

Minnesota Attorney General: Administrative Rules Proceedings

Copyright Notice:

This material may be protected by copyright law (U.S. Code, Title 17). Researchers are liable for any infringement. For more information, visit www.mnhs.org/copyright.

Version 3
August 20, 2018

Attorney General

Barbara Lindsey Sims
Special Assistant
Attorney General
Department of Personnel

August 9, 1977

Michael B. Miller
Special Assistant
Attorney General

296-4692

Temporary Rules of the Department of Personnel Governing Labor Service, Leaves of Absence, Allocation and Reallocation of Positions, Layoffs, and Travel Reimbursements

Bonnie,

The above-captioned rules, which were submitted for review as to form and legality, are approved.

You may wish to file them with the Secretary of State, as well as publishing notice of their adoption in the State Register.

MBM:mb

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL 55155

WARREN SPANNAUS
ATTORNEY GENERAL

TELEPHONE
(612) 296-6196

August 2, 1977 - due Aug. 9

Mr. Mike Miller
Special Assistant Attorney General
Department of Administration
G19K Administration Building
St. Paul, Minnesota 55155

Dear Mike:

Enclosed for your review and approval are the proposed Temporary Rules of the Department of Personnel Governing Labor Service, Leaves of Absence, Allocation and Reallocation of Positions, Layoffs, and Travel Reimbursements.

These rules were published, as required, by Minn. Laws 1977, ch. 443, in the State Register on July 11, 1977 (1 SR 50) accompanied by a request for public comment. The Department did not receive any comments on these rules and proposes to adopt these rules as published.

Sincerely,

Bonnie

Barbara Lindsey Sims
Special Assistant Attorney General

BLS:dag
Enclosures

19 - vague
31 - don't understand
39c - very unclear
136 - auth. for 90 hours?

reciprocity shall, in accordance with Minn. Stat. § 148.57, subd. 2, file a completed and sworn application for such licensure with the board at least two weeks prior to the regular meeting at which the Board considers such applications. To assure sufficient time for processing, however, it is recommended that all such applications be received by the board sixty (60) days prior to the board's consideration thereof. A fee of $100.00 shall accompany every application for licensure by reciprocity.

F. Professional corporations.

Pursuant to Minn. Stat. § 319A.21, every professional optometric corporation holding a certificate to do business in this state shall file annually with the board on or before January 1 a corporate report accompanied by a fee. Until otherwise provided by law, this fee shall be $100.00 for filing the first of such reports and $25.00 for filing each successive report.

Department of Personnel

Proposed Temporary Rules Governing Labor Service, Leaves of Absence, Allocation and Re-Allocation of Positions, Layoffs, and Travel Reimbursements

Request for Public Comment

Notice is hereby given, pursuant to Minnesota Laws 1977, ch. 443, § 2, that the Minnesota Department of Personnel will adopt temporary rules pursuant to Laws of 1977, ch. 452, which will amend the existing rules on the labor services, leaves of absence, the allocation and re-allocation of positions, layoff, and travel reimbursement to bring them into conformance with collective bargaining agreements. These rules shall take effect on August 9, 1977, and remain in effect until February 8, 1978, or the adoption of permanent rules, whichever occurs first.

All interested persons may submit written comment or data on these rules to: Ron Olson, Minnesota Department of Personnel, 3rd Floor, Space Center Building, 444 Lafayette Blvd., St. Paul, MN 55101. Written statements submitted for consideration must be received by August 1, 1977.

Richard W. Session
Commissioner

Rules as Proposed

Persl 9 Labor service. Classes of positions involving unskilled labor, as designated by the Commissioner, shall comprise the labor service.

The Commissioner may at any time review the duties performed by any labor service employee. The appointing authority and the employee shall supply any information requested by the Commissioner in connection with such review. If the Commissioner thereafter determines that the duties performed are not properly those of a position in the labor service, the Commissioner shall take action deemed necessary to comply with the law and these rules.

Any personnel action affecting an employee or a position in the labor service shall be reported to the Commissioner by written notice upon such form as the Commissioner may prescribe.

A. Reports of appointment, termination, or interruption of employment in the labor service shall be effected as follows:

[Temporary appointments shall not exceed seven months in any one calendar year; and shall be reported on forms prescribed by the Commissioner.]

1. Employees in the labor service who have been employed for a total of [ten] **six** months in a period of twelve consecutive months shall be known as classified [civil service] **tenured** laborers and shall receive the same tenure rights and benefits given other classified employees of the state not in the labor service. The appointing authority's certificate that the employee has met these conditions will establish the employee's tenure rights. Such certification shall be in the manner and form prescribed by the Commissioner.

2. [An employee with classified civil service labor tenure] **A tenured laborer** as defined in the law shall be given written notice of disciplinary action and shall have rights in accordance with law (Minn. Stat. § 43.24).

B. Promotion from the labor service:

1. [Employees in the labor service] **Tenured laborers** shall be eligible to compete in promotional selection processes when they [have worked ten of twelve consecutive months preceding the promotional examination and] meet the requirements specified in the announcement.

