fully fund the
2. proposed pay plans over the bi-ennium. We also do not agree with the concept of funding
3. increases via vacancy savings.
4. I will get a type-written statement to the committee secretary later this afternoon.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Exhibit 5

MONTANA STATE COUNCIL No. 9

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES
Affiliated With A.F.L.-C.I.O.



Gerald W. McEntee
International President

William E. Lucy
International Secretary-Treasurer

COUNCIL OFFICERS

John P. Walsh, President
1215 West Gold
Butte, MT 59701
Phone 792-4818

Anita Davis, Secretary
1112 5th St.
Deer Lodge, MT 59722
Phone 846-3308

George E. McCammon, Treasurer
Rte. 1, Box 144
Townsend, MT 59644
Phone 266-3592

TESTIMONY ON HOUSE BILL NO. 902

House - Labor & Employment Relations Committee - March 15, 1983

VICE-PRESIDENTS

William Anderson
940 South Jordan
Miles City, MT 59301
Phone 232-3304

James Cook
817 3rd Avenue
Havre, MT 59501
Phone 265-4489

William McMullin
920 Anchor Street
Billings, MT 59101
Phone 252-4093

Carolyn Squires
2111 S. 10th St. W
Missoula, MT 59801
Phone 846-3308

Joe Geraghty
1550 Waterline Road
Butte, MT 59701
Phone 494-4720

COUNCIL STAFF

Headquarters
600 N. Cooke
Helena, MT 59601
Phone 442-1192

R. Nadean Jensen
Executive Director

George F. Hagerman
Field Representative

Sharon Donaldson
Field Representative

Dornette McLane
Office Secretary

Mr. Chairman, Members of the Committee:

For the record my name is Nadean Jensen, Executive Director of Montana Council #9, American Federation of State, County and Municipal Employees, AFL-CIO. AFSCME is in opposition to House Bill #902.

Page 15, Line 5, New Section - Section 12 authorizes an appropriation from the general fund to the Governor's office of \$750,000 to cover the small agencies which do not have vacancy savings.

AFSCME has three (3) units out of twelve (12) which have completed pre-budget negotiations. NEVER during the negotiation sessions, were we told there would be lay-offs to create vacancy savings with which to fund the negotiated increases.

The Fiscal Analyst and the Office of Budget and Program Planning have predicted "worst case scenario" any where from 265 to 751 new vacancies will be needed over the biennium to fund the figures found in House Bill #902.

Indeed it is our contention that enough money should be appropriated to cover the wages and benefits and the state should get away from the horse race mentality of betting on how many positions are going to be vacant over the biennium with which to fund said increases.

Thank you.

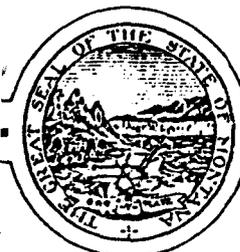
Respectfully submitted,



R. Nadlean Jensen, Executive Director
Montana Council #9, AFSCME, AFL-CIO

OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING

Vinent
Exhibit 6



TED SCHWINDEN, GOVERNOR

CAPITOL BUILDING

STATE OF MONTANA

(406) 449 3616

HELENA, MONTANA 59620

March 3, 1983

MEMORANDUM

To: Representative Nancy Keenan
From: Teresa Olcott Cohea
Budget & Management Analyst
Re: PAY PLAN

THW

Following is the information you requested on pay plan funding.

EXECUTIVE BUDGET PROPOSAL

The Executive Budget proposes that any state employee pay increase approved by the legislature be funded from within the agency's appropriated budget for FY84 and FY85.

To make this proposal work, several things will be necessary:

- 1) The existing positions will have to be fully funded at FY83 salary levels. As you know, in past sessions the legislature has appropriated less than 100% of the amount needed to fund all the positions on the theory that "vacancy savings" would occur when one employee left and a replacement was hired.
- 2) Agencies will need authority to transfer unused appropriation authority from FY84 to FY85. Because the amount of money needed to pay salary increases nearly doubles the second year of the biennium, the agencies will need to carry into FY84 any excess savings they have been able to accrue in FY84.
- 3) Approximately \$750,000 in general fund will need to be appropriated to a pool for those small agencies that usually experience no vacancy savings. For example, the Commissioner of Political Practices has only 5.0 FTE and very little staff turnover. To generate 3% vacancy savings, the agency would have to leave one position vacant two months each year.

