STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE ARTHUR E. NOOT
COMMISSIONER OF PUBLIC WELFARE

BEFORE GEORGE R. PETTERSEN, M.D.
COMMISSIONER OF HEALTH

BEFORE ALBERT H. QUIE
GOVERNOR

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA MERIT SYSTEM GOVERNING DEFINITIONS; STATEMENT OF POLICY AND MEANS OF EFFECTING POLICY; ORGANIZATION; CLASSIFICATION PLAN; COMPENSATION PLAN; EXAMINATIONS; CERTIFICATION OF ELIGIBLES; PROBATIONARY PERIOD; SEPARATION, TENURE AND REINSTATEMENT; LEAVES OF ABSENCE; APPEALS AND HEARINGS; SALARY ADJUSTMENTS AND INCREASES; SALARY COMPUTATION PROVISIONS FOR FULL AND PART-TIME EMPLOYMENT; APPOINTMENTS, PROMOTIONS, DEMOTIONS, TRANSFERS AND REINSTATEMENTS; AND PROVISIONS FOR COMPUTING MONTHLY, HOURLY, LESS-THAN-FULL-TIME, BI-WEEKLY, AND FOUR-WEEK SALARY RATES.

STATEMENT OF NEED AND REASONABLENESS

The following considerations constitute the statutory and regulatory authority upon which the above-cited rule amendments are based:

1. Federal law requires that in order for Minnesota to be eligible to receive federal grant-in-aid funds for its various public welfare, public health and civil defense programs, it must establish and maintain a merit system for personnel administration. See, e.g. 42 USC Ch. 62. [1/]

1/ Also see sections of the United States Code cited hereinafter where the following programs have a statutory requirement for the establishment and maintenance of personnel standards on a merit basis:

Aid to Families With Dependent Children - "AFDC" [42 USC § 602 (a) (5) (A)]
Food Stamps [7 USC § 2020 (e) (6) (B)]
Medical Assistance - "MA" [42 USC § 1396a (a) (4) (A)]
Social Services [42 USC § 1397b (d) (1) (D)]
Comprehensive Mental Health Services [42 USC § 2689T (a) (1) (d)]
Aid to the Blind [42 USC § 1202 (a) (5) (A)]
Aid to the Permanently and Totally Disabled [42 USC § 1352 (a) (5) (A)]
Aid to the Aged, Blind or Disabled [42 USC § 1382 (a) (5) (A)]
Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation [42 USC § 4573 (a) (5)]
Drug Abuse Prevention [21 USC § 1176 (e) (8)]
Comprehensive Health Planning [42 USC 300M-1 (b) (4) (B)]

Health Resources Development [42 USC § 300o-2 (b)]
Civil Defense Personnel and Administrative Expenses [50 USC Appx. § 2286 (a) (4)]
Medical Facilities Assistance [42 USC § 300o-1 (b)]
Maternal and Child Health Services/Crippled Children Services
[42 USC § 705 (a) (3) (a)]
Developmental Disabilities Services and Facilities Construction
[42 USC § 6063 (b) (7)]
State and Community Programs on Aging [12 USC § 3027 (a) (4)]
Nutrition Programs for the Elderly [42 USC § 3045d (a) (3)]

2. Pursuant to such congressional action the Office of Personnel Management, acting under authority transferred to the United States Civil Service Commission from the Departments of Health, Education and Welfare, Labor, and Agriculture by the Intergovernmental Personnel Act (IPA) of 1970 and subsequently transferred on January 1, 1979, to the Office of Personnel Management by the Reorganization Plan Number Two of 1978, promulgated the Standards for a Merit System of Personnel Administration 5 CFR Part 900, Subpart F, 44FR 10238, February 16, 1979, which imposes on the State of Minnesota general requirements for a merit system of personnel administration in the administration of the federal grant-in-aid programs. (See, Footnote 1 Supra.)

3. Under the aforementioned grant-in-aid programs the State of Minnesota, through its appropriate agencies, is the grantee of federal program and administrative funds and, accordingly, the State is under an affirmative obligation to insure that such monies are properly and efficiently expended in compliance with the applicable federal standards. Those standards require that in order for the agencies under the Minnesota Merit System to be eligible to receive federal grant-in-aid funds the Minnesota Merit System rules must specifically include, among other things, an active recruitment, selection and appointment program (5 CFR 900.602 - 900.603), current classification and compensation plans (5 CFR 900.604), training (5 CFR 900.605), retention on the basis of performance (5 CFR 900.606) and fair, non-discriminatory treatment of applicants and employees with due regard to their privacy and constitutional rights (5 CFR 900.607).

4. In conformance with 5 CFR Part 900, Subpart F, the Minnesota Legislature enacted Minn. Stat. § 12.22 subd. 3, § 144.071 and § 256.012[2/], which respectively authorize the governor, the commissioner of health, and the commissioner of public welfare to adopt necessary methods of personnel administration for implementing merit systems within their individual agencies. Collectively, the resulting programs are referred to as the "Minnesota Merit System".

2/ See also Minn. Stat. §§ 393.07 (5), 256.01 (4), 393.07 (3) and 256.011.

5. Pursuant to such statutory authority those state agencies have adopted comprehensive administrative rules which regulate administration of the Minnesota Merit System.[3/]

6. The Minnesota Supreme Court upheld the authority of the Commissioner of Public Welfare and by implication that of the Commissioner of Health and the Governor to promulgate personnel rules and regulations in quashing a writ of mandamus brought by the Hennepin County Welfare Board against the county auditor in an attempt to force payment of salaries in excess of the maximum rates established by the Director of Social Welfare.[4/]

> . . . . . it is clear that the Director of Social Welfare was clearly right in adopting and promulgating a merit plan which includes initial, intervening, and maximum rates of pay for each class of position of the county welfare board system included within the plan and that the plan so adopted was binding upon all county welfare boards within the state . . . . In our opinion the federal and state acts, properly construed, provide that the Federal Security Administrator as well as the Director of Social Welfare shall have authority to adopt rules and regulations with respect to the selection, tenure of office and compensation of personnel within initial, intervening and maximum rates of pay but shall have no authority or voice in the selection of any particular person for a position in the state welfare program nor the determination of his tenure of office and individual compensation.

State ex rel. Hennepin County Welfare Board and another v. Robert F. Fitzsimmons, et al., 239 Minn. 407, 420, 58 N.W. 2d 882, 890 (1953).

7. The above-cited proposed rule amendments are promulgated in accordance with the provisions of applicable Minnesota statutes and expressly guarantee the rights of public employers and Minnesota Merit System employees in conformance with the terms of the state's Public Employee Labor Relation Act (Minn. Stat. §§ 179.61 - 179.77).

3/ 12 MCAR §§ 2.490-2.841, 11 MCAR §§ 1.2090-1.2141 and 7 MCAR § 1.235-1.315.

4/ "Director of Social Welfare" was the former title of the Commissioner of Public Welfare.

II. The justification establishing the reasonableness of the specific substantive provisions of the proposed rules, all of which concern the Minnesota Merit System operation, is as follows:

A. DEFINITIONS

1. 12 MCAR § 2.490, 7 MCAR § 1.235 and 11 MCAR § 1.2090

These rules deal with the definitions of various terms used throughout the Public Welfare, Public Health and Public Safety Merit System rules. Minor amendments proposed to 12 MCAR § 2.490, 7 MCAR § 1.235 and 11 MCAR § 1.2090 involve the re-numbering of terms included in the definition rule, as well as minor corrections in grammar, or deletion of references to the masculine gender. Additional amendments throughout the rules include providing titles for sections with numerical designations so that the reader can easily identify sections by content area.

Additional minor amendments to 12 MCAR § 2.490, 7 MCAR § 1.235 and 11 MCAR § 1.2090 are proposed either for grammatical reasons or to improve the meaning of the definitions for "county register," "allocation," "eligible," "intermittent employee," "merit increase," "military leave," "permanent employee" "register," and "state agency."

The proposed amendment to "general adjustment" is necessary to reflect language in the rules that general salary adjustments recommended by the Merit System in even-numbered years follow a formula based on changes in the Twin City Consumer Price Index without a salary survey being conducted.

The proposed amendment to "layoff" is necessary to bring the definition for that term into conformance with the definition for "layoff list" as well as the layoff procedure described in the rules.

Seven amendments are proposed to 12 MCAR § 2.490, 7 MCAR § 1.235 and 11 MCAR § 1.2090 providing definitions for new terms. The first two are definitions of "layoff list" and "reemployment list." In 1979, amendments were proposed and adopted to the Public Welfare, Public Health and Public Safety Merit System rules establishing procedures to be followed in the event of layoff.

Although the amended rules refer to a layoff list there has never been a definition for layoff list included in the rules. Because of its significance, it is considered both necessary and reasonable to include a definition for layoff list in the rules. Similarly, in 1979, changes were adopted in the rules for all three agencies establishing the concept of a reemployment list for use by former employees of the Merit System who are either laid off or who voluntarily separate in good standing. Again, no definition of a reemployment list is in the rules and so a definition is being proposed at this time.

The next three amendments proposed to 12 MCAR § 2.490, 7 MCAR § 1.235 and 11 MCAR § 1.2090 involve new definitions for the terms "reclassification," "change in allocation" and "reallocation." Amendments being proposed today to 12 MCAR § 2.493, 7 MCAR § 1.238 and 11 MCAR § 1.2093 use all three of these terms in describing the process by which incumbents of reclassified positions qualify for promotion. Any change in the allocation of a position is considered to be a reclassification. Reclassifications are one of two types depending on the impetus and time frame involved in the reclassification. A management-imposed abrupt change in the duties and responsibilities of a position is considered a change in allocation while a more gradual change in the duties and responsibilities of a position initiated by the incumbent of the position is considered a reallocation. It is necessary to define these terms in the rules since the incumbents of reclassified positions must follow different procedures in qualifying for promotion depending upon whether the reclassification is the result of a change in allocation or a reallocation.

The next amendment to 12 MCAR § 2.490, 7 MCAR § 1.235 and 11 MCAR § 1.2090 involves a new definition for "salary increase." Amendments being proposed today to 12 MCAR § 2.494, 7 MCAR § 1.239 and 11 MCAR § 1.2094 would allow appointing authorities to grant salary increases to employees that are based on working out of class or unusual employment conditions rather than job performance, cost-of-living factors or other labor market rates for comparable work. For this reason, such a definition in the rules is necessary to distinguish this type of increase from a merit increase or salary adjustment, already defined in the rules.

The last amendment proposed is to 7 MCAR § 1.235 and provides a definition for "Commissioner" which is defined as the administrative head of the state Department of Health. The old title of this position was "Secretary and Executive Officer." Minnesota Laws 1977, Chapter 305 eliminated all references to the Board of Health and to the Secretary and Executive Officer. Minnesota Laws 1977 § 305.39 amended Minn. Stat. § 144.011 (1976) by abolishing the State Board of Health and transferring all powers and duties to the Commissioner of Health. It is our intent to strike references to "Secretary and Executive Officer" and "State Board of Health" wherever appropriate when proposing amendments to the Health Merit System rules.