Persl 18 Allocation of positions. When a new classified or unclassified position is to be established, [or] a vacant classified or unclassified position is to be filled, **or the duties and responsibilities of a classified or unclassified position are changed as a result of changes in the or-**

ganizational structure of an agency or abrupt changes in the duties and responsibilities, the appointing authority shall notify the Commissioner in the prescribed manner, and the Commissioner shall allocate the position to the appropriate class in the classified service or in the unclassified service, where possible, to a comparable class.

The Commissioner, after making an allocation or comparison, shall notify the appointing authority of that action. The action shall become immediately effective, but the appointing authority may within ten days file with the Commissioner an application for reconsideration, together with any written evidence by way of affidavits, statements or exhibits which the appointing authority may desire to have considered. The Commissioner shall act promptly upon that application and shall notify the appointing authority of the final action.

Persl 19 Reallocation of positions. If, because of [the] changes **occurring over a period of time in the kind, responsibility or difficulty of work performed** in [the organizational structure of an agency, changes in the duties of the position, or for some other reason] a classified or unclassified position, it seems to be improperly allocated, or compared, the Commissioner shall, independently or upon request of an appointing authority or permanent employee, investigate the duties of the affected position. Following the investigation, the Commissioner may reallocate or recompare the position to an appropriate class. In making a request for a review of a position, the appointing authority or permanent employee shall set forth specifically the changes that have occurred in the particular position which warrant the requested action **along with other documentation prescribed by the Commissioner**. The Commissioner shall notify the affected employee and the appointing authority of the final decision.

Persl 24 Work out of class. When an employee is expressly assigned to perform all the duties of a position allocated to a higher level classification that is temporarily unoccupied for reasons other than vacation or short periods of sick leave and such work exceeds 15 consecutive work days in duration, the employee shall be paid for [the duration] **all hours** of the assignment, at the minimum of the salary range for the higher class or receive a one-step increase, whichever is greater. Appointments to these assignments shall be made in accordance with Personnel Rules 81 through 91. If the assignment is to a position at an equal or lower level classification, the employee shall be paid at the employee's current rate of pay.

Persl 31 [(Deleted March 15, 1976)] **Pay upon reallocation. Except for reallocations resulting from a study of an agency or subdivision thereof initiated by the Department of Personnel or an appointing authority, if the incumbent of a position which is reallocated upward to a class existing at the time of the request receives a probationary appointment to the reallocated position, pay for the reallocated position shall commence up to sixty calendar days prior to the incumbent employee's probationary appointment to that position. In no event shall such pay commence earlier than fifteen calendar days after the receipt in the Department of Personnel of a reallocation request determined by the Department of Personnel to be properly documented.**

Persl 39 Eligibility to compete.

A. Open competitive selection processes. Competitive selection processes shall, after public notice, be open to all applicants who meet the reasonable standards or requirements fixed by the Commissioner with regard to factors that relate to the ability of the candidates to perform with reasonable efficiency and effectiveness in the duties of the position. Persons with physical disabilities who, when demonstrated to the satisfaction of the Commissioner, could not be selected in the normal manner, shall be selected in such a manner that will fairly test their ability to perform the duties of the position.

In the case of an applicant who is blind, the department will provide the applicant with either a braille selection process, or the services of a reader chosen by the applicant with the approval of the department, or subject to the approval of the applicant, whichever means of screening is available to the department.

No applicant shall be rejected because the applicant lacks educational qualifications, unless such qualifications relate directly to the duties of the class for which the announcement is made, or where such educational requirements are established by federal agencies making grants-in-aid or otherwise contributing to state programs.

B. Promotional selection processes. Promotional selection processes shall be open to all permanent or probationary employees in the agency or other organization unit for which the selection process is being held who meet the requirements described in the announcements. All classified and unclassified state employees in any branch of state government who meet the established requirements may apply for promotional selection processes for positions designated as managerial or professional.

[If the incumbent of the reallocated position has not participated in the selection process for which an unexpired list

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface.** Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

exists for the class to which the position has been allocated, the employee shall be permitted to complete the same or equivalent selection process. Where significant changes over a period of time have occurred in the kind, responsibility or difficulty of the work performed in a position, the Commissioner may certify only the name of the incumbent if:]

[(1) The changed classification is in the same occupational group as the initial classification of the position; and]

[(2) The operating agency submits a written request detailing the basis for the action; and]

[(3) The action leading to the change in the allocation of the position did not result from the assignment of the incumbent to work out of class in a manner so as to bypass the selection process, to a vacancy in a new position which had not been allocated to a class, or other action taken without regard for the appropriate selection process.]

[In any case, where the incumbent of a position which has been reallocated is ineligible to continue in that position in the new class and is not transferred, promoted, or demoted, the layoff provisions of the Personnel Law and Rules apply.]

C. Selection processes for incumbents of reallocated positions. The incumbent of a position which has been reallocated in accordance with Personnel Rule 19 shall be permitted to compete in the same or equivalent selection process as last given for the class to which the position has been reallocated, provided:

1. The incumbent did not participate in a written or competitive oral examination process for such a position less than six months previous to the date of reallocation;

2. The reallocation did not result from the assignment of the incumbent to work out of class in a manner so as to bypass the selection process or to a vacancy in a new position which had not been allocated to a class, or from other action taken without regard to the appropriate selection process.