Even with these provisions, we still expect some layoffs will be required if a pay increase is approved and it is funded within current level budgets. In the worst case, an average 265 positions statewide (or 2% of the 14,000 state's FTE) above the number of positions that are normally vacant* would need to be vacant to fund a pay increase of 4.5% per year. However, we think the number will be substantially less than this for two reasons:

- 1) agencies will experience some vacancy savings and be able to use these savings to pay salary increases;
- 2) agencies will use operating expense funds to retain staff. They may reduce travel or supplies, for example.

As you're aware, the Executive Budget proposal is necessary because of the dwindling state revenues and tight budget situation. By fully funding current level operations and existing positions at FY83 levels, the Executive believes that agencies, through internal economies, will be able to provide Montana citizens services at the same level as at present.

23 m

1/1 State
avg salary

pull out 3.5%
historical vacant

* 3.5% statewide vacancy rate



STATE OF MONTANA

Office of the Legislative Fiscal Analyst

STATE CAPITOL
HELENA, MONTANA 59620
406/449-2986

*Vacancies
Exhibit 7*

JUDY RIPPINGALE
LEGISLATIVE FISCAL ANALYST

March 5, 1983

Representative Nancy Keenan
Montana House of Representatives
State Capitol Building

Dear Representative Keenan:

As you requested, I have estimated the number of unfunded full-time equivalent (FTE) positions which would result if a 4 percent pay plan were funded from vacancy savings. Based on the average personal service costs per FTE, vacancy savings would fall short of funding a 4 percent pay increase by 135 FTE in fiscal 1984 and 616 FTE in fiscal 1985.

Table 1 shows calculation of the vacancy savings dollars in the current level budget and the funds required for a 4 percent annual pay raise for state employees. For all state agencies, a combination of the LFA and subcommittee recommended vacancy savings factors averages 2.7 percent which corresponds with \$17,415,687 of personal service expenditures. Funding a 4 percent annual increase in pay costs \$12,034,583 in fiscal 1984 and \$24,599,476 in fiscal 1985, giving a total 1985 biennium cost of \$36,634,059.

In the current level budget, approximately 60 percent of total pay plan costs are borne by the general fund and 40 percent by all other funds. Table 2 shows the division of total pay plan costs and unfunded (not covered by vacancy savings) cost between funding sources and years.

Finally, Table 3 shows the FTE reduction necessary to fund a 4 percent pay plan from vacancy savings. Before adding pay plan costs, each FTE costs an average of \$23,800 in personal services costs. To fund the pay plan from vacancy savings, FTE must be reduced by a total of 135 in fiscal 1984 and 616 in fiscal 1985.

If I can provide additional information, please contact me again.

Sincerely,

Judith M. Curtis

Judith M. Curtis
Associate Analyst

Table 1
Calculation of Vacancy Savings &
4 Percent Pay Plan Costs

	<u>Fiscal 1984</u>	<u>Fiscal 1985</u>
Total Personal Services	\$322,170,705	\$322,854,738
Vacancy Savings Factor	<u> x .027</u>	<u> x .027</u>
Vacancy Savings @ 2.7	\$ 8,698,609	\$ 8,717,078
Total Personal Services	\$322,170,705	\$322,854,738
-Vacancy Savings	(8,698,609)	(8,717,078)
-Health Insurance	<u>(12,607,517)</u>	<u>(12,673,490)</u>
Personal Services -Vacancy Savings and Health Insurance	\$300,864,579	\$301,464,170
	<u> x .04</u>	<u> x .04</u>
Cost of 4% Pay Increase	\$ 12,034,583	\$ 12,058,567
FY 1985 Base with 4% FY 1984 Increase		\$313,522,737
		<u> x .04</u>
Cost of 4% Pay Increase in FY 1985		\$ 12,540,909
		=====