B. STATEMENT OF POLICY AND MEANS OF EFFECTING POLICY

1. 12 MCAR § 2.491, 7 MCAR § 1.236 and 11 MCAR § 1.2091

Amendments to 12 MCAR § 2.491, 7 MCAR § 1.236 and 11 MCAR § 1.2091 include providing titles for numbered sections. Additionally, amendments are proposed throughout 7 MCAR § 1.236 to correct references to either the Board of Health or Secretary and Executive Officer. These amendments are proposed for the same reason as those proposed to 7 MCAR § 1.235 above.

Minor amendments are proposed to 12 MCAR § 2.491 A. to add the phrase "and human services" since these rules apply to human services agencies as well as county welfare departments and substituting "appointing authorities" for "county welfare boards" since the former includes human services boards and county boards as well as county welfare boards.

Other amendments to these sections are the re-numbering or re-lettering of the sectio

Minor amendments to 12 MCAR § 2.491 B. 1. and 2. eliminate the reference to Minnesota Statutes, Section 245.42 since that section has been repealed, and add a reference to Section 256.012 enacted in 1980 which authorizes the Commissioner of Welfare to promulgate by rule personnel standards on a merit basis. Amendments to 7 MCAR § 1.236 B. and C. correct references to Minnesota Statutes and correct rule references and grammar.

Minor amendments to 12 MCAR § 2.491 F., G. and H., 7 MCAR § 1.236 F., G. and H. and 11 MCAR § 1.2091 F. and G. correct grammar and delete superfluous language and correct the reference to Minnesota Statutes, Chapter 363. With the passage of the Age Discrimination in Employment Act at the federal level, it is necessary to amend 12 MCAR § 2.491 G. 1., 7 MCAR § 1.236 G. and 11 MCAR § 1.2091 G. 1. to

include age as a factor against which discrimination is prohibited. An amendment is proposed to 12 MCAR § 2.491 F. 5., 7 MCAR § 1.236 F. 5. and 11 MCAR § 1.2091 F. 5. to correct the redundancy in the last sentence of those sections.

Major amendments are proposed to 12 MCAR § 2.491 E., 7 MCAR § 1.236 J. and 11 MCAR § 1.2091 H. The first new section being proposed relates to issues of non-conformance with the rules by an appointing authority and provides for the application of fiscal sanctions to the appointing authority when all other remedial measures fail to obtain conformance. In practice, the department has applied fiscal sanctions to appointing authorities in the past. The Federal Standards for a Merit System of Personnel Administration, on which the Merit System rules are based, provides that the agency designated to supervise local compliance with the standards (which, in Minnesota, is the Department of Public Welfare) may take appropriate steps to insure corrective action when necessary. In essence, the proposed amendment merely places in rule language what has been an established practice in dealing with non-conformance issues. The second section of the proposed amendment allows for appeal by an appointing authority of fiscal sanctions to the Merit System Council. The Council is not an integral part of the department and is, therefore, a neutral and objective entity. Considering the seriousness of the withholding of administrative reimbursement funds, it is reasonable to afford appointing authorities an opportunity to present facts leading to the denial or suspension of such reimbursement to an impartial body for their review, consideration and recommendation to the Commissioner.

C. ORGANIZATION

1. 12 MCAR § 2.492, 7 MCAR § 1.237 and 11 MCAR § 1.2092

The first proposed amendment is to 12 MCAR § 2.492 A. 1. and eliminates the phrase "of the county welfare board" and substitutes the phrase "in positions covered by 12 MCAR §§ 2.490-2.841." The Community Social Services Act of 1979 changed the employer of some county welfare department employees from the county welfare board to the county board. In addition, human services boards are also the employers of employees covered by the Merit System rules. Therefore, the specific reference in the rule to county welfare board employees is incorrect and needs to be eliminated. The second proposed amendment to this same section adds a statutory reference Minn. Stat. Sect. 256.012 to the section. The 1980 Legislature passed this legislation providing the Commissioner of Public Welfare with authority to promulgate, by rule, personnel standards for certain employees of county boards and all employees of county welfare boards and human services boards. This amendment is needed to more fully reference the Commissioner's rule making authority as regards the Minnesota Merit System.

A proposed amendment to 12 MCAR § 2.492 B. 1. abolishes the phrase "a county welfare board" and substitutes the phrase "an appointing authority." In 1980, a rule change was adopted changing the definition of "appointing authority" to include the county board as well as county welfare board and human service board. This amendment is necessary to properly identify those employees or members not eligible for appointment to the Merit System Council. Another minor amendment to this same section changes "with" to "within" and is necessary to provide meaning to the sentence.

Amendments to Section D include the renumbering of sections and correction of references to Merit System rules. A minor proposed amendment to 12 MCAR § 2.492 D. 8. strikes the word "written" from the sentence. The Council votes on all proposed Merit System rule amendments and each vote is recorded on the tape recording of each Council meeting. However, it is incorrect to state that each and every Council recommendation pertaining to rule amendments is provided to the commissioner in written form.

Proposed amendments to 12 MCAR § 2.492 F. substitute "Minnesota Statutes, Chapter 43A" for "the Minnesota Civil Service Act" and "Minnesota Department of Employee Relations" for "Department of Civil Service." The first amendment is reasonable in terms of providing the reader with a definite statutory reference and the second amendment is necessary to conform to a 1980 statutory change in the title of the state Department of Personnel.

An amendment to 12 MCAR § 2.492 G., 7 MCAR § 1.237 G. and 11 MCAR § 1.2092 D. substitutes "Minnesota Department of Employee Relations" for "State Civil Service" and is necessary to bring the rules into conformity with the 1980 statutory change in the title of the state Department of Personnel.

Another proposed amendment to 12 MCAR § 2.492 G., 7 MCAR § 1.237 D. and 11 MCAR § 1.2092 D. provides an additional duty for the Supervisor to those already listed. A considerable amount of time is spent by the Supervisor in this activity which has never been acknowledged in the rules. Due to its significance, this duty needs to be recognized in the rules as a major function performed by the Supervisor. Minor amendments are proposed to re-number these sections and to correct references made to the Merit System rules.

Lastly, several minor amendments are proposed to 7 MCAR § 1.237 A., C. and D. substituting "Commissioner" for "Board of Health" and "Secretary and Executive Officer." Minnesota Laws 1977, Chapter 305 eliminated all references to the Board of Health and the Secretary or Executive Officer. Minnesota Laws 1977 § 305.39 amended Minn. Stat. § 144.011 (1976) by abolishing the State Board

of Health and transferring all powers and duties to the Commissioner of Health. This statutory change makes these proposed amendments necessary.

D. CLASSIFICATION PLAN

1. 12 MCAR § 2.493, 7 MCAR § 1.238 and 11 MCAR § 1.2093

Amendments throughout these rules include providing titles for sections with numerical designation, correcting grammatical errors and eliminating superfluous language. Other proposed amendments to 12 MCAR § 2.493 A. 1., 7 MCAR § 1.238 A. and 11 MCAR § 1.2093 A. 1. add language that provides consistency of wording for all three rules, removes the classification plan from the rules and provides for its publishing in the appropriate manual. For many years, the class specifications which make up the classification plan have been included as part of the Public Welfare, Health and Public Safety Merit System rules. Consequently, whenever a need arises to establish a new classification of positions or amend an existing classification or even abolish an existing classification that is no longer being used, it is necessary to observe all of the provisions of the Administrative Procedures Act before being able to effect such changes to the classification plan. It is an extremely time-consuming and costly process which severely restricts the ability of the Merit System to respond in a timely fashion to classification needs expressed by Merit System agencies that we are obligated to serve. It is estimated by the Department of Public Welfare that the time required to amend an existing rule or adopt a new rule under the provisions of Chapter 15 varies from 220-270 days. By removing the classification plan from the rules, the Merit System will be able to respond to agency classification needs in a much more timely fashion. With the adoption of this amendment, any proposed additions, deletions or changes to the classification plan must still be presented to the Merit System Council in an open meeting for consideration, discussion and recommendation to the respective commissioners prior to adoption. Input from interested and affected parties would still be provided at the Council meeting.

Minnesota statutes relating to the Minnesota Merit System provide only for the promulgation by rule of personnel standards on a merit basis in accordance with the federal standards for a merit system of personnel administration. Neither the federal standards nor state statute specifically require that the classification plan be promulgated as a rule. In 1981, the Legislature enacted Minnesota Statutes, Chapter 43A, known as the State Personnel Management and Labor Relations Act, which requires the commissioner of the Department of Employee Relations to establish and maintain a merit based personnel management

system for state employees. The provisions of this act expressly exempt certain administrative matters from the Chapter 15 rule-making procedures. The commissioner is directed to develop administrative procedures for matters which do not directly affect the rights of or processes available to the general public and the act specifically states that among the procedures not subject to the rule-making provisions of Chapter 15 is the "maintenance and administration of the plan of classification for all positions in the classified service....." Therefore, it appears clear that the Legislature views a classification plan as being exempt from the provisions of Chapter 15. Finally, the definition of a "rule" as contained in Chapter 15 exempts internal management affairs from the rule-making provisions of the act and it is reasonable to interpret "internal management" as including the classification plan. This proposed amendment would change the procedure for maintaining and administering the Merit System classification plan and make it similar to the procedure used by the state Department of Employee Relations.

Other proposed amendments to 12 MCAR § 2.493 A. 2. substitute the term "appointing authorities" for "the County Welfare or Human Service Boards." This change is necessary due to the fact that the definition of appointing authority also includes county boards as well as county welfare boards and human service boards. In addition, the Merit System is attempting to change all of its specific rule references relative to an employer to the more generic term of appointing authority.

A similar proposed amendment to 12 MCAR § 2.493 B. substitutes the language "jurisdiction of an appointing authority" for "County Welfare or Human Service Board" and is proposed for the same reasons as the previous amendment.

A minor amendment to 12 MCAR § 2.493 B., 7 MCAR § 1.238 B. and 11 MCAR § 1.2093 B. substitutes the word "necessary" for "is necessitated thereby" and is being proposed merely for the sake of consistency throughout the rules and for grammatical purposes Other minor amendments substitute "allocations" for "allocation" and "reallocations" for "reallocation."

An amendment is proposed to 12 MCAR § 2.493 C. 2., 7 MCAR § 1.238 F. 1., 2. and 3. and 11 MCAR § 1.2093 F. 1., 2. and 3. abolishing those sections. In view of the proposed amendments to 12 MCAR § 2.493 A. 1., 7 MCAR § 1.238 A. and 11 MCAR § 1.2093 A. 1. removing the classification plan from the rules, the language contained in these sections is unnecessary. New language is proposed to 7 MCAR § 1.238 F. and 11 MCAR § 1.2093 F. to make them consistent with 12 MCAR § 2.493 C.

A proposed amendment to 12 MCAR § 2.493 D., 7 MCAR § 1.238 D. and 11 MCAR § 1.2093 D. adds a new section (1) to these provisions covering the procedure to be followed when a position is reclassified by virtue of reallocation as opposed to a change in allocation. Under the proposed amendment, the incumbent of a position that is reclassified by reallocation may be promoted to the reallocated position by the appointing authority without examination. The rationale for this lies in the definition of reallocation wherein the incumbent is already satisfactorily performing the duties of the reallocated position and it is the position of the Merit System that it is both unnecessary and unfair to the incumbent of a position so reallocated to have to compete with others for promotion when the incumbent has already demonstrated the ability to capably perform the duties and responsibilities of the position. This amendment is similar to a provision contained in Minn. Stat., Chapter 43A, governing such situations occurring under the state of Minnesota's personnel management program.