If the incumbent examined in accord with the above successfully completes the examination process, notwithstanding the provisions of Persl 84, the Commissioner may certify only the name of the eligible incumbent, provided the position has been reallocated to another class in the same occupational category as the initial classification.

In certifying eligibles to a position reallocated to a class in a different occupational category than the initial classification of the position the provisions of Rule 84 shall apply.

Where the incumbent of a position which has been reallocated has failed to qualify in the selection process and/or otherwise is ineligible to continue in the position in the new class, the employee must be removed from the position within 30 calendar days from the date of notification to the appointing authority of the incumbent's failure to qualify.

Where the incumbent is ineligible to continue in the position and is not transferred, promoted or demoted, the lay-off provisions of the Personnel Law and Rules apply.

Persl 61 Reemployment list. The reemployment list shall contain the names of all permanent or probationary employees laid off in the class of employment, and the names of former permanent or probationary employees in the class whose written applications made within three years of separation in good standing are approved by the Commissioner. The Commissioner shall consider the recommendation of the last appointing authority before approving applications of former employees and shall approve or disapprove each application considering the quality of service as evidenced by service reports submitted by the last appointing authority. Names shall be placed on the reemployment list based on the quality of service as indicated in the individual's performance appraisals. A person may remain on a reemployment list for up to three years and must return to state service within four years of separation.

The names of laid-off employees shall be placed on the reemployment list for those classes in which the employee possessed permanent or probationary status and for locations and employment conditions for which the employee is eligible and has expressed a willingness to accept employment. Laid-off employees who wish to have their names placed on the reemployment list must notify the Department of Personnel within 3 years of date of layoff indicating those classes, locations and employment conditions they are willing to consider.

Persl 109 Layoff. The appointing authority may lay off an employee in the classified service by reason of abolition of the position, shortage of work or funds, or other reasons outside the employee's control which do not reflect discredit on the service of the employee.

Duties formerly performed by laid off employees may be assigned to other permanent employees who, in the opinion of the Commissioner, hold positions in an appropriate class.

A. Order of layoff. Layoff of probationary or permanent employees shall be made in inverse order of seniority by employment conditions in the class of work and agency or

other organizational unit involved, provided, however, that for positions within a class requiring special licensure, certification or registration and for positions which consist of a formally recognized option within a class, seniority shall be applied within the area of specialization. Except as provided above, no probationary or permanent employee shall be laid off from any position while any provisional or temporary employee is continuing in a position of the same class in the agency or other organizational unit involved.

Where it is determined that two or more persons in the class in the agency or organizational unit in which layoff is being made have equal seniority, the order of layoff in such tie cases shall be in inverse order of the date of acquisition of permanent status in the class, except where otherwise provided in written contracts with bargaining representatives.

Where the determination of seniority as provided in this rule does not establish definite seniority differentials, the order of layoff shall be determined by the average of the last two service ratings, if there are two, or the last such rating if there is only one, and the employee with the lowest such average or rating shall be laid off first. If no service ratings are available, the order of layoff shall be determined by the appointing authority in such a manner as to insure the retention in the state service of those employees deemed most valuable, except where otherwise provided in written contracts with exclusive bargaining representatives.

B. Seniority. Seniority for purposes of layoff or recall from layoff shall be the length of service in a specific class in a specific agency or organizational unit. Leave without pay **and trainee appointments** except as provided elsewhere in [this] **these** rules, [trainee appointments except for permanent or probationary employees], **and** service with a different agency or organizational unit, shall not count toward seniority in the class, agency, or organizational unit in which the layoff is taking place.

Seniority of an employee in the class to which that employee is demoted shall be limited to service in the agency. Such seniority shall include the total time of the employee's prior seniority in the class from which the employee was demoted, as well as other classes which the Commissioner determines as being sufficiently similar to the class to which demotion occurs. Seniority shall begin on the date of original appointment and thereafter such seniority shall be increased each calendar day without interruption except:

1. Upon termination.

2. Upon interruption of service in the agency for any reason other than leave of absence or layoff.

3. Upon expiration of eligibility for reappointment from the layoff list.

In the case of employees in a trainee class or an employee working under a provisional appointment, seniority shall be credited back to the date of hire at the time the employee begins to serve a probationary period in the same or a related classification in the same department.

C. Limited interruption of employment. Any interruption in employment not in excess of 15 calendar days, because of adverse weather conditions, shortage of materials or equipment, or for other unexpected or unusual reasons, shall not be considered a layoff.

D. Layoff notice. The appointing authority shall notify the employee to be laid off at least 15 days before the effective date of such layoff in writing, and shall certify to the Commissioner the reasons for such layoff. In any case, when an appointing authority fails to certify before the effective date thereof that the layoff was for reasons not reflecting to the discredit of the employee, it shall be deemed a dismissal and shall be subject to the rules regarding dismissal.

In case of seasonal, intermittent, part time or other occasional appointment of employees with classified status, the appointing authority may indicate to the employee and the Commissioner at the time of the appointment the approximate date of termination of employment, and such notices shall be considered to meet the requirements of law. (Minn. Stat. § 43.23, Subd. 2).

