State of Minnesota
Department of Human Services
Human Services Building
444 Lafayette Road N
St. Paul, Minnesota 55155

January 17, 1996

Ms. Maryanne Hruby
Executive Director, LCRAR
55 State Office Building
St. Paul, Minnesota 55155

Dear Ms. Hruby:

Pursuant to Minnesota Statutes, section 14.131, enclosed is a statement of need and reasonableness relating to Salary Adjustments and Increases and the Compensation Plan under the Merit System, Minnesota Rules, parts 9575.0350 and 9575.1500.

If you have any questions about the statement of need and reasonableness, please do not hesitate to contact me at 282-2649.

Sincerely,

Betty Carlson

Betty Carlson
Merit System

Encl.

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA MERIT SYSTEM GOVERNING THE COMPENSATION PLAN AND SALARY ADJUSTMENTS AND INCREASES (MINNESOTA RULES, PARTS 9575.0350 AND 9575.1500)

STATEMENT OF NEED AND REASONABLENESS

I. The following considerations constitute the 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 grant-in-aid funds for its various human services, health and public safety programs, it must establish and maintain a merit system for personnel administration. See, e.g. 42 USC §§ 4701-28.[1]

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[1] Also see sections of the United States Code and Code of Federal Regulations cited herein where the following programs have statutory or regulatory 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)]
Food Stamps [7 USC § 2020(e)(6)(B)]
Medical Assistance - "MA" [42 USC § 1396(a)(a)(4)(A)]
Aid to the Blind [42 USC § 1202(a)(5)(A)]
Aid to the Permanently and Totally Disabled [42 USC § 1352(a)(5)(A)]
State and Community Programs on Aging [42 USC § 3027(a)(4)]
Adoption Assistance and Foster Care [42 USC § 671(a)(5)]
Old-Age Assistance [42 USC § 302(a)(5)(A)]
Emergency Management Assistance [44 CFR § 302.4]

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 codified at 5 CFR Part 900, Subpart F, 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 programs and administrative funds. Accordingly, the State is under an affirmative obligation to insure that such monies are properly and efficiently expended in compliance with 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, current classification and compensation plans, training, retention on the basis of performance, and fair nondiscriminatory treatment of applicants and employees with due regard to their privacy and constitutional rights (48 Fed. Reg. 9211 (March 4, 1983) codified at 5 CFR § 900.603).

4. In conformance with 5 CFR Part 900, Subpart F, the Minnesota Legislature enacted sections 12.22 Subd. 3, 144.071 and 256.012 of Minnesota Statutes, which respectively authorize the Governor, the Commissioner of Health, and the Commissioner of Human Services 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]

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 has upheld the authority of the Commissioner of Human Services and by implication that of the Commissioner of Health and the Governor to promulgate personnel rules and regulations. The Court quashed a writ of mandamus brought by the Hennepin County Welfare Board against the county auditor in attempting to force payment of salaries in excess of the maximum rates established by the Director of Social Welfare.[4] State ex rel. Hennepin County Welfare Board v. Fitzsimmons, 58 N.W.2d 882, 890 (1953). The court stated:

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

(3) Minn. R. 9575.0010-1580, 7520.0100-1200, and 4670.0100-4300.

(4) "Director of Social Welfare" was the former title of the Commissioner of Human Services.

> It is clear that the Director of Social Welfare was clearly right in adopting and promulgating a merit plan which included 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 programs nor the determination of his tenure of office and individual compensation.

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 Employment Labor Relations Act (Minn. Stat. §§ 179A.01-179A.25).

II. The justifications establishing the need for and the reasonableness of the specific substantive provisions of the proposed amendments to the rules, all of which concern the Minnesota Merit System operation, are as follows:

A. Salary Adjustments and Increases

Minnesota Rules, part 9575.0350

An amendment is proposed to parts 9575.0350 subpart 3 providing for a recommended general salary adjustment of 2% for all non-bargaining unit Merit System employees on Merit System professional, support, clerical and maintenance and trades salary schedules for 1996. The amendment is necessary not only because it changes the recommended general salary adjustment percentage in these rule parts from that adopted for 1995 but also because there is a need to provide competitive salary adjustments in 1996 for employees covered by the Human Services Merit System rules. The amendment is also reasonable based on a review of adjustments to salary levels by employers with similar and competing types of employment and trends in the Twin City Consumer Price Index (TCCPI).

