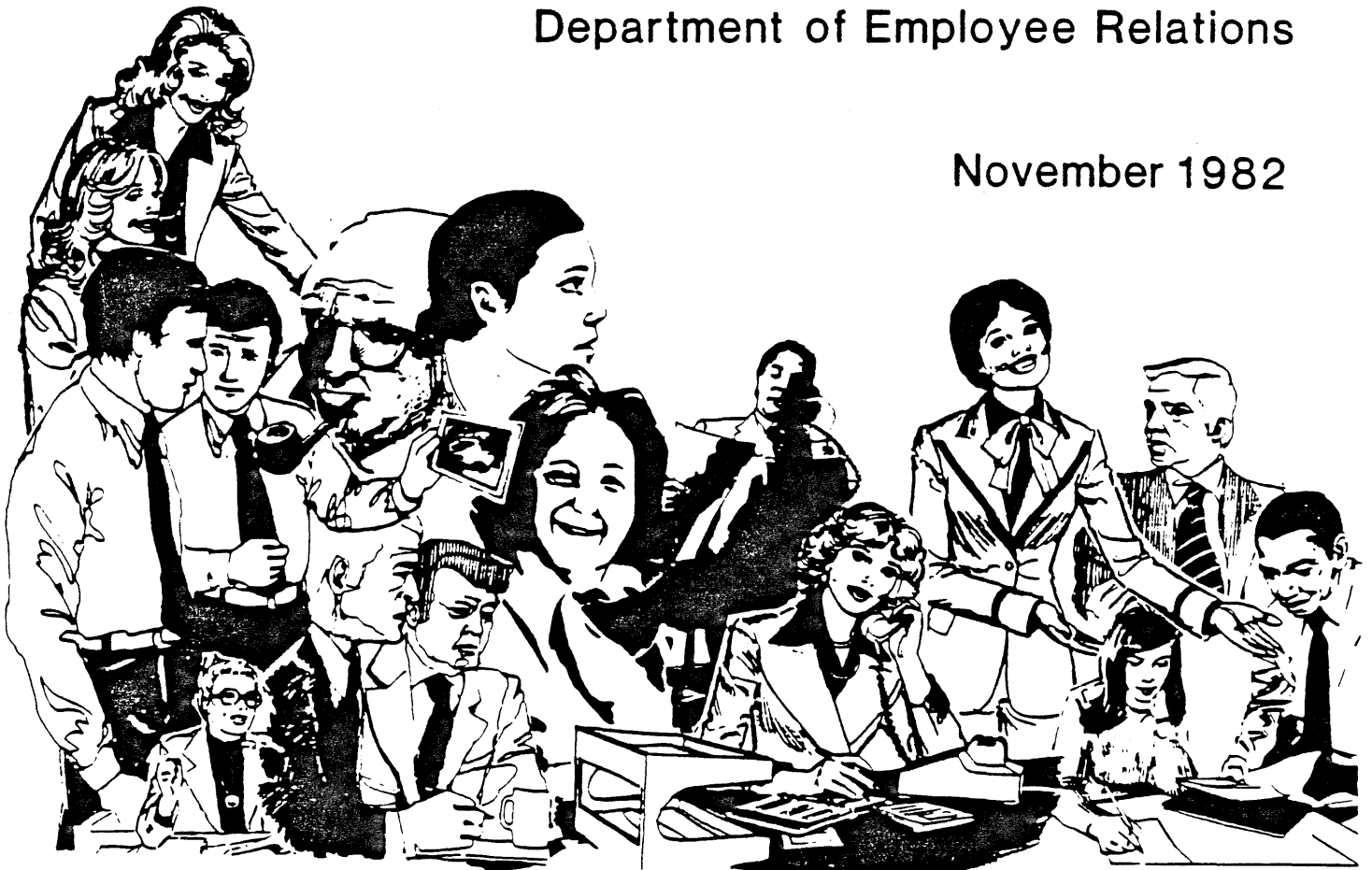


# State of Minnesota **CAREER EXECUTIVE SERVICE**

Report to the  
Legislative Commission on Employee Relations

Prepared by the  
Department of Employee Relations

November 1982



## INTRODUCTION

The 1982 Legislature in Laws of 1982, Chapter 560 mandates a report from the Department of Employee Relations:

No later than November 15, 1982, the Commissioner of Employee Relations shall submit to the Legislative Commission on Employee Relations a report recommending necessary statutory, programmatic and procedural changes, together with an implementation timetable, for revision of the Career Executive Service so that if these changes are adopted by the legislature, the major characteristics of the Career Executive Service would include all of the following:

- (a) Job classifications in the classified service, rather than individuals, would be designated for inclusion in the service;
- (b) Positions to be designated would be those managerial positions equal in rank to, or immediately beneath the rank of, the lowest level unclassified position in an agency;
- (c) Positions to be designated would be those managerial positions which involve a substantial amount of individual discretion and policy implementation;
- (d) Persons holding designated positions would be eligible for benefits generally comparable to benefits available to current members of the service;
- (e) Persons holding designated positions would be able to be removed for unsatisfactory performance in addition to being able to be removed for the statutory ground of just cause;
- (f) Removal for unsatisfactory performance would not be appealable pursuant to the grievance process;
- (g) Persons removed from designated positions for unsatisfactory performance may revert to their former classified position or, if a person did not hold a prior position, to a comparable position as identified by the commissioner;

- (h) Persons holding designated positions would receive advanced management training, would receive periodic mobility assignments to undertake special projects within State Service, and would be expected to perform at a level of performance characteristic of senior, career executives in the public and private sectors.

This report includes the following:

1. A review of CES concepts.
  - a. Other states' experience.
  - b. Changes in the Minnesota Management System.
  - c. CES program in Minnesota.
  - d. Continuing concerns with current CES.
2. The new CES program.
  - a. Description.
  - b. Program Content - addresses topic areas of: title, coverage, conversion of incumbents, selection reassignment and transfer, removal and appeal, and training and development; identification of the legislative criteria the content is addressing, problems/issues/concerns that are created by the content and DOER's recommendation.
3. Problems in implementing a new change in CES.
4. Implementation plan.
5. Comparison of the current and the proposed CES programs.
  - a. Removal from position for unsatisfactory performance.
  - b. Eligibility requirements for CES.