E. Names of laid off employees to be placed on eligibility lists. The names of permanent or probationary employees laid off or demoted in lieu of layoff shall be placed in order of seniority on the layoff list for the class and agency or other organizational unit from which the layoff took place. The affected employees shall have their names placed also on the reemployment list.

F. Organizational units. An appointing authority may propose subdivision of the agency into organizational units for the purpose of employment or layoff by submitting to the Commissioner a written plan for such subdivision, together with reasons therefor. The Commissioner shall consider such proposals and the needs of the state service, and may establish organizational units within agencies. Such

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface.** Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

organizational units may be established on the basis of geographic areas, function, class of employment, or funding when there are special Federal grants, and may be different for different classes of employment. The Commissioner shall notify the appointing authority of establishment of organization units and such units shall thereafter be used for employment or layoff.

The appointing authority shall post a copy of such notice or shall notify affected employees of the establishment of such organizational units.

The Commissioner may cancel established organizational units upon notice to the appointing authority at any time the Commissioner deems such action to be in the best interest of the state service.

Persl 131 Holidays. Holidays will be observed as prescribed by the legislature. (Minn. Stat. § 645.44, Subd. 5)

This rule applies to all classified employees and, notwithstanding Persl Rule 4, all full-time unlimited unclassified employees in the executive branch of government, except [hourly] **non-tenured** laborers, **temporary employees, emergency employees** and project employees. Holiday leave provisions may be established by the appointing authority for employees not covered by this rule.

The following days are holidays and an alternate day off shall be granted for work done on these days, except where payment is allowed under the overtime provisions of Persl 130.

New Year's Day .....January 1
[President's Birthdays]
Washington's and
Lincoln's Birthday .... Third Monday in February
Memorial Day .....Last Monday in May
Independence Day .....July 4
Labor Day .....First Monday in September
Columbus Day .....Second Monday in October
Veterans Day .....November 11
Thanksgiving Day .....Fourth Thursday in November
Christmas Day .....December 25

A. When New Year's Day, Independence Day, Veterans Day or Christmas Day fall on Sunday, the following day shall be considered the official holiday for employees. When these holidays fall on Saturday, the preceding day shall be considered the official holiday for employees. An employee, regardless of work schedule, shall receive the same number of holidays as an employee whose regular work week is Monday through Friday.

B. The appointing authority in those agencies which remain open to the public for performance of public business may designate a sufficient number of employees to maintain the continuity of the agency's operations on such days.

C. Holidays which occur within the employee's vacation or sick leave period will not be charged to the employee's vacation or sick leave time.

D. Employees must be on the payroll on the work day immediately preceding and the work day immediately following a holiday to be eligible for such holiday.

For the purpose of determining eligibility for holiday pay, "on the payroll" shall mean those who are in pay status.

Hours that would have been worked during the pay period had there been no holiday	Holiday hours earned for each holiday in the pay period
0- 9	0
10-19	1
20-29	2
30-39	3
40-49	4
50-59	5
60-69	6
70-79	7
80	8

Intermittent employees shall receive a holiday if they work the day before and the day after a holiday. If such intermittent employee works on a holiday, that employee will be reimbursed for the holiday in addition to the pay for the time worked. This pay shall be in accordance with the above schedule. Seasonal employees are entitled to holidays as defined in this rule.

F. Employees who observe religious holidays on days which do not fall on a Sunday or a legal holiday shall be entitled to such days off to observe the religious holiday. Such days off to observe these religious holidays shall be taken without pay, or upon the election of the employee, may be charged against accumulated vacation leave. If the appointing authority can arrange to have the employee work an equivalent number of hours at another time during the fiscal year to compensate for the days lost for obervance of religious holidays, these holidays may be taken against such hours actually worked.

Persl 135 Vacation leave. This rule applies to all classified state employees in the executive branch except for [hourly] **non-tenured** laborers, emergency employees, project employees or temporary appointment employees and also applies to all full-time unlimited unclassified employees in the executive branch except department heads, deputies and those listed in Persl Rule 4. Annual leave provisions may be established by the appointing authority for employees not covered by this rule.

Each eligible employee shall earn vacation with pay according to the rate listed below.

Hours of Vacation Accrued during each Payroll Period of Continuous Service

Number of Hours Worked During Pay Period	0 thru 5 years	After 5 thru 8 years	After 8 thru 18 years	After 18 thru 25 years	Over 25 years
0- 9	0	0	0	0	0
10-19	¾	1	1¼	1½	1½
20-29	1	1¼	1¾	2	2
30-39	1½	2	2¾	3	3
40-49	2	2½	3½	3¾	4
50-59	2½	3¼	4½	4¾	5
60-69	3	3¾	5¼	5¾	6
70-79	3½	4½	6¼	6¾	7
80 and over	4	5	7	7½	8

An eligible employee receiving Worker's Compensation benefits shall accrue vacation leave for the total number of hours compensated by Workers' Compensation, sick leave and annual leave.

Changes in the rate of accumulation for eligible employees shall be made effective at the beginning of the next payroll period following completion of the specified amount of service.