Several amendments are proposed to 12 MCAR § 2.493 D. 2., 7 MCAR § 1.238 D. 2. and 11 MCAR § 1.2093 D. 2. substituting the words "reclassified" and "reclassification" for the words "reallocated" and "reallocation." These changes are necessary due to the new definitions being proposed for "reclassification" and "reallocation" which mean these two terms are no longer synonymous. Other minor amendments are made for grammatical purposes.

A proposed amendment to 12 MCAR § 2.493 D. 2., 7 MCAR § 1.238 D. 2. and 11 MCAR § 1.2093 D. 2. referring to reclassifications resulting from a change in allocation of a position is necessary to illustrate the procedure to be followed by the incumbent of such a position as opposed to that followed when a position is reclassified as a result of reallocation. The basic difference between the procedures is that the incumbent of a position reclassified as a result of a change in allocation must qualify for appointment in order to continue in the same position. The rationale for this is that, unlike a reallocation, the duties and responsibilities of a position are changed abruptly by the appointing authority and the incumbent of the position has not demonstrated a capability to perform the functions of the changed position. Therefore, the incumbent must compete and qualify under the rules in order to continue in the reclassified position.

An amendment proposed to 7 MCAR § 1.238 D. 2. establishing a sixty-day grace period during which the appointing authority must take action on a reallocation or change in allocation, makes the rule consistent with Public Welfare and Public Safety rules.

Finally, minor amendments are proposed to 12 MCAR § 2.[illegible]93 D., 7 MCAR § 1.238 D. and 11 MCAR § 1.2093 D. re-numbering paragraphs of these sections and are necessary due to the proposing of a new paragraph 1. Other proposed amendments serve to remove superfluous language.

E. COMPENSATION PLAN

1. 12 MCAR § 2.494, 7 MCAR § 1.239 and 11 MCAR § 1.2094

Amendments throughout these rules include providing titles for numbered sections to assist the reader in determining the content of the section, correcting grammatical errors and eliminating superfluous language. Additionally, the Revisor's office has split the former compensation plan rule for Health (7 MCAR § 1.239) into several separately numbered rules (7 MCAR §§ 1.239-1.2398). Several amendments are proposed to 12 MCAR § 2.494 A. 1., 7 MCAR § 1.239 A. and 11 MCAR § 1.2094 A. 1. which are designed principally to obtain relatively consistent language among the three sections. The primary change being proposed is to emphasize the importance of gathering salary data for similar positions to those in the Merit System as a factor in developing and making salary recommendations.

Amendments proposed to 12 MCAR § 2.494 A. 2., 7 MCAR § 1.239 B. and 11 MCAR § 1.2094 A. 2. are necessary to establish in rule form the fact that the process of proposing and amending the compensation plan is subject to the rulemaking provisions of the administrative procedures act prior to final adoption. Other proposed amendments to these provisions are grammatical in nature.

An amendment proposed to 12 MCAR § 2.494 A. 3. eliminates current language of this provision which is unnecessary since the procedure for amending the compensation plan is contained in amendments to 12 MCAR § 2.494 A. 2.

Other proposed amendments to 12 MCAR § 2.494 A. 3., 7 MCAR § 1.239 C. and 11 MCAR § 1.2094 A. 3. add new language which more accurately describes the makeup of the comprehensive compensation plan. The most significant change being proposed for the various salary plans involves reducing the number of compensation plans for clerical employees from the current six to three. The difference between minimum salaries and maximum salaries for the same classification on the first four clerical salary plans is less than 4% which is considerably less than the difference between minimum and maximum salaries for classifications on the various professional and support salary plans. The

proposed amendment is necessary to provide significant differences in salary between the alphabetically designated clerical salary plans and yet preserve the flexibility of appointing authorities to choose from among three plans when adopting a salary plan for clerical employees. Additionally, three salary plans for clerical employees is consistent with the number of plans available to appointing authorities for professional and support employees.

Amendments proposed to 12 MCAR § 2.494 B., 7 MCAR § 1.2391 and 11 MCAR & 1.2094 B. strike current language and re-number the paragraphs of the sections. The new language does not change any of the former provisions of these rules to any significant degree but is designed to provide more clarity of language to the sections. New language still provides appointing authorities with a choice of salary plans, allows them to establish their own salary ranges within the minimum and maximum salaries of the plan they have chosen and allows them to amend their adopted compensation plan by resolution. Certain rule references are also changed which are necessary due to the merging of 12 MCAR § 2.516, 7 MCAR § 1.260 and 11 MCAR § 1.2116 with 12 MCAR § 2.494, 7 MCAR § 1.239-1.2398 and 11 MCAR § 1.2094.

Amendments proposed to 12 MCAR § 2.494 C., 7 MCAR § 1.2391 and 11 MCAR § 1.2094 C. strike the current language of this section. The process of amending the adopted compensation plan is already provided for by proposed new language elsewhere in these rules. It is not reasonable to require the appointing authority to give the Merit System 30 days advance notice of its intent to amend its compensation plan. What is important is that our office be notified as soon as possible after the change is made so that subsequent payroll abstracts may be appropriately audited. Such language requiring subsequent prompt notice is already proposed as an amendment to these rules.

Amendments to 12 MCAR § 2.494 D., 7 MCAR § 1.2392 and 11 MCAR § 1.2094 D. involve re-numbering and re-lettering this section, strike current language of three sections, and change the designation of the last three paragraphs of the section. The language proposed for repeal is unnecessary language. Since the compensation plan is part of the rules, any change proposed to the plan must include a public hearing regardless of the amount of change in salary rates in the labor market for similar and/or competing employment. In addition, all of the procedural steps to be followed in the public hearing process are clearly outlined in Minnesota Statutes, Chapter 15, and do not require repeating in the

Merit System rules. The new language proposed in 12 MCAR § 2.494 C. 3., 7 MCAR § 1.2392 C. and 11 MCAR § 1.2094 C. 3. is sufficient to describe the procedure to be followed in proposing amendments to the Merit System compensation plan.

An amendment is proposed to 12 MCAR § 2.494 C. 4. (formerly D. 7.), 7 MCAR § 1.2392 D. (formerly 1.239 D. 7.) and 11 MCAR § 1.2094 C. 4. (formerly D. 7.) which changes the maximum percentage increase that can be recommended under the cost-of-living formula contained in these provisions from 8% to 9%. This rule was promulgated subsequent to public hearing held in the fall of 1979. When the rule was proposed, the Merit System reviewed the provisions of several other cost-of-living formulas existing in other public jurisdictions. Of those that placed a limit on the amount of adjustment generated by the formula, 8% was the most often used percentage. It now appears that a limit of 9% on such adjustments is more appropriate, given the percentage amount of general wage adjustments which have occurred in the past year in other jurisdictions to which the Merit System has traditionally compared its salaries and the provisions of current cost-of-living wage formulas.

Minor amendments are proposed to 12 MCAR § 2.494 E. and 11 MCAR § 1.2094 E. changing the alphabetic designations of these sections to D. and to 7 MCAR § 1.239 E. changing the rule designation to 7 MCAR § 1.2393. Other minor amendments are proposed to provide more appropriate terminology for these sections.

Amendments to 12 MCAR § 2.494 F., 7 MCAR § 1.239 F. and 11 MCAR § 1.2094 E. change the alphabetic or numerical designation of these sections and substitute new language for all of the current language of these sections. The new language continues the general policy that appointments are normally to be made at the minimum salary for the class, that appointments above the minimum may be proposed on the basis of exceptional qualifications, that such appointments must be made to an established step in the range, that all candidates with similar exceptional qualifications be offered the same rate of pay and that requests to appoint above minimum be justified in writing to the Supervisor for prior approval. The new language also provides that these provisions would not apply if the matter of hiring salaries were the subject of a collective bargaining agreement provision. If an exclusive representative and an appointing authority wish to negotiate an agreement covering this issue, they have every right to do so

without intervention by the Merit System. For this reason, the first sentence of the new language is worded to exclude such situations. The new language provides that the unavailability of candidates at the minimum rate of pay may provide the basis for a request to appoint above the minimum. This is a situation which, on occasion, is faced by appointing authorities and needs to be legitimately recognized in rule form. The biggest change represented by the new language over the previous language is that the appointing authority is no longer required to raise the salaries of current employees in the same class who are paid less than the new appointee to the same level when such an appointment is justified on other than the basis of exceptional qualifications. There are occasions where it is necessary to offer a salary above minimum to a candidate to avoid offering the candidate a pay cut. The candidate's qualifications may not be "exceptional" when compared to other candidates but, because of relevant experience or labor market salaries, they are earning more than the minimum rate of pay and their value to the agency is greater than other candidates. In these situations, the facts have to be reviewed on an individual basis and requests made on the basis of those facts. In the opinion of the Merit System, the old language mandated too harsh a penalty to the employer wishing to make such an appointment above the minimum. It should be pointed out that the new language also requires appointing authorities to consider the salaries of current employees in the same classification before requesting approval to make an appointment above the minimum rate of pay.

The proposed new language in 12 MCAR § 2.494 F. 1. and F. 2. a. through f., 7 MCAR § 1.2395 B. 1. through 6. and 11 MCAR § 1.2094 F. 1. and F. 2. a. through f. are intended to provide more specific terminology and clarity to those provisions but do not change the intent of the previous language in 12 MCAR § 2.516, 7 MCAR § 1.260, and 11 MCAR § 1.2116 which is to prescribe the effect of recommended Merit System salary adjustments on the salaries of individual employees depending upon their circumstances and the amount of the general adjustment adopted by the various agencies.

Section g. is proposed to 12 MCAR § 2.494 F. 2. and 11 MCAR § 1.2094 F. 2. and Section 7 is proposed to 7 MCAR § 1.2395 B. relating to the effect of adopted general wage adjustments on the salaries of employees who are at the maximum rate of pay for their class. Currently, the amount of general wage adjustment that can be received by an employee at the maximum rate of pay for their class is limited by the Merit System recommended general adjustment even if the agency

adopts a higher percentage adjustment. As an example, if the Merit System adopted general adjustment is 7% and the agency adopted adjustment is 9%, an employee whose salary is at the maximum rate of pay can only receive a 7% adjustment in salary since to grant more than that would place the employee's salary above the maximum rate of pay for their class. The proposed new section addresses this issue while still maintaining the integrity of adopted salary ranges for employees. The language would allow an appointing authority to grant an employee the annual equivalent of the difference between the Merit System adopted adjustment and the agency adopted adjustment in the form of a single lump-sum payment but still requires that the employee's base salary remain within the adopted salary range for their class. Also, the language provides that appointing authorities, if they wish to implement this provision, must do so by resolution prior to implementation. However, this is no different than the present practice of requiring appointing authorities to amend their compensation plan by resolution.