In order to complete this report, DOER analyzed the current and potential individuals and positions that would be CES eligible; solicited concerns and issues from classified managers and current CES members; and surveyed the experience of other states and the federal government in installing similar programs.

## REVIEW OF CES CONCEPT

### Other States' Experiences.

The concept of establishing a distinct and separate management development system designated to focus attention on performance at top management levels in governmental jurisdictions is rapidly growing in popularity. Many jurisdictions are looking at programs for top management which view development as a complete personnel program approach incorporating selection, compensation, development and reward rather than the traditional sporadic series of management training activities. The first and perhaps most successful effort along these lines was California's Career Executive Assignment program installed in 1963. This was followed by Minnesota's Career Executive Service in 1969. Today, approximately 20 states and the federal government have either a system in operation or active plans to study or install one. None, however, has been developed sufficiently to provide a single model which others might follow with any guarantee of success. Reviews and comparisons have been made but no clear cut definition of a "best" system has emerged. Rather, data available tends to point out a number of distinctions among the various systems. The fact that 40% of the states are working with or looking at the concept of an executive service is enough to indicate that there is a real need for these programs.

Most executive service programs have similar purposes and goals. In general, they are designed to identify, develop and recognize top level management personnel and encourage responsiveness, innovation, motivation and efficiency.

While the various programs have similar goals, the emphasis placed on specific goals and the techniques and procedures used to accomplish these vary considerably. Some of the major differences are:

1. Some programs emphasize internal promotion of classified employees to high level management positions (e.g., California's program is open only to career employees);
2. Some place positions in the unclassified service (Oregon) and, consequently, have no selection criteria or guidelines;

3. Some place program emphasis in the individual (Minnesota), while others place emphasis in the position (Wisconsin);
4. Some attempt to install the full program at one time by filling all CES eligible positions right away (California), while others take a slow approach and fill a few positions at a time (Connecticut);
5. Some develop a separate CES compensation range (Wisconsin) while others build on the established salary range for position;
6. Some give significant "rights" to an individual appointed to the executive service (particularly in the area of returning to the normal classified service), while others give appointees few rights.

#### Management System in Minnesota.

Classified/unclassified mix in the management group in Minnesota has undergone significant changes during the past 15 years. The evolution of the Minnesota management group has perhaps been unique within the experiences of state government. Significant changes in the development of this system occurred in 1973, 1974, 1981 and 1982. These changes are shown in Figure 1 below.

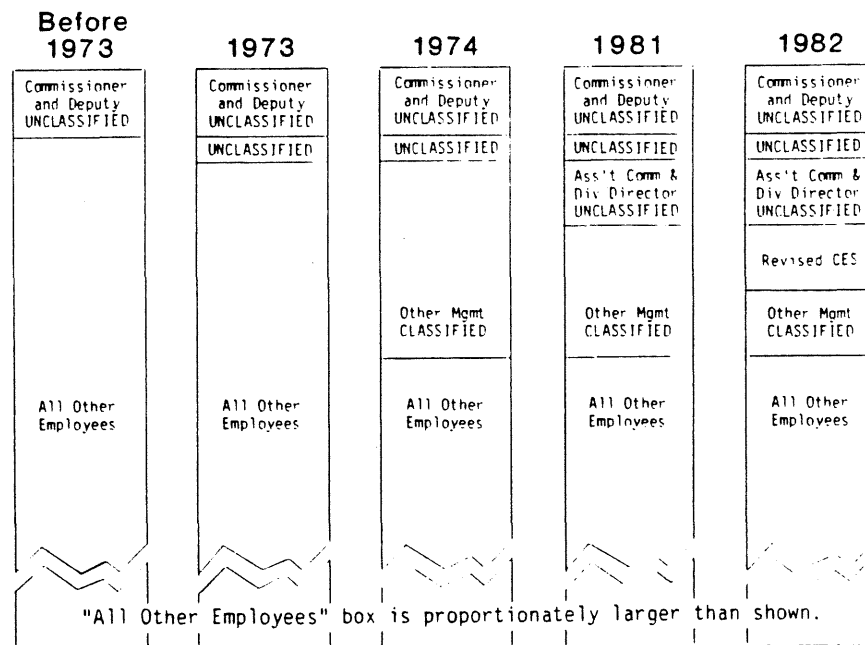


**Fig. 1. Classified/Unclassified Management Changes  
1973-1982**

Prior to 1973 the top management group, which was usually limited to the commissioner and deputy commissioner positions of each agency, was unclassified. All other positions in the agency, including the remainder of the management positions, were included in a single salary schedule with a common set of terms and conditions of employment.

In 1973 the legislature expanded the size of the unclassified service by allowing certain positions to be declassified (that is, to change the status of a position, including the incumbent, from classified to unclassified). This was done primarily to recognize that there are key sensitive positions below the commissioner/deputy level critical to the operation of an agency for which responsiveness and loyalty are essential. As a result of the need for this loyalty and responsiveness, individuals in these critical positions were placed in the unclassified service to serve at the pleasure of the appointing authority. They were to be hired, maintained and terminated at the discretion of the appointing authority.

In 1974 legislation was passed which identified a state management group within the classified service and established a separate management compensation schedule.

2 In 1981 the legislature again expanded the size of the unclassified service by placing all assistant commissioners and selected other positions which meet specific criteria in the unclassified service.

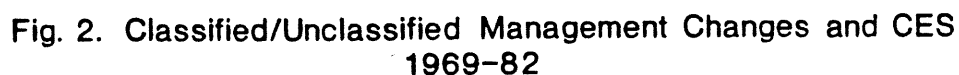
The legislature now is reviewing additional change in the mix of the management group. This takes the form of changing the focus of the Career Executive Service from a system of recognition of individual performance to a position based system focusing on identified "bridge" positions within the management group. These positions are the top level positions within the classified service. The major difference is that incumbents of these positions would be giving up job tenure. They could be removed from their position (but not from the classified service) for reasons of unsatisfactory performance. Although incumbents of these positions would be more vulnerable than classified employees who can be removed only for "just cause," they would not serve "at the pleasure of the appointing authority." In practice, these positions would be neither fully classified nor unclassified as we currently use the terms.