Service shall begin on the date of state employment. Time on suspension or nonmedical leave of absence without pay if at lesat one full payroll period in duration, except as otherwise provided by law or these rules, shall not be counted in determining the date of completion of a full year. An eligible employee being paid for less than the full payroll period of 80 hours will have vacation accrual pro rated for that payroll period. A vacation leave shall not be granted or accrued before completion of six calendar months of service. Upon completion of such period, vacation leave shall accrue to the employee from the beginning of the period of continuous service.

Departments or agencies may determine the time and establish schedules governing the use of vacation leave, except that in no instance will vacation leave be granted in increments of less than one-half hour except to permit utilization of lesser fractions that have been accrued.

Unused vacation may be accumulated to a total of [208] **224** working hours. Supervisors should make every effort to schedule vacation leaves for their employees on a regular basis each calendar year in order to reduce the possibility of an employee losing vacation or leave because of a maximum accumulation having been exceeded. An eligible employee on military leave, as provided by these rules, shall not be limited to the maximum accrual of vacation leave. Such employee may immediately upon reinstatement from military leave take all vacation in excess of the maximum accumulation. As an alternative, the employee may elect to be credited with the vacation leave in excess of the maximum accumulation, but such leave shall be taken at a time determined by the appointing authority within two years of the date of reinstatement.

Any eligible employee who is separated from the state service by layoff, resignation, death, or otherwise, shall be paid for the number of working hours of unused vacation leave accumulated to that employee's credit.

An employee, who is transferred or accepts employment under the jurisdiction of a new appointing authority, or in the unclassified service of the state, or an unclassified employee who transfers to the classified service, without interruption of services to the state shall be entitled to credit of accumulated unused vacation leave earned in the employee's former employment. Notwithstanding Persl Rule 4, any state employee except an elected employee who is separated from the state or who is transferred or accepts employment under a new appointing authority, is entitled to pay for any accumulated leave. (Minn. Stat. §§ 43.222, 43.223, 43.224)

Department heads and deputies of departments listed in Minn. Stat § 15.01, plus the Energy Agency, the Governor's Crime Commission, the Indian Affairs Board, the Higher Education Coordinating Board, the Investment Board, Iron Range Resources and Rehabilitation, Office of Hearing Examiner, the Pollution Control Agency, the State Planning Agency, and the Chancellors of the Community College System and the State University System shall earn vacation pay at the rate of six hours per full payroll period. Covered departments heads and deputies who currently are eligible to receive more than six hours per full payroll period shall continue to accrue at the higher rate.

Persl 136 Sick leave. This rule applies to all classified state employees in the executive branch except for [hourly] **non-tenured** laborers, emergency employees, project employees, or temporary appointment employees and all full-time unlimited unclassified employees in the executive branch except those listed in Persl Rule 4. Sick leave provisions may be established by the appointing authority for

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface.** Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

employees not covered by this rule. Sick leave shall be earned by each eligible employee according to the rate schedule indicated below:

Hours of Sick Leave Accrued During Each Payroll Period of Continuous Service

Number of Hours Worked During Pay Period	Less than [800] **900** hours	[800] **900** hours and maintained
0-9	0	0
10-19	¾	¼
20-29	1	½
30-39	1½	¾
40-49	2	1
50-59	2½	1¼
60-69	3	1½
70-79	3½	1¾
80 and over	4	2

Changes in the rate of accumulation for eligible employees shall be made effective following the payroll period in which the [800] **900** hour maximum accrual is attained.

An eligible employee being paid for less than a full payroll period of 80 hours will have sick leave pro rated for that payroll period unless the employee is on Workers' Compensation, in which case sick leave would be accrued for the total hours compensated by Workers' Compensation, sick leave, and annual leave. Unused sick leave hours may be accumulated to a total of [800] **900** working hours. When the maximum limitation has been accumulated, the rate of accumulation will be reduced to two hours per full payroll period, and these hours shall be placed in a lapsed sick leave bank. Any employee who has such lapsed sick leave recorded may apply to the appointing authority to have the lapsed sick restored in the event of an extended illness. The appointing authority may authorize use of all or any part of the lapsed sick leave after thorough investigation, including submission of complete medical reports providing both a diagnosis and prognosis of the illness. The appointing authority shall report to the Commissioner all instances of lapsed sick leave restored in such form as prescribed by the Commissioner.

Time off an authorized sick leave will be deducted from the first [800] **900** hours. Once the employee no longer possesses [800] **900** hours of sick leave, four working hours for each full payroll period will be accumulated until the [800] **900** maximum limit is again obtained.