Section h. is proposed to 12 MCAR § 2.494 F. 2. and 11 MCAR § 1.2094 F. 2. and Section 8. is proposed to 7 MCAR § 1.2395 B. which would allow an appointing authority to propose a salary increase for an employee based on unusual employment conditions that prevail in an agency. It is necessary to designate such increases as salary increases to differentiate them from merit increases granted on the basis of job performance or salary adjustments based on cost of living factors, wage rates for similar jobs and/or labor market conditions. The concept is similar to one utilized by the state personnel system that applies to state employees. Although it is not anticipated that this provision will be utilized to any substantial degree, certain personnel actions such as reassignments, temporary assignment of additional duties to an employee or temporary project assignments of a priority nature may create an unusual employment condition situation. The provision is not mandatory but allows for flexibility in salary administration to address the effects of certain personnel actions of an unusual nature which under current language cannot be addressed by appointing authorities. Under the proposed language of this section proposals must be justified in writing and submitted to the Supervisor for prior approval or disapproval. Since any salary increase granted in accordance with the proposed new language of these sections is not related to employee performance or a general salary adjustment, the receipt of such an increase does not affect an employee's eligibility for subsequent merit increases or salary adjustments. Finally, the new language provides that an employee's

salary be reduced to its previous level if the increase granted was for a temporary situation and that situation has ended.

The language in 12 MCAR § 2.494 F. 3., 7 MCAR § 1.2395 C. and 11 MCAR § 1.2094 F. 3. provides for a recommended 8% general salary adjustment for employees on the various salary schedules. This is necessary to provide for competitive salary adjustments in 1982 for employees covered by the Merit System. The adjustments being recommended are to be effective in January of 1982. The rationale for the proposed 8% general adjustment is based on 1982 salary adjustments in other public personnel jurisdictions to which the Merit System has traditionally compared its salaries as well as other measures of general wage increases in the economy and the escalation in the cost of living. Hennepin County has agreed to grant a 9% general salary adjustment to its organized employees effective January 1, 1982. St. Louis County has agreed to grant both its Civil Service and Merit System employees an 8.5% general salary adjustment effective January 1, 1981. The City of Minneapolis granted its Fire and Police personnel as well as employees in other bargaining units an 8.5% general adjustment effective July 1, 1981. Both the City of St. Paul and Ramsey County are currently engaged in salary negotiations for 1982 and information is not available relative to possible settlements in those jurisdictions. The federal government has agreed to a general salary adjustment of 4.8% effective in October, 1981. The state of Minnesota recently negotiated a settlement with some 18,000 employees which provided for general salary adjustments of 8% or 58 cents per hour, whichever was greater, effective August 11, 1981. In addition, the state granted general wage adjustments of 8% or 51 cents per hour, whichever was greater, to its confidential employees effective July 1, 1981. Two other Midwest states which have settled in 1981 on general wage agreements for their employees of 8% include Illinois and Iowa. The Employment Cost Index computed quarterly by the Bureau of Labor Statistics which measures increases in wages and salaries on a nationwide basis increased by 9.3% during the period June, 1980, to June, 1981. The Twin City Cost of Living index rose by 11.4% for the period June, 1980, to June, 1981. According to the Bureau of Labor Statistics, pay rates for office clerical workers in the Twin City area rose, during calendar year 1980, an average of 11.6%. Given the size of adjustments agreed to by other public jurisdictions and other measures of economic activity, it is reasonable to recommend that the salaries of Merit System employees be increased by 8% effective January 1, 1982, or on the beginning date of the first payroll period following January 1, 1982, for agencies on a biweekly or four-week payroll period.

It should be emphasized that the recommended adjustment does not apply to employees covered by the provisions of a collective bargaining agreement where compensation matters are the product of negotiation. Additionally, in those agencies that do not have a collective bargaining agreement, appointing authorities are free to adopt a general wage adjustment for all employees that differs from that recommended by the Merit System. If these recommendations are adopted, the only requirement for agencies would be that employees must at least be at the new minimum salary rate for their class on the particular salary schedule adopted by their agency.

In general, the language proposed in 12 MCAR § 2.494 G.-I., 7 MCAR § 1.2396-1.2398 and 11 MCAR § 1.2094 G.-I. does not significantly differ from that which was previously in 12 MCAR § 2.516, 7 MCAR § 1.260 and 11 MCAR § 1.2116. However, some major differences are mentioned below.

The proposed language in 12 MCAR § 2.494 G. 2., 3., 4., 5. and 6., 7 MCAR § 1.2396 A.-F. and 11 MCAR § 1.2094 G. 2., 3., 4., 5. and 6. include the phrase "In those agencies that have adopted a merit increase policy." The reason for the proposed language is that the Merit System rules do not require that all agencies have a merit increase policy even though it is considered good personnel management practice to do so. Several appointing authorities have, by resolution, abolished merit increase policies in their respective agencies. Therefore, it is necessary that the Merit System rules relating to increases reflect current practice.

The proposed language in 12 MCAR § 2.494 G. 5., 7 MCAR § 1.2396 E. and 11 MCAR § 1.2094 G. 5. allows appointing authorities to grant extraordinary merit increases to employees for completion of relevant additional coursework without the approval of the Merit System Supervisor.

Language proposed in 12 MCAR § 2.494 G. 6., 7 MCAR § 1.2396 F. and 11 MCAR § 1.2094 G. 6. allows an appointing authority to grant a merit increase to an employee whose salary is either at or above the maximum rate of pay for their class. Without such language, an employee whose salary meets or exceeds the maximum salary for their class would continue to be ineligible for merit increases based on performance. An employee's level of performance is not necessarily related to their position in the salary range for their class and their salary should not restrict such employee from an opportunity of being

rewarded for meritorious performance. The new language addresses this issue and yet preserves, to the extent possible, the salary range adopted for the employee's class. Merit increases granted under this proposed new section would be in the form of lump-sum payments with the employee's base salary remaining at the level reached immediately prior to the merit increase. This is similar to language proposed relative to salary adjustments in 12 MCAR § 2.494 F. 2. g., 7 MCAR § 1.2395 B. 7. and 11 MCAR § 1.2094 F. 2. g. The new language also requires that appointing authorities formally establish such a policy prior to the period during which the increases are to be effective and is necessary to avoid their being deemed as "gifts" for which no consideration was given in return. There is precedent for a provision of this kind inasmuch as the state of Minnesota provides for the granting of achievement awards based on performance to state employees who are at or above the maximum rate of pay for their class.

Section I. is proposed to 12 MCAR § 2.494 and 11 MCAR § 1.2094 and 7 MCAR § 1.2398 is proposed relating to work out of class situations. Quite often, due to leaves of absence, a position becomes temporarily unoccupied. Rather than hiring a temporary employee to fill the position, appointing authorities will sometimes assign the duties of the position to an employee in a lower classification. If the salary of the employee so assigned is below the minimum rate of pay for the higher class, the new language requires that the employee's salary be raised to the minimum of the higher class. If the employee's salary is within the range for the higher class, the new language provides appointing authorities with the opportunity to grant a salary increase to employees assigned to work out of class. The rationale for the new section is to either require or allow for the rewarding of employees who are assigned the responsibilities of a higher level position by their employer. Other provisions of the new language preserve the current salary of an employee temporarily assigned to a lower level class, limit such assignments to less than six months, require approval of such assignments by the Supervisor and provide that the employee's salary shall revert to its previous level upon conclusion of the temporary assignment. Again, there is precedent for such a provision as the state of Minnesota also provides for salary increases in instances where work out of class assignments are made.

F. EXAMINATIONS

1. 12 MCAR § 2.496 and 7 MCAR § 1.242 (Under the provisions of 11 MCAR § 1.2091 B. the Department of Public Welfare Rules 12 MCAR §§ 2.495-2.510 also apply to the Department of Public Safety's county and local agencies.) Proposed amendments throughout these rules provides titles for numbered sections, correct grammatical errors and eliminate superfluous language, where appropriate. Additionally, the Revisor's office has split the examination rule for Health (7 MCAR § 1.242) into several separately numbered rules (7 MCAR §§ 1.242-1.2427).

The first proposed amendment is to 12 MCAR § 2.496 A. 1. and substitutes "Public Welfare and Public Safety Merit Systems" for "county welfare service" and is necessary to provide a correct reference to those systems requiring entrance examinations.

A second amendment proposed to 12 MCAR § 2.496 A. 1. and 7 MCAR § 1.242 A. strikes the word "open" from the first sentence of these sections referring to open-competitive examinations. Competitive examinations imply open competition so the term "open" is superfluous.

Another proposed amendment to 12 MCAR § 2.496 A. 1. and 7 MCAR § 1.242 A. strikes all current language of this section after the second sentence and substitutes the following language: "The Supervisor shall determine the content of all examination processes which may include, but are not limited to, performance tests, written examinations, ratings of experience and training, promotional ratings and oral examinations." Current language in these sections is too specific to provide the flexibility needed in determining the appropriate examination process to be used for different positions and is also inaccurate in terms of current practice. For instance, ratings of experience and training are not part of the examination process for all professional positions. It is reasonable to allow for flexibility in rules relating to the determining of examination procedures and to provide that flexibility to those responsible for having the technical competence to administer the examination program which is the Merit System staff.

Minor amendments to 12 MCAR § 2.496 A. 3. and 7 MCAR § 1.242 C. strike the words "structured technical" and "practical" when referring to oral and written examinations, respectively. These terms are superfluous in that all oral examinations are structured and related to the position being examined for and written examinations are practical in that they relate to knowledges, skills and abilities necessary to successfully perform the job for which the examination is given.

Several amendments are proposed to 12 MCAR § 2.496 B. and 7 MCAR § 1.2421. The first proposed amendment substitutes the word "announce" for "give public announcement of" and is proposed merely for grammatical reasons. The next proposed amendment to B. substitutes "two" weeks for "three" weeks as the minimum amount of time that the Merit System must keep an examination open for application. This is necessary since three weeks has often proven to be too long a period of time. County agencies frequently have a need to fill vacancies quickly. Keeping the application period open for three weeks often delays the establishment of the eligible register. Again, this is merely the minimum amount of time. If it is felt by a particular agency that the examination application period should be longer than two weeks, the rule still provides that the Merit System may keep it open for a longer period. A minor amendment to 12 MCAR § 2.496 B. strikes the phrase "county welfare service" and substitutes "Public Welfare and Public Safety Merit Systems" in its place. The new language is more definitive and provides a correct reference to those systems for which examination notices are announced. Additionally, positions covered by the Public Welfare Merit System rules fall under the jurisdiction of county boards and human services boards as well as county welfare boards. Another minor amendment to this section is to strike the reference to the masculine gender when referring to the Merit System Supervisor.

Another amendment to 12 MCAR § 2.496 B. and 7 MCAR § 1.2421 substitutes "appointing authority" for "welfare director and county welfare boards" and for "local Public Health Offices and Boards of County Commissioners." The definition of appointing authority now includes county boards and human services boards in addition to county welfare boards and is therefore a more appropriate and correct term to use in this context. Additionally, this amendment, along with others of a similar nature, is being proposed to change all specific rule references relative to an employer to the more generic term of appointing authority.

The last amendment to 12 MCAR § 2.496 B. and 7 MCAR § 1.2421 proposes to strike the language that requires an applicant to pass each part of the examination process. While this is, and will continue to be, the primary scoring method used by the Merit System, there may be instances where compensatory scoring is justified. By compensatory scoring is meant allowing a passing score in one part of the examination to compensate for a below passing score in another part of the examination to the extent that, when scores are averaged, the final score attained by the applicant is passing.