Table 2
Calculation of General Fund and Other Funds
Pay Plan Cost

	<u>Fiscal 1984</u>	<u>Fiscal 1985</u>
Total Pay Plan Costs	\$12,034,583	\$24,599,476
General Fund (60%)	7,220,750	14,759,686
Other Funds (40%)	4,813,833	9,839,790
Total Vacancy Savings	\$ 8,698,609	\$ 8,717,078
General Fund (44.5%)	3,870,881	3,879,100
Other Funds (55.5%)	4,827,728	4,837,978
Total Unfunded Pay Plan Costs	\$ 3,335,974	\$15,882,398
General Fund	3,349,869	10,880,586
Other Funds	(13,895)	5,001,812

Table 3
FTE Reduction which Allows Funding of
4 Percent Pay Plan from Vacancy Savings

	<u>Fiscal 1984</u>	<u>Fiscal 1985</u>
General Fund FTE Reduction	135	422
Other Funds FTE Reduction	<u>-0-</u>	<u>194</u>
Total FTE Reduction	135 ===	616 ===

WITNESS STATEMENT

Name Eden Robbins Committee On JAB on
Address P.O. Box 5718 Date _____
Representing MONTANA WIVES ASSOC Support _____
Bill No. 902 Oppose X
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. provided oral testimony.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

VISITOR'S REGISTER

HOUSE HOUSE LABOR AND EMP. REL. COMMITTEE

BILL HB 904

DATE 3/15/83

SPONSOR REP. DRISCOLL

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Nickie Jensen	Helena	AFSCME	X	
Jim Miller	Helena	Utah Fed of Teachers	X	
Edna Robbin	Helena	MONTANA Nurses ASSC	X	
Joe Brown	Butte	Teamsters	X	
Rob Helmsworth	Helena	Engineers & Teamsters	X	
ROD SUNSTED	HELENA	STATE LABOR REL		X
Dave Larkin	Helena	MEA	X	
Dennis M. Taylor	Butte	_____		X
July Z. Dan	Helena	Mt. Nurses Assoc	X	
Joe Keraghty	Helena	Local 971 Boulder	X	
Joe Keraghty	Butte	Local 971 Boulder	X	X
Marcia Keraghty	Butte	Local 971 Boulder	X	X
Larry Keraghty	Boulder	Ut Fed of Teachers	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.
 WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

Name Eileen Robbins Committee On Labor
Address P.O. Box 5718 Date _____
Representing MONTANA Nurses Assoc. Support X
Bill No. 904 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

Amendment offered for shift differential
of 30¢ for all institutional employees.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Exhibit 8

to be done

AMENDMENT TO HB 904

New Section. Section 16. Shift differential for workers at the state institutions. Beginning on the first day of the first full pay period in the fiscal year 1984, an institutional worker shall receive .30¢ per hour in addition to the 3½% increase in compensation under Section 1. for all hours worked for either evening or night shift.

WITNESS STATEMENT

Name R. Nadjean Jensen Committee On Labor
Address Helena Date 3-15-83
Representing AFSCME Support X
Bill No. HB 984 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. AFSCME supports the concept of the pay plan being fully funded from appropriations
2. and not from vacancy savings.
- 3.
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Joe Keragphy Committee On _____
 Address 1550 Waterford Rd - Butte Date _____
 Representing Solids 991 A75CME Support X
 Bill No. HB 904 Oppose _____
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. *Bill addresses problem of funding increase*

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

STANDING COMMITTEE REPORT

March 17, 19 83

MR. **SPEAKER:**

We, your committee on **LABOR AND EMPLOYMENT RELATIONS**

having had under consideration **HOUSE** Bill No. **902**

first reading copy (white)
color

**A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING STATE EMPLOYER COMPENSA-
TION PLANS AND BENEFIT LEVELS; PROVIDING PAY SCHEDULES FOR FISCAL YEARS
1984 AND 1985; APPROPRIATING FUNDS THEREFOR; AMENDING SECTIONS 2-18-106,
2-18-301, 2-18-303 THROUGH 2-18-305, 2-18-311, AND 2-18-703, MCA; AND
PROVIDING AN IMMEDIATE EFFECTIVE DATE."**

Respectfully report as follows: That **HOUSE** Bill No. **902**

be amended as follows:

1. Page 15, line 6.
Strike: "\$750,000"
Insert: "12,720,000"

**AND AS AMENDED
DO PASS
~~DO PASS~~
DO PASS**