Employees may utilize their allowance of sick leave, without regard to length of service, on the basis of application to and approval by the appointing authority, where absence is necessitated by inability to perform the duties of the position by reason of illness, pregnancy, or pregnancy-related problems, or disability, by necessity for medical, dental, or chiropractic care, by exposure to contagious diseases under the circumstances in which the health of employees with whom they are associated or members of the public with whom they deal may be endangered by their attendance on duty, or by illness in their immediate family for such periods as their attendance shall be necessary. Employees may also utilize not more than three days sick leave for the birth or adoption of a child. The term "immediate family" shall be limited to the spouse, minor or dependent children, or parent living in the household of the employee and where the parent has no other person to provide the necessary nursing care. Either the appointing authority or the Commissioner may require medical examination, medical certificate, or statement from a chiropractor, as deemed necessary for approving the utilization of sick leave. A written statement from a Christian Science practitioner that the employee is a Christian Scientist and is undergoing treatment may be accepted in lieu of a medical statement. Use of a reasonable period of sick leave shall be authorized in case of death of a spouse, the parents of a spouse, and the parents, grandparents, guardian, children, brothers, sisters, or wards of the employee. In no instance will sick leave be granted in increments of less than ½ hour except to permit utilization of lesser fractions that have been accrued.

Employees receiving injury on duty pay shall not have this time deducted from their regular accrued sick leave balance.

A former state employee who is reappointed within four years of separation from the state service under the provisions of the act and these rules except as a provisional, temporary or emergency appointee, may have previously accumulated, unused balance of sick leave revived and credited to that employee upon approval of the new appointing authority.

An employee who transfers to the jurisdiction of another appointing authority without interruption in service to the state shall be entitled to a credit in the new employment for the accumulated unused sick leave earned in the former employment.

An employee of a merit system jurisdiction or the federal competitive service with probationary or permanent status may transfer or be appointed to a position in the state service and may be credited with the amount of sick leave accumulated at the time of transfer, but not more than 12 days. Such credit shall be reduced proportionately as sick leave is accumulated in the state service.

Persl 141 [Maternity] **Child bearing/child rearing** leave of absence without pay. [Maternity] **A child bearing/child rearing** leave of absence shall be granted when requested to a [pregnant employee] **natural parent** or **an** adoptive [mother] **parent** in the classified or unclassified service for a

period not to exceed 6 months. [Maternity] **child bearing/ child rearing** leave may be extended up to a total maximum of one year by mutual consent between the employee and the appointing authority.

Persl 144 Other leaves of absence without pay. Employees may be allowed to be absent from duty without pay as provided in law (MS 43.22) with the approval of their respective appointing authorities under the following conditions:

A. Such leaves shall be granted only when it will not result in undue prejudice to the interests of the state as an employer beyond any benefits to be realized.

B. An application for leave of absence for travel or study calculated to equip the employee to render more effective service to the state may be deemed to involve such compesnating benefits to be measured against the prejudice to the state involved in keeping open the position or filling it temporarily until the return of the employee.

C. Leave, not to exceed one year, may be granted to an employee to accept a position of fixed duration outside of state service which is funded by a government or private foundation grant and which is related to the employee's current work.

D. With ten days advance request, leave shall be granted to an employee to attend a political party caucus or political convention.

The Commissioner shall refuse to approve any proposed leave without pay which is deemed contrary to the best interests of the state.

Persl 181

A. Means of travel.

1. State-Owned vehicles. An employee may be permanently assigned a state-owned vehicle when required by law or if circumstances make such assignment necessary when recommended by the appointing authority and approved by the Commissioner of Administration.

Departments operating vehicles not in the Central Motor Pool shall operate them on a pool basis following rules of the Department of Administration for the operation of such state-owned vehicles.

2. Privately-Owned automobiles and aircraft. The compensation for use of a personal automobile is [15¢] **16¢** per mile when a motor pool vehicle is not available. Mileage shall be paid based on the most direct route according to [Highway] **Transportation** Department records. Deviations from the shortest direct route, such as vicinity driving or driving from the employee's residence where the employee's residence becomes the point of departure, shall be shown on the expense account as a daily total, with a separate explanation outlining the reasons for such mileage. No additional reimbursement will be made for incidental expenses to the operation or maintenance of a personal automobile for state business except for payment of toll charges and parking.

The employee who elects to use a personal car on official state business with the approval of the appointing authority when traveling within the state in cases where a motor pool vehicle is available shall be reimbursed at the rate of [10¢] **11¢** per mile. The higher rate may be paid if the use of the motor pool vehicle would have resulted in a greater cost to the state than the reimbursement of the personal car rate.

The reimbursement for mileage shall be adjusted as follows:

A "base rate" gasoline price shall be established by computing the average price per gallon of gasoline delivered to the Central Motor Poll during the month of April, [1975] **1977**. A "new rate" shall be calculated in the same manner for each month commencing in July, [1975] **1977**. The difference, if any between the "base rate" and the "new rate" shall be added to the sum of any changes in federal or state gasoline taxes levied on or after April 1, [1975] **1977**, and such total shall be referred to as the "adjusted difference". Effective the second month following the computation of the "new rate", mileage reimbursement rates shall be increased or decreased by 1 cent for each full 10 cent increase or decrease in the "adjusted difference". In no event shall such mileage rates be less than the rates of [15] **16** cents or [10] **11** cents as set forth above.

The appointing authority may authorize travel in personal aircraft when it is deemed in the best interest of the state. Mileage reimbursement in such cases shall be 25¢ per mile and shall be based on the shortest route based on direct air mileage between the point of departure and the destination.

3. Out-of-State travel. Payment for expenses for transportation by personal vehicle for out-of-state travel shall be made on the basis of a single coach air fare for each vehicle used.