An amendment to 12 MCAR § 2.496 C. and 7 MCAR § 1.2422 strikes all of the current language in paragraph 2 of these sections and substitutes new language. Current language is obsolete and out-dated. The first and third sentences are incorrect inasmuch as applicants do complete an identification sheet containing their name and address at the time of the examination which is information essential to the examination scoring process. The second sentence, while correct, is not sufficiently significant for inclusion in rule form. The last sentence is already provided for in 12 MCAR § 2.495 C. 2. and 7 MCAR § 1.241 B. 2. of the rules. The new language is designed to cover instances of cheating by applicants in an examination. While it is not a significant problem, instances have occurred in the past which need to be addressed in the rules. While there is some reason to believe that current language also attempts to address this same issue, the language is awkward and obtuse.

A proposed amendment to 12 MCAR § 2.496 D. 1. and 7 MCAR § 1.2423 A. would strike language requiring an applicant to pass each portion of the examination to continue in the examination process. Again, the current language prohibits the use of compensatory scores where appropriate and the proposed change is necessary to allow for such flexibility.

Proposed amendments to 12 MCAR § 2.496 D. 2. and 7 MCAR § 1.2423 B. eliminates the Merit System Council from being involved in the examination scoring process and recognizes the current practice of having examination passing points established by the Supervisor. The Merit System Council does not involve itself now in the examination scoring process. It would be impractical and a disservice to the county agencies to have the scoring of examinations delayed so that the Council could assist in the process. These changes are necessary to recognize both practicality and present practice.

Proposed amendments to 12 MCAR § 2.496 E. and 7 MCAR § 1.2424 strike all current language contained in paragraph 2 of these sections. In practice, the Merit System does not routinely verify applicant training and experience. In view of the number of applications received and the constraints of time and staff, it would be impractical to do so. If there appears to be a compelling reason to do it in individual situations, the Merit System does pursue verification. The purpose of these proposed amendments is to bring the rules into conformity with current practice.

Proposed amendments to 12 MCAR § 2.496 F. and 7 MCAR § 1.2425 substitute "examination" for "interview or oral test;" substitutes "select" for "appointment;" and provides for the plural of "board." The use of oral examination is a more precise term in this context since an oral interview is not necessarily a part of the formal examination process. Select is a preferable term to appoint since it does not have the connotation of an employer-employee relationship.

A final amendment to 12 MCAR § 2.496 F. and 7 MCAR § 1.2425 provides needed flexibility to allow an oral examination board member to rate an applicant even though personally acquainted with the applicant. Current language requires the board member to decline to rate an applicant known to the board member. If objectivity can be maintained in spite of this and no objection is raised by either party, the opportunity to rate the applicant should be offered the board member.

A proposed amendment to 12 MCAR § 2.496 and 7 MCAR § 1.2426 would strike the entire section entitled "H. Special Written Tests." Elsewhere in the Public Welfare and Public Health Merit System rules, provision is made for applicants to appeal their examination ratings to the Merit System Council. The Council may allow the applicant to repeat the original examination if it was found that a substantial error occurred in the original administration of the examination. In light of those provisions there is no justification for continuing this provision as well in the rules.

Proposed amendments to 12 MCAR § 2.496 I. include redesignating this section to H. in light of the proposed amendment to strike the current section H. from the rules and creating a new rule (7 MCAR § 1.2427) relating to examination records; adding the word "examination" to further define the kind of records to be maintained and striking the phrase "pertinent to the county welfare examination programs" and "pertinent to the Public Health Merit System examinations" since the examination program of the Merit System extends to employees of human services boards and county boards and use of the terminology "county welfare examination program" or "Public Health Merit System examinations" could imply to the reader that the examination program only extends to employees of county welfare boards or public health systems.

G. CERTIFICATION OF ELIGIBLES

1. 12 MCAR § 2.498 and 7 MCAR § 1.244 (Under the provisions of 11 MCAR § 1.2091 B. the Department of Public Welfare Rules 12 MCAR §§ 2.495-2.510 also apply to the Department of Public Safety's county and local agencies.)

Minor amendments to these two rules involve provisions of titles to those numbered sections, correct grammatical errors and eliminate superfluous language, where appropriate. Again, the Revisor's office has split the certification rule for Health (7 MCAR § 1.244) into several separately numbered rules (7 MCAR §§ 1.244-1.2443).

Amendments are proposed to 12 MCAR § 2.498 B. and 7 MCAR § 1.2441 that substitute "an appointing authority" for "a county welfare or human service board," strike the word "promotion" from the first sentence and add the word "a" to the first sentence. These changes are necessary since a county board is also an appointing authority as defined by the rules and a requisition is needed when a position is to be filled by promotion. The third amendment is proposed merely for grammatical purposes.

Other proposed amendments to 12 MCAR § 2.498 B. and 7 MCAR § 1.2441 remove the Council from the approval process relative to requests for certification of eligibles with special qualifications and provides for the reporting of requests approved by the Supervisor to the Council. These amendments are proposed so that the rules conform to current practice. When such requests are received now, the Supervisor reviews them and either approves or disapproves them after consulting, as necessary, with the appointing authority. Those that

are approved are then reported to the Council at their next meeting. To require approval of such requests by the Council would unduly slow the process of acting on the requests in a timely manner.

Amendments proposed to 12 MCAR § 2.498 C. 1. and 7 MCAR § 1.2442 A. add new language providing for the certification of names from the appropriate reemployment register to appointing authorities for their consideration. Again, the purposes of the latter amendment is to bring rule language into conformance with current practice which is to certify such names if available.

Proposed amendments to 12 MCAR § 2.498 C. 2. and 7 MCAR § 1.2442 B. changes the reference to a promotional register from plural to singular, strikes "and reemployment register" and provides new language similar to the previous amendment calling for the certification of names from the appropriate reemployment register to appointing authorities for their consideration. As in the case of the previous proposed amendment, the latter amendment to these sections is designed to bring rule language into conformance with current practice.

A proposed amendment to 12 MCAR § 2.498 C. 3. substitutes the word "fewer" for "less", and a similar amendment to 7 MCAR § 1.2442 C. is being proposed.

A proposed amendment to 12 MCAR § 2.498 C. 4. and 7 MCAR § 1.2442 D. adds the language "who are eligible for appointment" to the sections. In many cases, the Merit System certifies the names of additional eligibles from the register who, because of lower examination scores, do not rank within the group of eligibles referred to in 12 MCAR § 2.498 C. 1. and 2. and 7 MCAR § 1.2442 A. and B. The reason for this is that, in many instances, one or more of the eligibles in the top group decline the vacant position for various reasons. By providing the extra names, the appointing authority may continue to interview eligibles when this situation occurs without having to return the requisition to the Merit System for the certification of additional names. However, these additional eligibles may not be considered for appointment unless and until one or more of the top group of eligibles declines the position. If this occurs, the additional eligibles may be offered the position in rank order according to their position on the eligible list. In other words, if one of the top seven eligibles on a competitive certification

declines the position, it can be offered to the eighth ranked eligible on the list; if two of the top seven eligibles decline the position it can be offered to the ninth ranked person on the list, and so forth. The current language of these two sections implies that all certified candidates are eligible for appointment which is incorrect in light of the above facts. The proposed amendment is necessary to correct that implication and to bring rule language into conformance with current practice.

Finally, additional proposed amendments to the Health rules involve provision of titles for sections with alphabetical or numerical designations, the re-numbering of 7 MCAR § 1.244 D. to 7 MCAR § 1.2443, and substituting the word "receiving" for the phrase "receipt of."

H. PROBATIONARY PERIOD

1. 12 MCAR § 2.500 and 7 MCAR § 1.246 (Under the provisions of 11 MCAR § 1.2091 B. the Department of Public Welfare Rules 12 MCAR §§ 2.495-2.510 also apply to the Department of Public Safety's county and local agencies.)

Amendments to 7 MCAR § 1.246 were made by the Revisor's office which changed the numerical or alphabetical designations of various sections.

The first proposed amendment to 12 MCAR § 2.500 B. 1. and 7 MCAR § 1.246 B. 1. substitutes "an appointing authority" for "a county welfare department" and "a local Public Health agency" and is being proposed for the same reasons as stated elsewhere in this statement for similar changes. Some minor changes are also made to punctuation in this section to make it easier to understand. Minor amendments are proposed to 12 MCAR § 2.500 B. 1. c. and 7 MCAR § 1.246 B. 3. removing parenthesis and improving the section grammatically.

An amendment to 12 MCAR § 2.500 C. and 7 MCAR § 1.246 D. substitutes the phrase "equivalent of the first six full months of compensated service" for "first six full months of actual service" in determining the duration of the probationary period. It has been the practice of the Merit System to extend an employee's probationary period by however much time the employee is away from work during the probationary period. A recent question over the duration of the probationary period was presented to the Merit System Council and the Council requested that a more specific definition of the duration of the probationary period be developed. The proposed amendment is the result of that

requested change and provides that compensated leave taken during probation does not extend the probationary period but uncompensated leave taken during probation does extend the period.

The next amendment proposed to 12 MCAR § 2.500 C. and 7 MCAR § 1.246 D. adds new language which provides for one exception to the previous amendment relating to short unpaid absences during the probationary period that total fewer than 10 working days. Such absences do not impede the ability of the appointing authority to evaluate the employee's capability of performing the job so that a decision can be made to grant or not grant permanent status upon completion of the probationary period. This language is similar to language contained in the Minnesota Department of Employee Relations personnel rules.

A proposed amendment to 12 MCAR § 2.500 D. 1. and 7 MCAR § 1.246 E. allows appointing authorities to propose the extension of a probationary period for up to three months. Some agencies have expressed a desire for that flexibility and, since current language only allows for a full three month extension, we are proposing this amendment to the rules to accommodate the requested flexibility. A minor amendment proposed to 12 MCAR § 2.500 D. 1. and 7 MCAR § 1.246 E. substitutes "necessary" for "required in this instance" and is made for strictly grammatical purposes.

Amendments to 12 MCAR § 2.500 D. 2. and 7 MCAR § 1.246 E. eliminate the requirement that the Supervisor investigate all requests for the extension of a probationary period since, in practice, the Supervisor does not routinely investigate all such requests. The Supervisor is simply not in a position to appropriately judge the job performance of a probationary employee and this amendment is proposed to conform to present practice. A second amendment is proposed to these sections substituting "initial" for "six months" since not all original probationary periods are exactly six months in length.

A minor amendment to 12 MCAR § 2.500 D. 3. and 7 MCAR § 1.246 E. substitute "decision" for "determination" and is made for grammatical reasons.

An amendment to 12 MCAR § 2.500 E. 1. and 7 MCAR § 1.246 F. strikes the language "provided that his name is certified in accordance with these rules from an eligible register established as a result of a competitive examination process." This change is necessary due to the proposed amendment to 12 MCAR § 2.493 D., 7 MCAR § 1.238 D. and 11 MCAR § 1.2093 D. which provide that incumbents of positions that are reallocated may be promoted without examination and therefore without the necessity of being on an eligible list.

An amendment to 12 MCAR § 2.500 E. 2. and 7 MCAR § 1.246 F. makes it mandatory that a probationary employee who is promoted continues to complete his/her probationary period in the lower class by service in the higher class. This represents current practice in the Merit System as well as other public personnel jurisdictions and the change is necessary to reflect current practice.