Merit System rules require that the annual recommended general salary adjustment for employees be based on salary adjustments granted by employers with similar and competing types of employment and trends in the TCCPI. Obviously, for the Merit System, employers with similar and competing types of employment means other public employers. Traditionally, other employers the Merit System has looked to in developing a recommended general salary adjustment are the State of Minnesota and other counties with their own personnel systems which are separate and apart from the Merit System.

The State of Minnesota has negotiated a contract with AFSCME Council 6 representing approximately 18,000 state employees providing across-the-board salary adjustments of 2.5% effective July 1, 1995. Several other jurisdictions have reported settlements for 1995 and 1996. Beltrami County has settled for 1% effective January 1, 1995 and 2% effective July 1, 1995. Blue Earth County settled for 2.5% in 1995. Hennepin County settled for 2% in 1995. Itasca County has settled for 3% effective January 1, 1996. Washington County has settled for 2% in 1995. Ramsey County has settled for 2% effective January 1, 1996 and 1% effective November 1, 1996.

As indicated previously, proposed annual employee salary adjustments must also be based on the trends in the TCCPI. The United States Department of Labor's Bureau of Labor Statistics calculates changes in the index for all urban consumers (covering approximately 80% of the total population) twice a year. For the first half of 1994 to the first half of 1995, the index increased 2.5%. The Bureau has also published the Employment Cost Index, which is a measure of the increase in wages and salaries for specific groups of employees, one group being state and local public sector employees. From the period of June, 1994 to June 1995, the employment cost index increased 2.9%. Further, the Bureau of Labor Statistics has reported that during the first half of 1995, wage settlements entered into by state and local governments averaged 2% increases during the first year and 2.3% annually over the duration of the agreement.

Based upon the information presently available regarding across-the-board salary adjustments agreed to by competing employers for 1995 and 1996 as well as other measures of salary progression and increases in various consumer price indices as indicated, it is reasonable to recommend that salaries of Merit System employees not covered by the terms and conditions of a collective bargaining agreement be increased by 2% in 1996.

It should be emphasized that the recommended general salary adjustment of 2% is simply that, a recommendation. It lacks the binding effect of a negotiated collective bargaining agreement. Agencies, even those in which there is no collective bargaining agreement, are not required to adopt the Merit System recommended general adjustment but have the flexibility, under Merit System rules, to adopt a different salary adjustment (or no adjustment at all) for agency employees. Under whatever salary adjustment is finally adopted by an agency, the only salary increases that agencies are required to make are those necessary to bring the salaries of individual employees up to the new minimum salary rates for their classifications on the Merit System compensation plan adopted by the agency.

Another important point is that, under Merit System rules, Merit System compensation plan adjustments do not apply to employees in a formally recognized bargaining unit. There are 44 Merit System agencies where most of the agency employees are covered by collective bargaining agreements and employee compensation is the product of negotiation between the appointing authority and the employee's exclusive representative. In these agencies, the only employees subject to Merit System compensation plans are those in positions that are excluded from the bargaining unit by virtue of being supervisory or confidential in nature.

B. Compensation Plan

Minnesota Rules, part 9575.1500

Amendments proposed to this part specifically recommend adjustments to the minimum and maximum salaries for all Merit System classes of positions covered by the Human Services Merit System rules. Merit System rules require that Merit System compensation plans be adjusted annually to reflect changes in the level of salary rates in business and government for similar and competing types of employment and to achieve equitable compensation relationships between classes of positions based on their comparable work value. Amendments to part 9575.1500 are necessary to provide Merit System agencies with salary ranges for all classes that are competitive in terms of salary rates being offered by competing employers for comparable work elsewhere in the public and private sector and also to comply with the provisions of Minnesota Statutes, sections 471.991-999, requiring the establishment of equitable compensation relationships between classes of positions based on their comparable work value as determined by a formal job evaluation system.

The Merit System reviewed current compensation plans for competing employers such as the State of Minnesota and the counties of Hennepin, Ramsey, St. Louis, Beltrami, Dakota, Anoka, Blue Earth, Olmsted, Scott, Washington and Itasca to determine their salary levels and consider them in proposing amendments changing the minimum and maximum salaries of Merit System comparable classifications for 1996.