If available, motor pool vehicles or state-owned vehicles may be used for out-of-state travel. When a central motor

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface.** Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

pool vehicle is used, reimbursement will be made to the Central Motor Pool. The expense of such vehicles shall be charged against the out-of-state authorization of the department.

When personal vehicles are used in driving to out-of-state locations not available by commercial transportation, travel reimbursement shall be made on an actual mileage basis in accordance with these rules.

Any in-state travel expense directly related to an out-of-state trip shall be charged against the annual out-of-state travel allowance for the department involved.

4. Commercial transportation. State employees may travel in-state and out-of-state by commercial transportation when authorized by the department head. Air transportation shall be by coach class except in those instances where such space is not available. When an employee has a reservation for a flight that is not going to be used, such employee shall be accountable for the cancellation of such reservation. Air charter service may be used for in or out-of-state travel where such charter service is more practical than commercial transportation.

5. Motorcycle reimbursement. Reimbursement for use of a motorcycle on official state business, when authorized in advance by the appointing authority, shall be at the rate of 8¢ per mile. This rate shall not be subject to the escalator provision of Persl 181(a)(2).

B. Meals and lodging.

1. Employees shall claim reimbursement only for the amount actually paid for meals when in a travel status. The amount must be reasonable, taking into consideration the location in which the meal is obtained.

Maximum reimbursement, including sales tax for meals within the state, shall be [$2.25] **$2.45** for breakfast, [$2.75] **$2.95** for lunch, and [$5.50] **$5.90** for dinner.

Maximum reimbursement, including sales tax for meals outside the state and on trains shall be [$3.00] **$3.20** for breakfast, [$3.50] **$3.70** for lunch, and [$7.50] **$7.90** for dinner.

The maximum reimbursement for meals shall be increased based upon the food away from home component of the consumer's price index for urban wage earners and clerical workers for Minneapolis-St. Paul, new series index (1967=100).

The base period for any adjustment shall be the July, [1975] **1977** index and the April, [1976] **1978** index. For each full 1.5 points rise in the food away from home component of the index during the base period, the maximum reimbursement for dinner shall be increased 5 cents effective July 1, [1976] **1978**. The maximum reimbursement for breakfast and lunch shall each also be increased by one-half of the amount of the increase for dinner. If the increased maximum reimbursements for breakfast and lunch results in an amount not equally divisible by five the maximum reimbursement for breakfast shall be rounded-down to the next amount divisible by five, and the maximum reimbursement for lunch shall be rounded up to the next amount that is equally divisible by five.

Reimbursement for an official breakfast, luncheon, dinner, or banquet meeting shall be the actual cost of the meal.

An employee on a travel status between employee's work station and a field assignment may claim reimbursement for meals under the following circumstances:

(a) Breakfast, providing the employee leaves home before 6:00 a.m. and is away from the permanent or temporary station.

(b) Dinner, providing such employee returns home after 7:00 p.m. and is away from the permanent or temporary station.

(c) Employees may be reimbursed for noon meals if the employee is in a travel status. Employees stationed in the seven-county metropolitan area shall not be reimbursed for meals obtained in the seven-county metropolitan area except when properly authorized as a special expense in section (d) below. In other areas the cost of a noon meal shall only be reimbursed where such employee would not ordinarily have incurred such a cost and the employee is considered in a travel status. Any request for reimbursement under this section shall include a statement in writing that the employee has complied with provisions of this section of the rules.

Because of variances in in-state and out-of-state hotel or motel accommodations, no fixed amounts are prescribed. It is the responsibility of the appointing authority to instruct the employee to use good judgment in incurring lodging costs. Charges shall be reasonable and consistent with the facilities available.

C. Other fees and expenses.

1. Parking fees. Employees using state-owned or private vehicles shall be reimbursed on an actual expense basis. Charges shall be necessary and reasonable, and consistent with the facilities available. When receipt or other evidence of payment is issued to the employee, such receipt must be submitted with the expense reimbursement request.

2. Telephone calls. Telephone calls between state offices and cities shall be made using the station telephone

network if at all possible. When the state telephone network is not readily available, employees shall use a WATS line where such lines are available. Use of either the state telephone network or the WATS line is explained in the state telephone directory.

In cases where it is necessary to place a regular long distance call, the employee should request that the operator bill the call to the home office telephone number. If an employee pays cash for a long distance call, reimbursement for such calls may be obtained by using an employee expense report.

State personnel who must frequently place long distance telephone calls may be eligible for a telephone credit card. The procedure for obtaining a state telephone credit card is explained in the state telephone directory.

3. Personal expenses. Personal expenses for purpose of this rule are defined as dry cleaning, laundry, and baggage handling. Employees continuing in a travel status in excess of one week who do not return home during that week may claim reimbursement not to exceed $3.50 per week for laundry or not to exceed $2.00 for dry cleaning and pressing expenses for each week after the first week. If an employee returns home during a period of time in which an employee continues in a travel status, the employee is not eligible for reimbursement for laundry, dry cleaning or pressing in the subsequent week after such return. Receipts must accompany the claim for reimbursement. The employee's judgment is to be used regarding baggage handling expense. No reimbursement shall be made for personal phone calls, valet service, or similar personal expenses.