An amendment to 12 MCAR § 2.500 F. and 7 MCAR § 1.246 G. substitutes "under" for "in" and "appointing authority" for "county welfare board" and "local Public Health agency" so that consistent and accurate language is utilized throughout the Public Welfare and Health Merit System rules relating to the employer.

A minor amendment to 12 MCAR § 2.500 F. and 7 MCAR § 1.246 G. strikes the language "or area sub-register of the state-wide" which is redundant since that is what a county register is.

A minor amendment to 12 MCAR § 2.500 G. and 7 MCAR § 1.246 H. substitutes the word "new" for "complete." Since an employee who demotes begins service in a different class, the term "new" is more appropriate.

An amendment to 12 MCAR § 2.500 H. 1. and 7 MCAR § 1.246 I. requires the appointing authority to notify a probationary employee of the reasons for dismissal as well as to provide a copy of those reasons to the Supervisor. Although this has been the general practice in such instances, it has never been clarified in rule language.

A minor amendment to 12 MCAR § 2.500 I. 2. substitutes "12 MCAR § 2.500" for "these rules" and provides a more correct reference for Section 1.

An amendment to 12 MCAR § 2.500 I. 3. strikes the language "Commissioner of Public Welfare and the" since current practice is that these instances are reported to the Council and printed in the Council minutes but are not reported separately to the Commissioner of Public Welfare inasmuch as no action is required of him under the rules. Another minor amendment corrects the reference to Section 2. Other amendments to 12 MCAR § 2.500 I. and 7 MCAR § 1.246 J.-L. are designed to correct grammar, eliminate references to the masculine gender and, in general, provide consistency of language between the Public Welfare and Health rules.

I. SEPARATION, TENURE AND REINSTATEMENT

1. 12 MCAR § 2.503 and 7 MCAR § 1.249 (Under the provisions of 11 MCAR § 1.2091 B. the Department of Public Welfare Rules 12 MCAR §§ 2.495-2.510 also apply to the Department of Public Safety's county and local agencies.)
Minor amendments are proposed to 12 MCAR § 2.503 B. 2. and 7 MCAR § 1.249 B. 2. which correct certain rule references made necessary by other proposed amendments to 12 MCAR § 2.508 (renumbered to 12 MCAR § 2.5081) and 7 MCAR § 1.254 (renumbered to 7 MCAR § 1.2541) and which strike the current reference to the dismissal procedure for veterans which is already contained in 12 MCAR § 2.5081 and 7 MCAR § 1.2541.

The first proposed amendment to 12 MCAR § 2.503 C. and 7 MCAR § 1.249 C. substitutes the words "just cause" for "delinquency or misconduct" in describing the basis for suspension of an employee. Suspensions are based on issues other than just delinquency or misconduct and the use of "just cause" brings the language of this section into conformance with rule language concerning dismissals which also uses the term "just cause."

A second amendment to 12 MCAR § 2.503 C. and 7 MCAR § 1.249 C. provides that suspensions of five or less consecutive working days or ten or less working days in a calendar year are not appealable to the Council. New language being proposed to 12 MCAR § 2.5081 and 7 MCAR § 1.2541 will provide that suspensions

of greater than five consecutive working days or ten working days in a calendar year are appealable to the Council. Current language of 12 MCAR § 2.503 C. and 7 MCAR § 1.249 C. appear to imply that suspensions of less than 30 days are not appealable to the Council and have so been interpreted in the past. We believe this to be an unduly severe restriction on the right of an employee to have his or her case heard by the Council. Admittedly, although the choosing of five and ten days in the proposed amendment is somewhat arbitrary, it is a significant improvement over the interpretation placed on current language and guarantees the right of an employee to appeal the more severe disciplinary actions taken by appointing authorities.

Amendments proposed to 12 MCAR § 2.503 F. and 7 MCAR § 1.249 F. are primarily of a housekeeping nature. They provide a more clear heading for the section, eliminate superfluous language, clarify the fact that eligibility for reinstatement depends upon resigning in good standing and eliminates language providing for a qualifying examination in order to be eligible for reinstatement which is not current practice in the Merit System.

Similarly, proposed amendments to 12 MCAR § 2.503 G. and 7 MCAR § 1.249 G. are housekeeping in nature and provide for a clearer heading for the section and the elimination of superfluous language.

J. LEAVES OF ABSENCE

1. 12 MCAR § 2.504 and 7 MCAR § 1.250 (Under the provisions of 11 MCAR § 1.2091 B. the Department of Public Welfare Rules 12 MCAR §§ 2.495-2.510 also apply to the Department of Public Safety's county and local agencies.)

Minor amendments are proposed to 12 MCAR § 2.504 A. and 7 MCAR § 1.250 A. striking "this subdivision" and "subdivision" and substituting the words "appointing authority" for "board" and are being proposed for the same reason as stated elsewhere in this statement for similar changes.

Minor amendments are proposed to 12 MCAR § 2.504 B. 1. and 7 MCAR § 1.250 B. 1. which include eliminating certain language to make the meaning clearer and adding the word "agency" which is necessary since not all county employees are covered by these rules and also to make the sentence consistent with the definition of county agency in these rules.

Other amendments to 12 MCAR § 2.504 B. 1. and 2. and 7 MCAR § 1.250 C. 1. and 2. are of a housekeeping or grammatical nature.

The first two amendments to 12 MCAR § 2.504 B. 3. a. and 7 MCAR § 1.250 D. 1. are necessary to identify those categories of employees who accrue vacation leave since not all categories of employees are eligible to accrue such leave.

The next amendment to 12 MCAR § 2.504 B. 3. a. and 7 MCAR § 1.250 D. 1. adds new language clarifying that limited term and provisional employees who work six months or less do not accrue vacation leave and that provisional employees who work longer than six months do accrue vacation leave. Limited term appointments are limited by the rules to a duration of six months and employees so appointed are not hired with the intent of becoming permanent employees in the agency. Occasionally a limited term employee works exactly six months before being terminated and the rule change is necessary to clearly provide that such employees do not accrue vacation leave and therefore are not entitled to vacation leave payments upon separation. Normally, provisional employees are examined and appointed from an eligible list prior to completion of six months as a provisional employee. However, to accommodate those situations where the employee serves longer than six months on a provisional appointment before being appointed, the proposed amendment is necessary to provide the employee with vacation leave accrual.

Another amendment proposed to 12 MCAR § 2.504 B. 3. a. and 7 MCAR § 1.250 D. 1. adds new language providing that employees may not use vacation leave until it has been earned and requiring appointing authorities to develop a schedule of vacation leave accrual rates for part-time employees. Although logic would dictate that a benefit cannot be utilized before it has been earned, several agencies have raised this question with the Merit System office. In view of those questions, it appears reasonable and necessary to outline this requirement

in rule language. Likewise, although all agencies grant vacation leave to part-time employees, they do not all have schedules which clearly explain their policy for the benefit of employees. Again, this amendment is reasonable and necessary to clarify in rule form that such a schedule is necessary and to properly inform part-time employees of their vacation accrual rates.

A minor amendment to 12 MCAR § 2.504 B. 3. b. and 7 MCAR § 1.250 D. 2. substitutes "accrue" for "accumulate" since accrue is the more commonly used and understood term in the context of employee benefits.

An amendment to 12 MCAR § 2.504 B. 3. c. and 7 MCAR § 1.250 D. 3. allows appointing authorities and employees flexibility in negotiating the transfer of all or a part of accrued but unused vacation leave on transfer. Current rule language prohibits such flexibility which we believe to be both desirable and reasonable. The new language does not mandate negotiations on this issue but allows it as an alternative to payment for all accrued but unused vacation leave by the agency from which the employee is transferring.

An amendment to 12 MCAR § 2.504 B. 3. d. and 7 MCAR § 1.250 D. 4. is necessary to again identify those categories of employees eligible for vacation payment upon separation and to bring the language into conformance with the proposed language in previous sections of the two rules.

A minor amendment to 12 MCAR § 2.504 B. 3. d. and 7 MCAR § 1.250 D. 4. substitutes "accrued" for "accumulated" and is proposed for the same reasons as the amendment to 12 MCAR § 2.504 B. 3. c. and 7 MCAR § 1.250 D. 3. Similar amendments which are of a housekeeping or grammatical nature are proposed to 12 MCAR § 2.504 B. 4. and 7 MCAR § 1.250 E.

An amendment to 12 MCAR § 2.504 B. 4. g. and 7 MCAR § 1.250 E. 8. provides that former Merit System employees who are either reinstated or reemployed may have their previously accrued but unused sick leave balance credited to them by their appointing authority. A similar provision is available to persons employed in state service and it has been the practice to allow such consideration to Merit System employees as well. The proposed amendment is necessary to bring the Merit System rules into conformance with practice.

Proposed new amendments to 12 MCAR § 2.504 B. 4. h. and 7 MCAR § 1.250 E. 9. allows for the transfer of all or a portion of an employee's accrued but unused sick leave on transfer or promotion between Merit System agencies. Current practice varies widely with some agencies unwilling to accept any previously accrued but unused sick leave and others willing to accept all or a portion of such accrued sick leave. The issue needs to be addressed in rule language and the intent of the new language is to continue to allow the new appointing authority discretion as to accepting any or all previously accrued sick leave for an employee transferring to or being promoted to a new appointing authority.

Proposed new amendments to 12 MCAR § 2.504 B. 2. i. and 7 MCAR § 1.250 E. 10. relate to sick leave usage and accrual of sick leave by part-time employees. The new language is similar to that proposed for 12 MCAR § 2.504 B. 3. a. and 7 MCAR § 1.250 D. 1. relating to vacation leave and is proposed for the same reasons.

Minor amendments are proposed to 12 MCAR § 2.504 B. 5. and 6 and 7 MCAR § 1.250 F. and G. to correct the reference to a state law and unnecessary alphabetical designations of sections.

A minor amendment is proposed to 12 MCAR § 2.504 B. 7. a. and 7 MCAR § 1.250 H. 1. merely to clarify that this provision applies only to full-time employees.

Three proposed amendments to 12 MCAR § 2.504 B. 7. and 7 MCAR § 1.250 H. 4., 5. and 6. involve the establishment of three new provisions relating to holiday pay. The first one merely provides that when a holiday occurs during an employee's paid vacation or sick leave period, the employee shall not be charged for the holiday. While this may seem obvious, the Merit System office has received several calls in the past from agencies requesting how to proceed in this kind of situation. In view of this, it is reasonable to establish our official position in rule language. The second proposed section defines the eligibility of all employees for holiday pay. As with the previous proposed provision, questions are directed with some regularity to the Merit System office regarding eligibility for holiday pay and the proposed new language is both necessary and reasonable to establish the policy regarding this matter in rule language. The third proposed section provides for part-time and/or intermittent employees to be granted holiday compensation on a

pro-rated basis. This provides a different base for holiday compensation than current language contained in 12 MCAR § 2.504 B. 7. a. and 7 MCAR § 1.250 H. 1. which limits holiday compensation to the number of hours an employee would have worked on that day had it not been a holiday. The current language is basically unfair to less than full-time or intermittent employees who might not be scheduled to work on a holiday but who, nevertheless, work a considerable number of hours during the payroll period in which the holiday occurs. The new language will require counties to establish a method of compensating all employees for holidays, regardless of their employment conditions. Therefore, it is proposed to abolish the current language relating to holiday compensation contained in 12 MCAR § 2.504 B. 7. a. and 7 MCAR § 1.250 H. 1. in addition to adding the new language of 12 MCAR § 2.504 B. 7. e. and 7 MCAR § 1.250 H. 6.