Proposed amendments to part 9575.1500 adjust the minimum and maximum salaries for all but two of the Merit System classes by 2%, the same percentage adjustment that is being recommended as a general salary adjustment for employees in all Merit System classifications. That kind of adjustment provides that employees will remain on the same salary step in their new salary range as they were on their previous salary range. This is reasonable in terms of the practice in other public jurisdictions of adjusting salary ranges by the same percentage amount as the general salary adjustment granted to all employees of the jurisdiction. The proposed adjustment is reasonable in light of the Merit System review of current salary ranges for comparable kinds of work in other public jurisdictions and by changes in general economic growth factors. It is necessary in order to maintain a competitive compensation plan providing equitable and adequate compensation for use by Merit System agencies covered by the plan.

The two classifications for which the ranges are being adjusted an amount that is different from the general adjustment proposed are Financial Worker and Case Aide. The minimum salary of the Financial Worker range is being adjusted by approximately 9%. The Case Aide minimum salary is being adjusted approximately 6.5% and the maximum salary is being adjusted approximately 12%. These adjustments are being proposed in order to comply with the provisions of Minnesota Statutes, sections 471.991-999, requiring the establishment of equitable compensation relationships between classes of positions based upon their comparable work value as determined by a formal job evaluation system. Subsequent to passage of Minnesota Statutes, sections 471.991-999, the Merit System conducted a formal job evaluation study which determined the comparable work value of all Merit System classes of positions. A basic principle of pay equity is that classes with identical or similar work values should have identical or similar salary ranges. The results of the study revealed a large number of situations in which classes of positions with similar comparable work values had quite disparate salary ranges. These situations represented compensation inequities and, over the past several years, the Merit System has proposed and adopted a significant number of comparability adjustments to either equalize or reduce the differences between salary ranges for classes with identical or similar comparable work values. It is necessary to continue this process to attain the statutorily mandated requirement to establish equitable compensation relationships between all classes of positions. When major changes occur to a job, it is necessary for the Merit System to review and evaluate the job to ensure that the job evaluation rating assigned the position is accurate.

In the fall of 1992, a study of the Financial Worker positions was conducted by the Merit System. This study was conducted because major changes had occurred to the Financial Worker job. The results of the study revealed that the comparable work value of the Financial Worker position had increased significantly due to the changes. As a result, it is necessary to make the proposed adjustment to the salary range for the Financial Worker classification. In the spring of 1995, a study of the Case Aide classification was completed. The results of this study showed that the jobs in this classification had changed over the past several years. As in the case of the Financial Worker classification, it has become necessary to make the proposed adjustments to the salary range.

The final amendment proposed to Minnesota Rules, part 9575.1500 adds the class titles and minimum and maximum salaries for the Managed Care Enroller, Managed Care Advocate and Managed Care Supervisor classifications. These are new classifications which have been developed to meet the needs of agencies which are involved in implementing and maintaining a pre-paid medical assistance program as part of a statewide effort initiated by the Minnesota Department of Human Services. The proposed salary ranges for these classifications were established in the same manner that all salary ranges are established. The positions were evaluated by the Merit System job evaluation committee and the ratings assigned the positions determined the minimum and maximum salaries proposed.

III. The information required by Minnesota Statutes, section 14.131 follows:

1. County agencies must compensate non-union employees within the minimum and maximum salaries established by the rules. As a result, the only mandated cost to counties involves the adjustment of salaries to the 1996 proposed minimum rates for those employees not covered by collective bargaining agreements whose rates of pay are below the 1996 proposed minimum rates for their classifications. An agency may adopt a different adjustment from that recommended by the Merit System as long as employees are at least paid at or above minimum and at or below the maximum rates of pay for their classifications. Employees whose salaries are already within the proposed 1996 ranges for their classifications need not receive an adjustment. Employees covered by collective bargaining agreements are exempt from this provision.

2. The estimated cost to the counties, the state and the federal government to implement the revisions in parts 9575.0350 and 9575.1500 is summarized below.

Cost to:

Counties*	State*	Federal*
$48,852.00	$17,750.00	$38,302.00

*This is a one-time cost for calendar year 1996.