D. Special expenses shall require prior approval of the appointing authority and the approval of the Commissioner of Personnel, who shall issue guidelines regarding eligible special expenses. This section also applies to any state board, council, or commission member.

E. General provisions.

1. Station assignments. The appointing authority shall assign employees permanent or temporary stations with such assignments to be in the best interest of the state and travel origin and records shall be based on these permanent or temporary assigned stations. A department head reporting deviation from this provision shall submit a request in accordance with the rules relating to special expenses. Employees away from such designated stations on unfinished assignments may be allowed mileage reimbursement for trips to their stations on alternate weekends. An employee may return to the station each weekend at state expense if the cost of such return is less than that of remaining in the field.

F. Payment of expenses.

1. Expense accounts. Expense accounts for all state employees shall be submitted to the Commissioner of Finance on the prescribed form (see Accounting Procedures Manual, Section E-2). If a receipt is required and the receipt has been lost or is otherwise unavailable, an affidavit stating the facts covering the expenditure shall accompany the expense account.

A department may be billed directly for expenses such as registration or conference fees, travel agencies, hotels and motels. Such billings shall include the name of the employee and the nature and date of the expense. Payment shall be processed promptly and charged to the allotment classification for travel.

2. Advances. A department may upon request advance an estimated amount for approved travel expenses, if greater than $50.00, to an employee who will be traveling on state business.

The authority for advance of travel expense payments may not exceed the maximum allowance permitted under state travel regulations.

In the case of travel expense advances departments having imprest cash funds shall make the advance from such accounts if possible. In other instances, departments shall prepare a statement with supporting expense voucher clearly stating the advance is being made under provisions of Minn. Stat. § 43.33. In all cases after the actual expense is determined, a final employee report for the trip and/or period for which the advance was made shall be prepared and forwarded to the Department of Finance. The advance payment transaction date and transaction number must be shown on the final employee expense report. The final expense voucher shall include the number of the state warrant coverinch the advance payment. If additional payment is due the employee, an additional state warrant shall be prepared in the usual manner. If an advance payment exceeds the actual expenses, the employee shall return the excess which shall be deposited in accordance with provisions established by the Commissioner of Finance.

G. Insurance. Department heads shall require proof of automobile liability insurance in the minimum amount re-

KEY: New rules and material proposed to be added to an existing rule are printed in **boldface.** Material proposed to be deleted from an existing rule is printed in [single brackets]. Underlining indicates additions to proposed rules, while [[double brackets]] indicate matter stricken from proposed rules. Existing material is printed in standard type face.

quired by law before approving travel involving private automobile mileage allowance.

Any employee flying a personal aircraft on official state business must show proof of adequate liability insurance coverage by a firm licensed to do business in Minnesota. Such coverage shall be in an amount of $50,000 minimum for each passenger seat, $50,000 per person, and $150,000 per accident for public liability for bodily injury, and $50,000 property damage.

It shall be the responsibility of the employee to immediately notify the appointing authority of any change in insurance coverages under such employee's automobile and aircraft liability insurance.

H. Automobile leasing. An employee may be reimbursed for car rental expenses where the use of a state care in the conduct of state business is not possible and the use of a rental car is the only or the least expensive method of transportation. An employee using such rental car must indicate the need for the rental and attach an itemized statement for the rental upon requesting reimbursement.

Persl 203 "Allocation" means the original assignment of an individual position to an appropriate class, **or changes in assignment resulting from changes in the organizational structure of an agency or abrupt changes in duties of a position** on the basis of the kind, difficulty, and responsibility of the work performed in the position.

Department of Public Welfare

Administration of Minnesota Public Social Service

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the Veterans Service Building, Room D, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota, 55155, on August 19, 1977, commencing at 9:00 A.M. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Steve Mihalchick, Hearing Examiner, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota, 55104, 612-296-8112, either before the hearing or within 5 working days after the close of the hearing.

The proposed amendments to Minn. Rule DPW 160 implements federal regulations on Title XX of the Social Security Act which were published on January 31, 1977.

Copies of the proposed rules are now available and one free copy may be obtained by writing to Margaret Holt, Department of Public Welfare, Division of Social Services, Centennial Office Building, 4th Floor, St. Paul, Minnesota 55155, telephone number 612-296-2338. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minn. Stat. § 256.01, subd. 4 (2). A "statement of need" explaining why the agency feels the proposed rule is necessary and a "statement of evidence" outlining the testimony they will be introducing will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that Minn. Stat. Chapter 10A requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155, phone 612-296-5615.

Vera J. Likins
Commissioner

Rules as Proposed

DPW 160 Administration of Minnesota public social services.

A. Introduction.

1. This rule governs the administration of publicly funded social services in Minnesota. The authority for the administration of social services is found in Minnesota Statutes, Chapter 256, and other applicable state laws. Authority is also found in Public Law 93-647, as implemented by Title 45 of the Code of Federal Regulations, Part 228. The delivery of public social services in Minnesota is state supervised and locally administered. The authority for this method of delivery is given in Minnesota Statutes, Chapters 393 and 402.