Amendments are proposed to 12 MCAR § 2.504 C. 4. a. and 7 MCAR § 1.250 I. 4. substituting the word "merit" for "incentive" and "salary" to correctly identify such increases and avoid confusion with the definition "salary increase" and correcting the rule reference contained in these sections made necessary by the abolishment of 12 MCAR § 2.516 and 7 MCAR § 1.260 and inclusion of their provisions in 12 MCAR § 2.494 and 7 MCAR § 1.239-1.2398.

Finally, amendments to 7 MCAR § 1.250 I. eliminate superfluous language and reference to the masculine gender.

K. APPEALS AND HEARINGS

1. 12 MCAR § 2.5081 and 7 MCAR § 1.2541 These are new numbers assigned by the Revisor's office. (Under the provisions of 11 MCAR § 1.2091 B. the Department of Public Welfare Rules 12 MCAR §§ 2.495-2.510 also apply to the Department of Public Safety's county and local agencies.)

Due to the rather extensive changes being proposed to the format and organizational structure of these two rules, it was felt the most appropriate approach to accomplishing the desired changes was to abolish the current language of the rules in its entirety and rewrite the rules. It is significant and should be stressed that all personnel actions that are appealable under the current language are still appealable under provisions of the proposed new language. These include appeals from examination rejection, review of examination ratings,

removal from a register, allocation decisions, denial of a merit increase and appeals from dismissal, suspension or demotion. The current provision relating to investigations and appeals of matters concerning administration of the rules is also contained in the proposed new language.

A change in the provision regarding appeals from suspensions allows for appeal to the Council from suspensions of more than five consecutive working days or ten working days in a calendar year. This language is consistent with that proposed for 12 MCAR § 2.503 C. and 7 MCAR § 1.249 C. governing suspensions.

A new general provision (A) governing the processing of appeals under these rules is being proposed. New language requires that the reason or reasons for the appeal must be included with the written appeal notice and that certain actions appealed under the provisions of a collective bargaining agreement may not also be appealed to the Council. While most collective bargaining agreements have similar language in their provisions, some are silent on this matter and such reciprocal language is needed in the rules to prohibit more than one avenue of appeal from the same personnel action. New language in this section allows the Supervisor an opportunity to propose a resolution to the appeal before placing it on the agenda for a hearing by the Council. On occasion, appeals are filed because of misinformation or a lack of knowledge on the part of the appellant as to the effect of the rules. The new language would provide for the possible resolving of such appeals short of a Council hearing on the matter but would still allow for the matter to be heard by the Council in the event any kind of resolution proposed by the Supervisor is not acceptable to either party.

L. SALARY ADJUSTMENTS AND INCREASES

1. 12 MCAR § 2.516, 7 MCAR § 1.260 and 11 MCAR § 1.2116

The current language contained in these three rules is proposed to be deleted in its entirety. However, the intent of the various provisions of these rules is maintained in new language being proposed to 12 MCAR § 2.494, 7 MCAR § 1.239-1.2398 and 11 MCAR § 1.2094. It is both logical and reasonable to have all provisions relating to compensation together. Since salary adjustments and increases are an integral part of the compensation plan, it is appropriate that language relating to such provisions be included as part of the compensation plan rules.

M. SALARY COMPUTATION PROVISIONS FOR FULL AND PART-TIME EMPLOYMENT, VACATION AND SICK LEAVE PAY UPON TERMINATION, PARTIAL PAY PERIODS, OVERTIME PAY AND PART PAYMENT FROM ANOTHER SOURCE

1. 12 MCAR § 2.517, 7 MCAR § 1.261 and 11 MCAR § 1.2117

Minor amendments are proposed to 12 MCAR § 2.517 B. 1. and 2., 7 MCAR § 1.261 B. 1. and 2. and 11 MCAR § 1.2117 B. 1. and 2. correcting current references in those rules and are made necessary by inclusion of the provisions of 12 MCAR § 2.516, 7 MCAR § 1.260 and 11 MCAR § 1.2116 with 12 MCAR § 2.494, 7 MCAR § 1.239-1.2398 and 11 MCAR § 1.2094.

A similar proposed amendment is being made to 12 MCAR § 2.517 C., 7 MCAR § 1.261 and 11 MCAR § 1.2117 C. for the same reason.

An amendment is proposed to 12 MCAR § 2.517 E. 1., 7 MCAR § 1.261 E. 1. and 11 MCAR § 1.2116 E. 1. to correct references and is made necessary by the re-numbering of certain sections of 12 MCAR § 2.504 and 7 MCAR § 1.250 due to previous amendments.

Other minor amendments are corrections of a housekeeping nature and involve deletion of unnecessary numerical designations of some sections.

N. APPOINTMENT, PROMOTIONS, DEMOTIONS, TRANSFERS AND REINSTATEMENTS

1. 12 MCAR § 2.518, 7 MCAR § 1.262 and 11 MCAR § 1.2118

The amendments proposed to 12 MCAR § 2.518 A., 7 MCAR § 1.262 A. and 11 MCAR § 1.2118 A. are merely to clarify current language but do not change the meaning of the section.

Minor amendments are proposed to 12 MCAR § 2.518 B. 1., 7 MCAR § 1.262 B. 1. and 11 MCAR § 1.2118 B. 1. to eliminate reference to the masculine gender only and to clarify current language.

A minor amendment to 12 MCAR § 2.518 B. 2., 7 MCAR § 1.262 B. 2. and 11 MCAR § 1.2118 B. 2. is proposed, again, merely to clarify current language but does not change the meaning of the section.

Amendments to 12 MCAR § 2.518 C., 7 MCAR § 1.262 C. and 11 MCAR § 1.2118 C. repeal current language and propose new language to clarify the fact that the first sentence of the current language refers to employees whose salaries are above the maximum salary for the class to which they are demoted and to generally clarify other language without changing the intent of the section.

An amendment to 12 MCAR § 2.518 D., 7 MCAR § 1.262 D. and 11 MCAR § 1.2118 D. limits the amount of increase an employee can receive when transferring to the amount required to place the employee on an adopted salary step in the range for the class to which they are transferring. This has been current practice and the amendment is necessary so that the rule reflects that practice and is clarified.

Amendments proposed to 12 MCAR § 2.518 E., 7 MCAR § 1.262 E. and 11 MCAR § 1.2118 E. allow reemployed employees the same opportunity to be reappointed at their previous salary rate as former employees who are reinstated and substitutes the word "next" for "nearest" which is a more appropriate term. In the state personnel system, both reemployed and reinstated employees may be reappointed at their former salary and this change would bring the Merit System into conformance with state practice. In addition, there appears to be no justification for treating the eligibility of reemployed persons differently from those eligible for reinstatement given that the circumstances of their leaving are identical.

O. COMPENSATION PLAN

1. 12 MCAR § 2.840, 7 MCAR § 1.314 and 11 MCAR § 1.2140

These rules contain the compensation plan for all classes of positions covered by the Public Welfare, Health and Public Safety Merit System rules. Amendments to these rules are necessary in order to provide Merit System agencies with salary ranges for all classes in 1982 that are competitive in terms of salary rates being offered for comparable work found elsewhere in the public and private sector.

Merit System rules 12 MCAR § 2.494 C. 2. and 3., 7 MCAR § 1.2392 B. and 11 MCAR § 1.2094 C. 2. and 3. require that, in every odd-numbered year, the Supervisor conduct a review of changes in the level of salary rates in the labor market since the preceding adjustment of the compensation plan. The review should utilize data and findings of other labor market surveys and, to the extent possible, be based upon similar surveys and data used in previous reviews. The review must be completed and the findings reported to the Commissioner of Public Welfare, Health and Public Safety before July 31 of each odd-numbered year.

The 1981 salary survey conducted by the Merit System utilized data and findings of other labor market surveys and was based, to the extent possible and practicable, on the same sources of data and surveys in past studies to measure changes in salary rates for comparable kinds of employment. The primary basis for the proposed amendments to 12 MCAR § 2.840, 7 MCAR § 1.314 and 11 MCAR § 1.2140 are minimum and maximum salaries being paid by business and government for comparable jobs as determined by the 1981 Merit System salary survey.

The proposed amendments to 12 MCAR § 2.840 A., B., C. and D.; 7 MCAR § 1.314 A., B., C. and D and 11 MCAR § 1.2140 A. and B. are the result of salary comparisons made by the Merit System of Merit System salaries to salaries paid by other competing public and private employers for similar kinds of positions, a review of salary surveys covering similar kinds of positions and a review of other general economic indicators.

Current compensation plans from other jurisdictions included those from Hennepin, Ramsey and St. Louis counties; the city of Minneapolis; the city of St. Paul; the state of Minnesota and the federal government. Salary surveys utilized to obtain salary data used in making salary range recommendations included the Stanton survey, the state Department of Economic Security survey, the Endicott Report, the College Placement Council report, the International Personnel Management Association survey, the Bureau of Labor Statistics area wage survey, the Child Welfare League survey, United Way survey, Veterans Administration hospital salaries, the Minnesota Licensed Practical Nursing Association and Minnesota Nurses Association salary rates and two Minnesota Merit System salary surveys of other county clerical employees and public health nurses employed in county public health agencies. Economic indicators considered in making compensation plan recommendations included changes in the Twin City Consumer Price Index, changes in the Employment Cost Index as measured by the Bureau of Labor Statistics and general wage adjustments agreed to for 1982 by other public jurisdictions with similar positions. Those jurisdictions that are committed to providing a general wage adjustment in January 1982 will also adjust most of their salary ranges by the same percentage amount. The only exceptions to this are those classes where a greater or lesser percentage adjustment is called for in order to maintain a competitive salary for that kind of employment.

General wage adjustments agreed to by other jurisdictions for 1982 include a 9% increase in Hennepin County, an 8.5% increase in St. Louis County and an 8.5% increase for Fire and Police personnel as well as other bargaining unit personnel in the city of Minneapolis. In 1981, the state of Minnesota negotiated an agreement covering some 18,000 clerical and technical employees which provided for general salary increases of 8% or 58 cents per hour, whichever is greater. The state also provided for general salary increases of 8% or 51 cents per hour, whichever is greater, for confidential employees. The federal government provided a general salary adjustment for its employees of 4.8% in October of this year.

Revisions to 12 MCAR § 2.840 A., B., C. and D.; 7 MCAR § 1.314 A., B., C. and D. and 11 MCAR § 1.2140 A. and B. are needed to implement recommended salary adjustments in the Merit System compensation plan for positions in the county welfare, human services, public health and emergency services agencies. Proposed amendments to 12 MCAR § 2.840, 7 MCAR § 1.314 and 11 MCAR § 1.2140 adjust the minimum and maximum and intervening steps for all classes on all salary schedules by 8% effective January 1, 1982, with the following exceptions:

a. Welfare classes of Welfare Director I and II, Registered Nurse, Fiscal Supervisor III (formerly Accountant I), Financial Assistance Supervisor I and II; Fiscal Officer, Fiscal Supervisor I and II (formerly Accounting Officer I, II and III); Family Service Aide II and Public Health classes of Registered Nurse and Laboratory Technician minimum and maximum salaries adjusted approximately 13%.

b. Welfare classes of Family Service/Home Health Aide; Family Service Aide I and Welfare and Public Health class of Home Health Aide minimum salaries adjusted approximately 13% and maximum salaries adjusted 8%.

c. Welfare class of Mental Health Worker minimum salary adjusted 8% and maximum salary adjusted approximately 13%.

d. Welfare and Public Health class of Licensed Practical Nurse minimum and maximum salary adjusted approximately 15%.

e. Welfare, Public Health and Public Safety clerical classification minimum salaries adjusted an average of approximately 15% and maximum salaries adjusted an average of approximately 14%.