Methodology used to arrive at cost for calendar year 1996:

The monthly cost to agencies of adjusting employees not covered by collective bargaining agreements to the 1996 proposed minimum rates for their classifications is $8,741.69. This figure was arrived at by calculating the monthly cost of raising 115 non-union employees at an average cost of $76.01 per employee to the 1996 proposed minimum rates for their classifications in each agency covered by the Merit System.

The total cost figured below is only for calendar year 1996, which consists of the last half of fiscal year 1996 and the first half of fiscal year 1997. (Proposed salary adjustments for calendar year 1997 are unknown at this time.)

Cost to agencies for last half (6 months) fiscal year 1996 is $8,742 x 6 = $52,452

Cost to agencies for first half (6 months) fiscal year 1997 is $8,742 x 6 = $52,452

Federal share of salary costs for income maintenance programs = 47.89%
County share of salary costs for income maintenance programs = 52.11%
State share of salary costs for income maintenance programs = 0%

Federal share of salary costs for social services programs = 25.13%
County share of salary costs for social services programs = 41.03%
State share of salary costs for social services programs = 33.84%

Allocating costs for income maintenance and social services equally between the last half of fiscal year 1996 and the first half of fiscal year 1997 yields the following:

<u>Last Half - Fiscal Year 1996</u>

Federal share of salary costs
47.89% of $26,226 = $12,560 (IM)
25.13% of $26,226 = $6,591 (SS)
Total $19,151

County share of salary costs
52.11% of $26,226 = $13,666 (IM)
41.03% of $26,226 = $10,760 (SS)
Total $24,426

State share of salary costs
0% of $26,226 = $0 (IM)
33.84% of $26,226 = $8,875 (SS)
Total $8,875

<u>First Half - Fiscal Year 1997</u>

Federal share of salary costs
47.89% of $26,226 = $12,560(IM)
25.13% of $26,226 = $6,591 (SS)
Total $19,151

County share of salary costs
52.11% of $26,226 = $13,666(IM)
41.03% of $26,226 = $10,760(SS)
Total $24,426

State share of salary costs
0% of $26,226 = $0 (IM)
33.84% of $26,226 = $8,875 (SS)
Total $8,875

Grand Totals

Federal	$19,151	Federal	$19,151
County	$24,426	County	$24,426
State	$ 8,875	State	$ 8,875
	$52,452		$52,452

Total of county share of salary costs for calendar year 1996 is $24,426 + $24,426 = $48,852

Total of state share of salary costs for calendar year 1996 is $8,875 + $8,875 = $17,750

Total of federal share of salary costs for calendar year 1996 is $19,151 + $19,151 = $38,302

3. The agency has determined that there are no methods that are less costly or less intrusive for achieving the purpose of the proposed rule. In fact, the proposed adjustment to the Financial Worker salary range for 1996 is the final of four adjustments that have taken place over the past four years. The Merit System has proposed and adopted a number of comparability adjustments to this classification over the past four years in order to gradually reduce the differences between the salary range of this classification and those of other classifications with comparable work value. The phasing in of the equity adjustment has been done, in part, to reduce the yearly cost of implementation.

4. The agency has determined that there are no alternative methods for achieving the purpose of the proposed rule. The proposed rule is necessary in order to adjust the minimum and maximum salaries for all classifications and to implement proposed salary adjustments for incumbents who are not covered by the terms of a collective bargaining agreement.

5. The probable costs of complying with the proposed rule are outlined in #2 above.

6. There are no differences between the proposed rule and existing federal regulations. In fact, the Standards for a Merit System of Personnel Administration (5 CFR part 900) require that the agency ensure that there be adequate and equitable compensation for county social service agency employees. The proposed rule is necessary in order to achieve compliance with federal regulations.

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

The agency will mail the notice of rule amendments and a copy of the proposed rules to all counties, county board chairpersons, and to the various unions and other organizations representing county employees so that agency management and employees are given adequate notification of the proposed changes.

If this rule goes to public hearing, it is anticipated that there will be no expert witnesses called to testify on behalf of the agency. The small business considerations in rulemaking, Minnesota Statutes, Section 14.115, do not apply to these rule amendments.

Dated: [illegible]

[signature]

for ~~MARIA R. GOMEZ~~
Commissioner