The make-up in terms of the classified/unclassified service has significantly changed over the past 15 years. The size of the classified management service has been substantially reduced while the size of the unclassified service has increased. After installation of the new system there would be approximately 184 employees in the unclassified management service; approximately 352 employees in the CES bridge positions and approximately 184 employees in the regular classified management service.

#### Career Executive Service in Minnesota.

In 1969 the legislature recognized the necessity of treating the management group and top level professionals separately and differently from the general employee population because of the unique contribution of the group and of its unique set of needs and interests which differed from those of the general employee population. The legislature responded by establishing the Minnesota Career Executive Service. Minnesota's Career Executive Service was established by the 1969 legislature following a study conducted by the Civil Service Department and the State Planning Agency. The goal was to increase the accountability of top level career classified employees to elective and appointed state management without resorting to expansion of the unclassified service and the potential disruptive effects of turnover with changes in administrations. The original and current CES program has the following objectives:

- The Minnesota CES program, which was designed to provide a cadre of highly skilled responsive managers and top level managers within the classified State Service, has also undergone substantial change that corresponds closely with changes in the management group discussed above. Figure 2 shows these changes.



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In 1975 a consultant study based on interviews with agency heads and CES members found the CES to be an effective tool in recognizing individual outstanding performance. The consultant recommended that the program continue, but with improvements in its recognition and developmental aspects. The consultant also suggested that the program be strengthened and made more restrictive in terms of qualification for membership. Only the most responsive, outstanding performers should be admitted. In this way the CES would be distinguished from the new management category made up of positions included on the basis of assigned responsibilities.

In 1977 legislation was passed removing CES salary ranges from statute and replacing them with a provision permitting CES incumbents to exceed the maximum of their respective classified salary ranges by 20%.

In 1978 the Department of Personnel again studied the CES system. The results of this study showed significant agreement among department heads and CES members that the CES program is a viable state program that should be modified and continued. Improved utilization and evaluation procedures, improved means for recognition and development, and improved compensation were suggested modifications. In 1978 the Legislative Audit Commission also recommended improvements to CES to better reward outstanding performance and enhance career mobility, flexibility and management training. One specific recommendation, a lump sum cash award for accomplishment of a highly creative project beyond the accountability of the position, was further studied by a task force and was incorporated into the program in 1979.

In 1980 the Governor's Task Force on Personnel Management concluded that CES is a very constructive and positive management tool and recommended it be strengthened to meet high standards and objectives.

In 1981 LCER staff surveyed state managers and found significant dissatisfaction regarding CES performance in meeting its goals of reward for outstanding performance, advancement and mobility. However, the survey noted continued endorsement for the concept of this system with improvements.

In 1981 the legislature revised the entire state personnel law incorporating CES as a component of the total management plan. This limited future CES appointments to incumbents of management positions. The provision permitting CES salary ranges to exceed their respective management ranges by 20% was retained. This legislation continued the rights of the individual to a classified service position. The legislation also grandfathered non-managerial CES incumbents into the revised managerial CES.

In 1982 legislation was passed expanding the unclassified service and directing this report on the prescribed revision of CES.

The CES program in Minnesota has undergone substantial review, study and change. Until the most recent study, the one factor that has remained constant has been the support from all parties that the system is needed and can accomplish its stated goals in its present format.

There are indications that the program is achieving its intended purpose. As indicated in the preceding historical review, study after study has shown support for the basic recognition/reward concept of the program from outside observers, appointive management incumbents and eligibles. Agency heads consistently have demonstrated a need and desire to recognize and reward top management performers through positive means, and have indicated that they would likely have lost valuable employees without the flexibility and rewards available with CES.

Within the past year, CES seminars focusing on management problems and opportunities in times of retrenchment and change have provided CES members developmental opportunities vital to their roles in the state management hierarchy.

Finally, CES members have proven themselves capable of moving into top appointive posts to assist political administrations with their career management expertise. There are currently 32 CES members in inactive status filling positions in the unclassified service as agency heads, deputies, or assistant commissioners.

#### Continuing Concerns With Current CES Program.

As the review of the CES history indicates, there has been a continuing concern for improvement of the program. Most of the concern centers around the aspect of continued recognition and development following initial CES appointment. Two major problems that have prevented a successful implementation of the system are: lack of salary flexibility and lack of funding and emphasis on program administration and individual development.

The first, lack of salary flexibility, is critical in a recognition based program. Many CES members cannot receive full salary increases their appointive department heads would like to provide them because of the department heads salary ceiling limitation. Currently, 59% of the incumbents of projected CES eligible positions are within 20% of the statutory maximum. This problem of severe salary compression at the top management levels is the subject of another LCER inquiry and must be dealt with there. The decision, however, is critical to the continued success of the CES program in whatever form it ultimately takes.

The second problem, need for funds and staff to provide adequate emphasis to the program and to improve the developmental aspects of it, is likewise critical. Each review of the CES has come to the same basic conclusion. It is a good system founded on sound motivational theory, but the program needs improved administration. Most of the problems in administration have been a direct result of inadequate staffing. Full-time staff has been needed to promote the program and provide needed services in selection, development, mobility, communication with agency heads and members, and creation and monitoring of task force projects. To date, the administration of this program has been a part-time assignment for a DOER Assistant Commissioner. In addition, development activities have not been separately or adequately funded. Funds appropriated for the State Training Program through DOER and agency training budgets have been inadequate to meet the substantial needs of the program. Other programs have been determined by the legislature to be more important than CES. Programs to

provide increased upward mobility training for lower level employees and job sharing, as only two examples, have created more legislative interest. The CES program has had to compete with these other high priority programs for the scarce and dwindling resources of DOER and other state agencies. State budget problems have surfaced each time the department has attempted to secure increased appropriations for this program.

CES cannot live up to its potential without substantial commitment in terms of staff time and funding for administration and developmental purposes. It is hoped that the current legislative interest in the program will culminate in such a commitment of resources. These resources will be needed, whether the old CES concept is retained or a change to the new concept is undertaken.