The differing adjustments proposed for the above listed classifications deserve additional comment. The adjustments proposed for Welfare Director I and II are primarily based on recruitment difficulties and the traditional salary relationship which has existed between the Social Service Supervisor I classificatic and these two classes. While supervisory personnel would be logical applicants for consideration in filling vacancies at the Welfare Director I and II levels,

overlapping salary ranges have made it less than attractive for well-qualified supervisors to seek appointment to administrative positions thereby hindering recruiting efforts. The proposed adjustment for these two classes is needed to alleviate recruiting problems that have been experienced and to increase the number of qualified applicants interested in such positions.

The proposed adjustment to Registered Nurse is based on data from the 1981 salary survey. Specific salary data from the Minnesota Nurses Association, and the Twin City Hospital Association, showed Merit System minimum and maximum salaries to be low.

The adjustment proposed for Fiscal Supervisor III (formerly Accountant I) reduces the current salary differential between this classification and the class Fiscal Supervisor IV (formerly Accountant II) from four steps to three steps. The basis for this change is simply that the difference in responsibility between these two classes is not sufficient to warrant the size of the current differential. The basic duties and responsibilities are similar for both classes with size of the agency being the main difference.

The proposed adjustments for Financial Assistance Supervisor I and II are based on a rationale similar to that for proposed amendments to the Welfare Director I and II class. Difficulties in recruiting qualified applicants for these two supervisory classes have occurred due to salary differentials existing between them and the Financial Assistance Specialist class as well as experienced financial workers at the Financial Worker II class level where little incentive exists for incumbents to apply for vacant supervisor positions. Hopefully, this adjustment will serve to alleviate some of these recruiting problems.

The proposed adjustments for Fiscal Officer, Fiscal Supervisor I and Fiscal Supervisor II (formerly Accounting Officer I, II and III) are based on data obtained from other jurisdictions which showed Merit System salaries low in comparison to comparable positions in other jurisdictions.

The proposed adjustment for the class Family Service Aide II is based on salary relationships. There has been a large differential between the salary range for this class and the salary range for the class Family Service Coordinator I which is the next higher classification in the same occupational series. Since there are some elements of coordination in the position of Family Service Aide II, a reduction in the salary differential between these two classes is both warranted and reasonable.

Data obtained during the course of the 1981 Merit System salary survey showed Merit System salaries for Laboratory Technician to be low and the proposed adjustment for this class is necessary to provide a competitive salary range for this class.

Proposed adjustments for the classes Family Service/Home Health Aide, Family Service Aide I and Home Health Aide are made necessary by salary survey data showing Merit System minimum salaries for these classes to be low.

The rationale for the proposed adjustment for the class Mental Health Worker is to equate the salary range for this class to the salary range for the class Social Worker III. Qualifications for entry into the two classes are similar and, indeed, many of the job responsibilities in both classes require similar knowledge, skills and abilities. Therefore, it is reasonable to provide similar salary ranges for these two classes.

The proposed adjustment to the class Licensed Practical Nurse is based on data from the 1981 salary survey. Salary data from other jurisdictions, particularly from Hennepin County and the state of Minnesota and consideration of the state's recent settlement with the exclusive representative of employees in this class has shown that Merit System minimum and maximum salaries for this class are low.

The proposed adjustments in the salary ranges for clerical classifications are the result of several factors. First of all, we are proposing that the number of Merit System compensation plans for clerical employees be reduced from six to three plans. Secondly, the interval between salary steps in the salary ranges for clerical classes is being lengthened to approximately the same interval that exists between salary steps in the ranges for professional and support classes. Thirdly, the interval between minimum salaries and maximum salaries for the same class on the different alphabetically-designated compensation plans has also been broadened to approximate the differential which exists between the minimum and maximum salaries for the same class on the different alphabetically-designated compensation plans for professional and support classes. Lastly, the salary data for clerical classes obtained during the 1981 Merit System salary survey showed these kinds of adjustments as being necessary in order to maintain competitive salary ranges for these classifications.

P. PROVISIONS FOR COMPUTING MONTHLY, HOURLY, LESS-THAN-FULL-TIME, BI-WEEKLY, AND FOUR WEEK SALARY RATES

1. 12 MCAR § 2.841, 7 MCAR § 1.315 and 11 MCAR § 1.2141

Minor amendments are proposed to 12 MCAR & 2.841, 7 MCAR § 1.315 and 11 MCAR § 1.2141 merely to correct rule references contained in the present language of these rules.

Q. CLASSIFICATION PLAN

1. 12 MCAR §§ 2.578, 2.579, 2.590, 2.591, 2.623, 2.720, 2.721, 2.722, 2.723, 2.724, 2.729

Proposed amendments to the above rules are necessary to revise the class specifications for ten existing classifications and to establish one new class specification. If the proposed amendment to 12 MCAR § 2.493 A. 1. removing the classification plan from the rules is adopted, these amended rules will be published in the Public Welfare Merit System manual.

a. 12 MCAR §§ 2.578, 2.579, 2.590, 2.591 and 2.623 (Financial Assistance Supervisor I, II, III and IV; Financial Assistance Specialist)

All of the proposed amendments to these five class specifications are being proposed to the minimum qualifications of education and experience sections of the specifications.

The major change in the minimum qualifications for Financial Assistance Specialist involves decreasing the number of years of financial worker experience required from three years to two years with no college; from 30 months to 18 months with two years of college; and from two years to one year with a bachelor's degree. The current minimum qualifications are viewed as excessive in view of the knowledges, skills and abilities required to perform the job and many county agencies have experienced difficulty recruiting for these positions.

The proposed changes in the minimum qualifications for Financial Assistance Supervisor I and II involve lowering the level and number of years of experience required. Again, the current minimum qualifications for these two classes are excessive in light of the knowledges, skills and abilities required to perform the job and many county agencies have experienced difficulty recruiting for these positions.

The proposed amendments to the minimum qualifications of education and experience for Financial Assistance Supervisor III involve changing the required experience from three years as a Financial Assistance Supervisor I to five years as a financial worker (three years at the senior level). This proposed change was requested by the St. Louis County Social Service Department. The St. Louis County income maintenance supervisor positions are classified as Financial Assistance Supervisor III's. Under the current minimum qualifications, individuals classified at the financial worker level in St. Louis county can not qualify for the examination for these positions. The proposed change is necessary so that individuals with a number of years of experience at the financial worker level can qualify for the Financial Assistance Supervisor III examination.

The amendments to the minimum qualifications section for Financial Assistance Supervisor IV increase the number of years of Financial Assistance Supervisor III experience required from one to three and delete Financial Assistance Supervisor II level experience from that which is credited as qualifying experience. This is being proposed since the current number of years required is not sufficient in view of the level of responsibilities of the Financial Assistance Supervisor IV positions.

b. 12 MCAR §§ 2.720, 2.721, 2.722, 2.723 and 2.724 (Fiscal Officer, Fiscal Supervisor I, II, III and IV)

The proposed amendments to the class specifications for these five classes are the result of an extensive classification study of accounting officer/accountant positions in Merit System agencies performed by Merit System staff with significant input from a committee of employees representing the Association of Minnesota Social Service Accountants, employed in such capacity in several of the agencies. The changes in class title are in recognition of the fact that most of the incumbents of these classes do have supervisory responsibilities. The change from "accounting" to "fiscal" in the class titles was a specific request of the committee which felt it was a broader and more accurate title reflecting the breadth of activity of the positions in the five classifications. Other changes proposed in the various sections of the class specifications are designed to emphasize the responsibility for analyzing, interpreting and preparing fiscal reports of

varying complexity; designing and implementing procedures to increase employee efficiency and effectiveness of fiscal operations; speaking and writing clearly and effectively; interpreting laws and policies to ensure the legality of fiscal transactions; supervising the purchasing functions of an agency, and where appropriate, planning and directing a computerized fiscal system for the agency. Changes to the minimum qualifications of education and experience serve to clarify the type of experience required to the class specifications for Accounting Officer I, II and III. Lastly, a statement is proposed to each of these class specifications indicating that the classification of positions to one of these classifications will be determined by the results of a classification study conducted by the Merit System on a biennial basis. This change merely places in writing on the class specifications whas has been, and will continue to be, current practice.

c. 12 MCAR § 2.729 (Accounting Technician)

The proposed new classification is the result of an extensive classification study of account clerk/accounting officer positions in Merit System agencies, with extensive input from a committee of employees representing the Association of Minnesota Social Service Accountants. The results of this classification study revealed the need for a new classification for those individuals who were acting as "lead workers" to other accounting staff. These individuals are, specifically, performing the following duties: assigning and reviewing the work of other accounting staff, having significant input into performance evaluations of accounting unit staff, and acting as a resource person for accounting staff. This new classification is necessary to adequately describe those positions and to ensure that that such individuals performing these responsibilities are properly classified. The illustrative examples of work, knowledges and abilities required, and minimum qualifications are reasonable in light of the duties and responsibilities assigned to this classification.

In view of the amendments being proposed to 12 MCAR § 2.493, 7 MCAR § 1.238 and 11 MCAR § 1.2093 which remove the classification plan from the rules, it is proposed to repeal 12 MCAR §§ 2.530-2.804, 7 MCAR §§ 1.269-1.313 and 11 MCAR §§ 1.2125, 1.2126, 1.2127, 1.2129 and 1.2130 consisting of the class specifications for all Public Welfare, Health and Public Safety Merit System classes.

It should be noted that, except for proposed amendments to 12 MCAR § 2.840, 7 MCAR § 1.314 and 11 MCAR § 1.2140 (the compensation plan) and amendments to 12 MCAR § 2.494 F. 3., 7 MCAR § 1.2395 C. and 11 MCAR § 1.2094 F. 3. relating to a recommended general salary adjustment for 1982, all amendments to the Minnesota Merit System rules being proposed at the public hearing were presented to the Merit System Council at an open meeting on July 17, 1981. All Merit System agencies were sent copies of the agenda including the complete text of all proposed rule amendments. In addition, all individuals and groups on the Merit System mailing list to receive copies of the Merit System Council agendas were sent the same material. The Council reviewed, considered, and discussed all of the proposed amendments, allowing for comment from interested and affected parties in attendance.

Subsequent to the Council meeting, proposed amendments to the compensation plan and for a general salary adjustment for 1982 were finalized and presented to the Council. Again, Merit System agencies and individuals and groups on the mailing list were advised of those proposed amendments and time was allowed for comment. The proposed amendments presented at the public hearing are in the form recommended for adoption by the Council to the governor and the commissioners of public welfare and health.

The aforegoing authorities and comments are submitted in justification of final adoption of the above cited proposed rule amendments.

Ralph W. Corey
Merit System Supervisor

Dated: Nov. 4, 1981