## THE NEW CES CONCEPT

### General Description.

The law describes a new concept or approach for CES. Rather than an individual recognition system such as currently exists, the legislation proposes a management development program for high level classified positions. The focus of the program is on the key level of management just below the unclassified service. These are some of the most important state employees. It is the group of employees who maintain an effective operation of State government. This system identifies "bridge" positions between the unclassified service (top management) and the rest of the management group. In a sense, it is the lower edge of top management as well as the upper limits of middle management. As a "bridge" between the unclassified and classified services the positions would have more security and fewer benefits than the top policy making groups but also less security and higher benefits than the general management group.

This approach as presented in the legislation has two primary features:

1. Persons electing into the plan could be removed by their appointing authority for unsatisfactory performance.
2. Persons removed from a CES position would be able to return to a lower classified position.

### Program Content.

The components of the proposed plan are discussed in detail in the remainder of this section.

The format for discussion of these components is:

1. Identification of the relevant criterion from Laws of 1982, Chapter 560 associated with the component.
2. Identification and discussion of benefits, problems, issues and concerns associated with the criterion.
3. Recommendations for plan content including identification and rationale for recommendations that differ from the criteria established in Laws of 1982, Chapter 560.

Specific Components:

1. Title: Is "Career Executive Service" an appropriate title?

Criterion: Not addressed in law.

Problems/Concerns/Issues: The current title of Career Executive Service does not appropriately convey primary intent and purpose of the new system. Use of the word "career" implies a primary purpose to provide promotional and upward movement of career employees. Although promotion of career employees is a goal of the program, it is not considered primary. Individuals from outside State Service may be brought into the revised CES. There will be greater emphasis on identification of executive level positions and development of incumbents of these positions.

Recommendation: Change title of program to Senior Executive Service.

2. Coverage: Who or what positions are eligible for SES?

- A. Criterion: "Job classifications in the classified service, rather than individuals, would be designated for inclusion in the service."

Problems/Issues/Concerns: Who determines the classifications to be included as SES eligible? Consistent criteria for eligibility must be established across agency lines in order to prevent inequities between and within agencies.

Recommendations: Classifications should be designated as SES eligible by the Commissioner by application of consistent criteria on a statewide basis in order to prevent inequities between and within agencies. All positions that meet the criteria should be identified and included in the program.

- B. Criterion: "Positions to be designated would be those managerial positions which involve a substantial amount of individual discretion and policy implementation."

Problems/Issues/Concerns: This criterion may prove useless as it does not provide much of a distinction among managerial positions within an agency. The general definition of manager requires substantial individual discretion and policy implementation. In response to a survey, operating agencies reported that fewer than 15 classified management positions failed to meet this criterion. The criterion appear to be meaningless.

Recommendation: Drop this criterion.

- C. Criterion: "Positions to be designated would be those managerial positions equal in rank to, or immediately beneath the rank of, the lowest level unclassified position in an agency."

Discussion: This criterion translates into the reporting relationship between the classified management position and a position in the unclassified service within a specific agency. Eligible positions would be:

- 1) In most agencies those reporting to an assistant commissioner.
- 2) In DNR and Public Safety those reporting to an unclassified division director.
- 3) In Welfare and correctional institutions those reporting to an unclassified chief executive officer.

Problems/Issues/Concerns:

- 1) Of the 536 classified management positions, 352 would be SES eligible using this criterion. This number is substantially higher than that anticipated in the LCER consultant's report.
- 2) Inequities between and within agencies would be created:
  - a. Inequities between agencies with district or field offices; e.g., DOT district managers are classified, correctional institutions' CEO's are unclassified. Positions in Corrections that report to an unclassified CEO are eligible for SES while positions that report to a classified district manager would not be eligible for SES. Based on the Hay evaluation process used in determining level for management positions, the top positions in each jurisdiction are comparable.
  - b. Inequities between agencies in general. The salary range for eligibility varies considerably and is dependent on organizational size and design; e.g., the Office of Administrative Hearings has one position in salary range 11 which would be eligible for SES, DOT has 42 positions in salary range 18 which would not be SES eligible.

|            |    |    |    |    |    |    |    |    |    |    |    |    |    |
|------------|----|----|----|----|----|----|----|----|----|----|----|----|----|
| Range      | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 |
| Eligible   | 22 | 6  | 41 | 4  | 96 | 12 | 50 | 15 | 45 | 27 | 16 | 3  | 2  |
| Ineligible | 4  | 2  | 32 | 2  | 25 | 15 | 34 | 64 | 1  | 1  | 2  | 0  | 0  |

- c. Inequities within agencies; e.g., Natural Resources has four positions in salary range 18 that would not be eligible and three positions in salary range 11 that would be eligible.

The percentage of classified managers who would be SES eligible varies widely between agencies. In many agencies most, if not all, classified managers would be eligible, while in others less than half would be eligible (figure 3). This is primarily due to organization structure. Flat organizations have high eligibility potential while pyramidal structures have low eligibility potential.

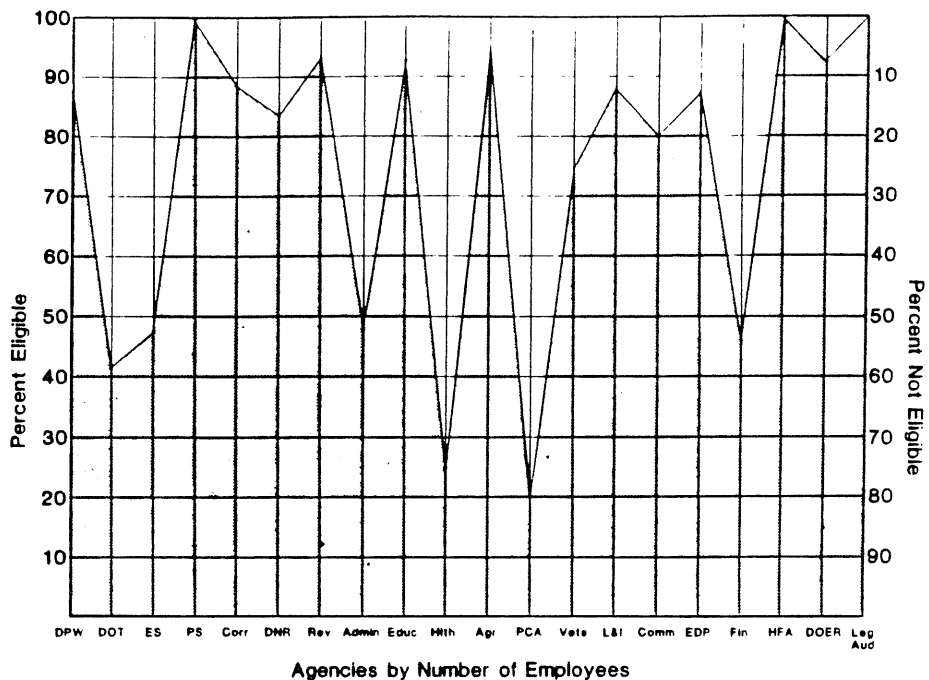


Fig. 3. Percent of Classified Managers Eligible Under New Criterion

Recommendation/Rationale:

- 1) Eligibility would include those positions reporting to the assistant commissioner level or division director level if the agency utilized unclassified division directors.
  - a. Limiting eligibility to salary level or a fixed percentage within each agency was explored and rejected as being arbitrary and preventing full implementation of a position based system.
  - b. Further discrimination based on policy development (rather than policy implementation) was rejected because it would be too close to the criteria used for establishing positions in the unclassified service to provide room for further differentiation.

The difficulty of finding suitable position eligibility criteria is further compounded by the way agencies use the unclassified service. The variance in percentage of unclassified/classified management positions in agencies is obvious from a review of the following chart (figure 4). This variance makes it difficult to establish equitable criterion for SES eligibility.

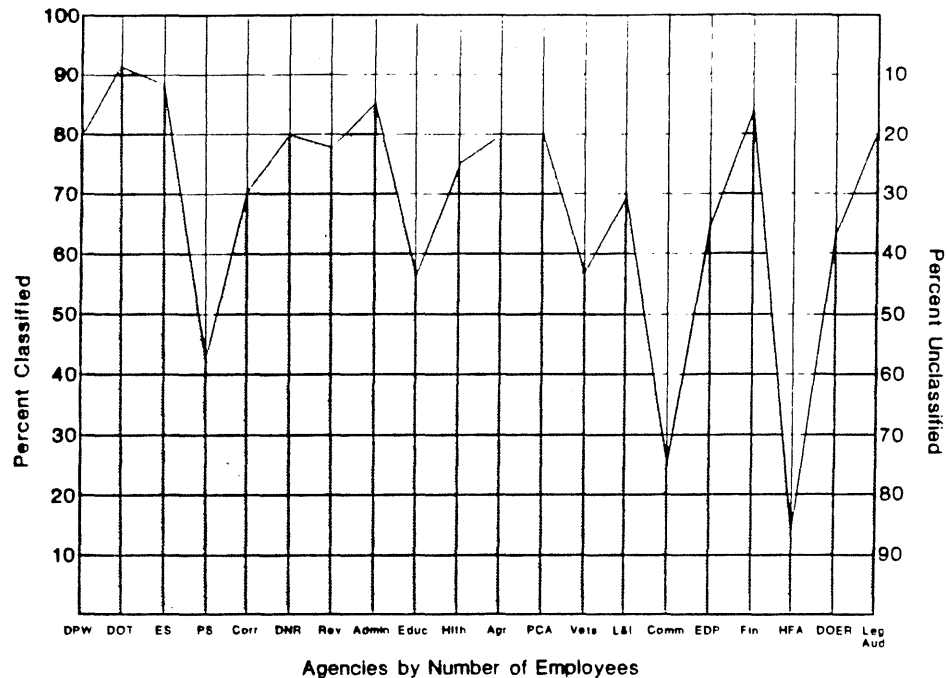


Fig.4 Percent of Total Management Classified/Unclassified

- 2) Establish compensation for SES positions relative to the regular salary ranges, rather than combining all SES positions in a single range (see compensation page 19).
- 3) Permit appointing authorities to determine which eligible positions to fill as SES. This approach is desirable because it:
  - a. Gives appointing authorities more authority by fixing responsibility for appointment with the line management person who is in the best position to determine needs.
  - b. Allows the appointing authority the opportunity to provide special focus on unique program areas or problems that may need attention.
  - c. Reemphasizes the concept of individual recognition and reward for use by the appointing authority.

Additional features to this approach are that it would:

- a. Reduce the number of employees and positions to be included in the revised SES. It is unlikely that all SES eligible positions would be filled by SES appointment at all times.
- b. Provide a more orderly transition to the new system.

- c. Help alleviate the concerns of current classified managers and CES managers about a change in the program.

The Commissioner of Employee Relations would be allowed to change a SES eligible designation as a result of agency reorganization. An appointing authority would not be allowed to withdraw a SES appointment as long as there was an incumbent in that position. Without this provision an appointing authority would be able to withdraw SES designation from a position thereby forcing the position and the incumbent into the classified service with unlimited rights to the position. This would be inconsistent with the major goals of the program.

- 3. Conversion of Incumbents: What happens to current CES members and incumbents of management positions that will be designated SES?

Criterion: Not addressed in law.

Problems/Issues/Concerns: This is probably the most sensitive aspect of implementing a new system. Current managers and CES members must perceive that they are being treated fairly and that they are not suddenly subject to a different set of conditions than originally agreed to. A particularly difficult issue is what to do with the non-management positions that have already been "grandfathered" into the current CES program.

Recommendations: Establish a process of transition which provides:

- 1) For current CES managers in SES eligible positions:
  - a. Grandfathering into SES status.
  - b. Loss of SES status (but not position) for unsatisfactory performance.
  - c. Removal from position for just cause only.
- 2) For incumbent managers in SES eligible positions who do not now have CES status:
  - a. At the discretion of the appointing authority may be offered an SES appointment without qualifying under any qualifying process.
  - b. Voluntary acceptance of appointment to SES.
  - c. If the incumbent accepts appointment, can be removed from the position for unsatisfactory performance and will be demoted to a lower level position that is at least comparable to the position held previous to SES appointment. (If the incumbent transferred into the SES position, they would be entitled to a position at the same level.) This new position will be within his/her same agency.

- d. Eligible for salary increase on appointment.
- e. If the incumbent rejects appointment, will remain in the position; can be removed for just cause only.

These provisions for converting incumbents provide the greatest protection for current CES members and current managers in SES eligible positions. They would be open to risk only if they accepted those conditions in advance. If they chose not to participate, they could be removed from their positions only for cause. They would retain the same level of protection that they now have.

3) For current non-managerial CES members (in non-eligible positions) and current CES members in non-eligible SES positions:

- a. Removed from CES status. Retain current salary until their range maximum exceeds their salary (if the incumbent is over the range maximum). Non-discretionary increases that are granted across the board within the classification (pay plan or collective bargaining agreement) of the incumbent would be allowed, but SES discretionary increases will not. Benefits would be determined by the appropriate plan or collective bargaining agreement.
- b. Retention of current position.
- c. Removal from position for just cause only.

This group of 57 individuals were "grandfathered" into current CES status by M.S. 43A.18, Subd. 3 when the CES eligibility requirements were changed to cover management positions only. Further "grandfathering" these incumbents would provide continued benefits of a system designed for positions which are at least two levels higher with no reasonable basis on which to judge them for the discretionary benefits of the program. Further, these positions should be covered by collective bargaining agreements. Maintaining them in SES creates increased confusion and inconsistency in treatment from others in the bargaining unit.

4. Selection: How will specific individuals be identified and selected for SES?

Criterion: Not addressed in the law.

Problems/Issues/Concerns: An orderly, consistent recruitment and selection process is needed to ensure that all candidates for appointments meet SES standards.

Recommendations: The selection process would be much the same as is currently used for most classified management positions. Implementation of the process would involve both operating agencies and DOER.

Both DOER and the appointing authority would recruit candidates. DOER would develop selection procedures in consultation with the appointing authority and appropriate outside experts. Techniques to be used would be similar to those currently used in the exam process for classified management positions, focusing on evaluation of applicant experience and training and deemphasizing use of written and oral exams. DOER would certify lists of names of qualified candidates in accordance with M.S. 43A.13. The agency head would make the appointment to the vacant position.

5. Reassignment and Transfers: How will SES members be able to move through the system to other positions in state service?

Criterion: Not addressed in law.

Problems/Issues/Concerns: It is important to identify how individuals would move between SES eligible positions. Some SES systems vest status in the individual. Once they gain SES status they are eligible to move to any other CES position without further qualifying procedures.

Recommendation: SES eligible positions would maintain their current classification and would be designated SES. SES positions would remain associated with the current job classification rather than be included in a single SES job classification. Incumbents would have to qualify for promotion or transfer to other SES positions or classifications on a case by case basis. Individuals could be demoted to lower level positions for which they are qualified, if removed from SES positions for unsatisfactory performance.

6. Removal: Should there be an appeal process for the individual that is removed for unsatisfactory performance?

Criterion: "Removal for unsatisfactory performance would not be appealable pursuant to the grievance process."

Problems/Issues/Concerns: If there is no appeal or review process, there would be no way to differentiate between removal for unsatisfactory performance and "serving at the pleasure of." Current classified managers and CES managers are concerned that the system is designed to remove them arbitrarily from these positions. These managers need assurance that the performance evaluation process will be applied objectively and that they will not be subject to arbitrary or capricious action by the appointing authority.

Recommendations:

- 1) Individuals could be removed from position any time during their probationary period (one year for managers).
- 2) Individuals could be removed from position at anytime for cause and would be entitled to the full grievance procedure.
- 3) Individuals could be removed from position for unsatisfactory performance without appeal through the normal grievance procedure but would be able to request the Commissioner of DOER to review the procedures followed. The Commissioner could overrule the appointing authority's decision if the appropriate procedures were not followed. Procedural due process is an important employment right for all employees including SES members.

The review process for this group would focus on procedures used in the evaluation process and would not be used to re-evaluate the appointing authority's qualitative judgment of an individual manager's performance. An appeal process that provides procedural due process forces the appointing authority to document his/her decision and to make the rationale for that decision public. Providing this mechanism should greatly reduce the concerns of classified managers and current CES members that they will be dealt with in an arbitrary manner.

7. Removal: What happens to individuals removed for unsatisfactory performance?

Criterion: "Persons removed from designated positions for unsatisfactory performance may revert to their former classified position or if a person did not hold a prior position to a comparable position as identified by the commissioner."

Problems/Issues/Concerns:

- 1) Allowing an individual unlimited opportunity to revert to his/her previous position would create substantial management problems for the agency where the individual held the previous position. The statutory criterion puts no time limits on reversion. An individual could be removed after serving many years in a position. The previous agency could have gone through several changes in commissioner and organizational structure. In some cases, the previous position could have been abolished, or the employee could have lost the skills required for the position. Movement back into an organization could require layoff of current position incumbents -- persons who have been in these positions for several years, perhaps longer than the returning SES member. An appointing authority may be more inclined to remove an individual from an SES

position rather than work with that person to improve performance, if the removed individual would leave the agency as opposed to demoting to a position within the agency. If the individual was required to be demoted within the same agency, the appointing authority would still have to deal with problem performance.

- 2) If no vacant position exists in an agency that removes an SES manager for unsatisfactory performance, the appointing authority is faced with the need to establish one through layoff of another employee, who could have cause to challenge such action through union contract grievance and arbitration procedures.

Recommendations:

- 1) Individuals with permanent civil service status removed for unsatisfactory performance during their probationary period would revert back to their previous position. Person without previous civil service status would not have rights to another position.
- 2) Individuals removed for unsatisfactory performance after their probationary period would be entitled to a position within the same agency as their SES position.
  - (a) The new position for individuals with permanent status would be comparable to the position held previous to SES appointment.
  - (b) The new position for individuals without permanent status would be a lower level position that the individual could qualify for in his/her agency as determined by the appointing authority and approved by the Commissioner of Employee Relations.
  - (c) Comparable positions would be determined by the appointing authority and approved by the Commissioner of Employee Relations.

This approach provides a balance between the needs of management of agencies and the security concerns of career employees appointed to SES positions.

- 3) If an individual were removed for unsatisfactory performance, the agency would be authorized to establish a temporary position if there is no vacancy in a position at a level comparable to the position held previously. The appointing authority would also have the option of appointing the individual to a lower level position (salary and benefits at the higher level) until a position becomes available.

The Commissioner of DOER would approve the comparable positions. It would be difficult if not impossible to institute layoff procedures which would permit SES employees to displace employees from classified positions, if the SES employee had no previous experience in the class or less than the current classified incumbent. This would take a law change and could also create substantial difficulties with collective bargaining agreements.

8. Compensation: How would SES be compensated? Salary and benefits?

Criterion: "Persons holding designated positions would be eligible for benefits generally comparable to benefits available to current members of the service."

Recommendations:

- 1) SES positions would maintain current class title with an SES added to indicate it is a SES position. SES salary would be relative to the management classification of the position rather than to other SES positions. A salary range for each management classification would be established. The SES range would be 20% higher at the minimum and maximum of the comparable management range. This would provide sufficient reward for individuals accepting promotion/risk and the 20% salary differential is substantial enough to convey a significant difference in status. This form of salary differential virtually eliminates the problems created by the inequities of different level positions within an agency being in or out of SES. Pay would be relative to current salary range rather than to all other SES positions. Some SES positions could be compensated at lower rates than some non SES management positions in the same agency or other agencies.
- 2) Develop a comprehensive benefit package including relocation expenses to ensure that the SES is attractive and competitive with comparable positions in the relevant labor market.

9. Training and Development: What should be included in the training and development aspects of the program?

Criterion: "Persons holding designated positions would receive advanced management training, would receive periodic mobility assignments to undertake special projects within state service, and would be expected to perform at a level of performance characteristic of senior, career executives in the public and private sectors."

#### Problems/Issues/Concerns:

- 1) Higher level executives do not readily participate in training and development efforts, even though the need to expand management skills and knowledges and keep current with that field of interest is high.
- 2) Sufficient resources have not been available to provide adequate training and development opportunities for this group. There is substantial competition for available training funds from many areas.
- 3) "Long term" mobility in terms of temporary assignments (not to be confused with permanent promotion or transfer) appears to be of little interest for both top management and individual managers. This program element has been tried in many locations with little indication that the program has been successful.

#### Recommendations:

- 1) Participation in training activities on an ongoing basis should be a requirement of this program. Every SES employee should be required to participate in a specific amount of developmental activities each year. This is similar to the continuing education requirements of many professions.
- 2) Substantially increase the amount of training opportunities offered through DOER for SES managers. Administering a development program centrally rather than through separate agency allocations would make more programming available at lower cost, would provide more opportunity for SES managers to share experiences, and would provide increased opportunity for interchange of skills. The management training the DOER Training and Development Program has been able to offer across agency lines with current limited resources has been very successful.
- 3) Develop and offer an assessment process to help newly-appointed SES members identify strengths and weaknesses. These programs have been successfully installed in many public and private organizations. They are particularly useful to help individuals focus developmental activities in needed directions to maximize benefits of training expenditure.

Participation in this program should be mandatory within a specified time of appointment to ensure that all SES managers begin work to improve themselves and ultimately provide more service to their clientele.

- 4) Encourage use of long term mobility assignments where practical. Mobility must be put into perspective. It can be a valuable development activity in certain circumstances but is not necessarily an appropriate program to require statewide. Mobility isn't for everyone and should be encouraged only where specific circumstances warrant.

- 5) Develop a systematic approach to coordinating use of SES members on short term task force assignments. A logical framework for maximizing use of this valuable resource is needed.
- 6) Experiment with alternative development strategies such as sabbaticals.
- 7) Encourage and enhance permanent mobility of SES members through transfer and promotion to other SES and unclassified positions through centralized review of member's skills and referral to appointing authorities as opportunities arise.

#### PROBLEMS WITH MAKING A CHANGE IN CES

CES members and classified managers have inferred a number of negative connotations from the legislative recommendation for a substantial change in the CES program. Many of them have expressed concern that the change is suggested because the legislature thinks that something is wrong with the current group of managers. They are concerned that the perceived need for change implies they are not doing the job and that in order for the job to be done, they have to be replaced. Specifically, they have communicated two major concerns:

1. That the new system is designed to facilitate their removal from their current position and/or status.
2. That they will be afforded little, if any, opportunity to be appointed to the new SES positions; that these positions will be subject to appointment from outside the State Service and will be filled permanently with political appointments.

In effect, these concerns can be summarized as a general concern of the current classified managers and CES members and that any change in the CES program along the lines proposed in legislation is the first step toward placing the entire state management group in the unclassified service.

These concerns are raised not to suggest that the new concept is unworkable, but so they may be taken into account in design and implementation of any new program. It is important that design and implementation will not foster or reinforce the negative concept held by many current managers and create additional disincentives for working as a manager in state government.

## RESOURCES NEEDED FOR THE PROGRAM

To effectively carry out the goals of the program, it will be necessary to substantially increase staff and funding.

### Staff.

1. A full-time coordinator is needed to promote the program, provide communications with agency heads and SES members, coordinate the selection process, provide service for transfer and promotion aspects, and coordinate use of SES members in task force projects.
2. A full-time training coordinator is needed to identify, coordinate, develop, conduct or offer appropriate and sufficient training and development activities for this group. This individual also would work with managers on an individual basis to resolve performance problems and skill deficiencies.
3. A full-time training coordinator is needed to coordinate and run a mandatory assessment center program for SES members. This would be sufficient staffing, provided there is sufficient time available from state managers to act as assessors to the program.

### Funds.

1. Funds are needed to offer adequate amount of training activities. It would not be unreasonable to assume that this would require a minimum of \$100-\$150 per SES member. (Based on current costs for public programs, this is minimal funding. It is difficult to find training and development activities for under \$100/day of training.) This rate would provide approximately \$35,000-\$52,000.
2. Development of an Assessment Center would require between \$30-40,000 as a one-time expenditure. On-going funds would be necessary if State managers were not available to serve as assessors for the program.

It is recommended that two staff positions (plus funding) for points 1 and 2 above and \$35,000 for training activities be allocated the first year of the biennium at a minimum one position (plus funding) and the \$35,000 should be allocated for the first year of the biennium. An increase in funds to \$70,000 is recommended the second year. If the State decides to offer an Assessment Center, this staff and funding should also be made available during the second year.

## IMPLEMENTATION OF NEW SES PROGRAM

### Implementation Plan.

The following activities should be undertaken in roughly the order listed after legislation is passed. Most of the activities would begin within the first month after passage and the full program should be operational within six months of funding.

- Finalize program design (includes compensation plan).
- Assign program responsibility to DOER staff.
- Establish procedures for administering the program.
- Write program description/manual.
- Notify agency heads of program change.
- Meet with agency heads:
  - discuss/explain program.
  - identify eligible positions.
  - identify CES appointees.
- Notify individuals (CES members and new appointees) on change of status/rights.
- Phase in staff.
- Phase in development activities.
- Explore task force and mobility aspects of program:
  - implement to extent feasible.

## COMPARISON OF CURRENT CES AND PROPOSED SES

In general, the two current and proposed systems are quite comparable. They both provide substantial reward and recognition, and both will require the same substantial resources in order to be effective. There are, however, two major program aspects that are dissimilar and of particular relevance to the comparison of current CES in Minnesota to the proposed legislative revision to the system.

1. Limiting eligibility for CES (SES) to a specific sub-category or level of the management group versus extending eligibility to the entire management group.
2. Removal of persons from position -- whether it be for unsatisfactory performance or serving at the pleasure of the appointing authority -- versus removal of only CES (SES) status with retention of position.

### 1. Eligibility.

#### A. The argument for limiting eligibility:

Limiting eligibility to a specific high level within the management category group is simply recognizing that these positions are particularly sensitive and a key to effective operation of an organization. These positions have a bigger impact on state operations and therefore should be treated differently from the rest of the group.

#### B. The argument against limiting eligibility:

Opening eligibility to all positions within the management group is saying that managers should receive recognition based on their individual contribution. Anyone in a management position is in a position to greatly impact the operation of the organization. Recognition and reward should go to the major contributors, regardless of their level in the management group of the organization.

## Removal from Position as Opposed to Withdrawing CES (SES) Status.

### A. The argument for removal:

- 1) Persons will perform better and more responsively under the threat of loss of position. There would be little incentive to perform at a higher level if the threat merely involves loss of CES (SES) status.
- 2) Unless the department head has the authority to remove the person totally from the position, he/she will not take the lesser action of removing CES (SES) status from the person as he/she would have to continue to work with the employee in the position. The hostility and disincentive created by removing the status would not be worthwhile. More harm would be created than good.
- 3) The due process system for just cause removal of top level managers from general positions is too cumbersome and time consuming to be effective.

### B. The argument against removal from position:

- 1) Managers (particularly those identified as top performers) will perform better and more responsively in response to positive reinforcement. They do not need the threat of removal to motivate them. They will be responsive and will perform at a high level, if given the opportunity; development and adequate rewards as incentives.
- 2) Removing CES (SES) status is a significant negative action, which could and should provide sufficient impetus for needed change.
- 3) The potential for abuse of the removal process for other than unsatisfactory performance is too great.
- 4) Managers can be removed for unsatisfactory performance through the current just cause due process system.

Although there are many similar aspects to the proposed and current CES systems, the eligibility and removal aspects make the systems quite different. The proposed system would limit eligibility to the top levels of the classified management service and allow for removal from the position for unsatisfactory performance. The current program does not limit eligibility or allow for removal from position for other than just cause.

## CONCLUSION AND OVERALL RECOMMENDATION

There are no tangible benefits to the state from the proposed revised CES, unless the ability to remove a CES member and demote him/her to a lower level job is considered a benefit. Considering the political climate, which is subject to change each year, this change is perceived by many as making the top positions under the unclassified just a shade different than unclassified. The legislature considered allowing these positions to become unclassified last session and did not pass such a provision.

Many incumbents of CES worry about the intent behind the proposed revisions especially in light of the revised 43A which allowed for more unclassified positions.

Recruiting managers for State Services is very difficult as state salaries for managers are not competitive with those for comparable jobs in the private sector or in the metropolitan area for comparable jobs in the public sector. As an off-set to the private sector salaries, the state has been able to offer terminations from the job for "just cause" or layoff. Implementation of the proposed SES may result in more difficulties in recruiting qualified managers.

If the proposed SES system is implemented, the current CES incumbents who are managers should be grandfathered into SES and a provision passed that they can be removed from their current position only for "just cause."

If the proposed SES system is implemented, the current CES incumbents who are represented by an exclusive representative should be removed from CES but retain their current salary level. Future salary increases and terms and conditions of employment should be decided by the collective bargaining process or plans established under M.S. 43A.18.

Incumbents of managerial positions, which are determined to be eligible for SES appointments, should be given the right to decide whether or not to accept an SES appointment as long as they retain their current position.

There must be adequate incentives for a manager to accept an SES appointment under the revised system if the termination for poor work performance provision is retained.

Neither the current CES system nor the proposed SES system can be truly successful unless adequate resources are provided for training CES (SES) members and for managing the program. The essential support items are adequate staff to coordinate both the program itself and training and development activities for SES members, plus adequate compensation provisions and funding for purchase of training and development activities. Such funding currently is not available.

There is no difference between the current CES system or the proposed system as far as the success of any mobility programs.

The proposed system which limits which managers are eligible for SES appointments may be a disincentive to managers who are eligible for CES appointment under the current system and along with the appointment a potential of a higher salary.

Under the proposed SES program there will be inequities of eligibility levels created among agencies. There is little that can be done to prevent these inequities of the system which is based on organizational level.

Both the current and the proposed CES (SES) programs are feasible. Both systems could be successful if adequate resources are available. If the legislature decides to revise the current system, the revised systems should not be implemented until adequate resources are available, including a lessening of the current salary compression problem for managers.