

Civil Service
CHAPTER 43
 STATE CIVIL SERVICE

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43.001 DEPARTMENT OF PERSONNEL; CREATION. Subdivision 1. The department of personnel is hereby created under the control and supervision of a commissioner of personnel, which office is hereby established.

Subd. 2. The commissioner of personnel is appointed by the governor by and with the advice and consent of the senate for a term which coincides with the term of the governor and until his successor is duly appointed and qualifies. He shall have broad experience in a managerial position including about five years as an executive personnel manager in one or more organizations essentially similar in complexity to state government. The governor may remove the commissioner only for cause, and after a public hearing. A vacancy in the office of the commissioner shall be filled by the appointing authority for the unexpired term.

Subd. 3. The commissioner may appoint two deputy commissioners and a confidential secretary, each of whom shall serve at the pleasure of the commissioner in the unclassified service. Except as may be otherwise provided for by law, the commissioner shall fix the compensation of each deputy commissioner. A deputy commissioner may perform and exercise a power, duty, or responsibility imposed by law on the commissioner when authorized so to do by the commissioner.

Subd. 4. Subject to the provisions of Laws 1973, Chapter 507 and to other applicable laws governing a state department or agency, the commissioner shall organize the department and employ such other officers, employees, and agents as he may deem necessary to discharge the functions of his department, define the duties of such officers, employees, and agents and to delegate to them any of his powers, duties, and

responsibilities subject to his control and under such conditions as he may prescribe. Personnel employed pursuant to this subdivision are in the classified service of the state civil service.

[1973 c 507 s 1]

43.002 TRANSFER OF DUTIES FROM CIVIL SERVICE DEPARTMENT. Except as otherwise provided for in Laws 1973, Chapter 507, all the powers, duties, and responsibilities now vested in and imposed upon the director of civil service, and the civil service board are hereby transferred to, vested in, and imposed upon the department of personnel. The office of director of civil service, the civil service board, as heretofore constituted is hereby abolished.

[1973 c 507 s 2]

43.003 TRANSFER STATE NEGOTIATING TEAM; LABOR MATTER. All the powers, duties and responsibilities now vested in and imposed upon the commissioner of administration or his representative and the director of civil service or his representative as the "negotiating team" in matters concerning the state and its officers and employees under the public employment labor relations act of 1971, Minnesota Statutes 1971, Sections 179.61 to 179.77, are hereby transferred to and imposed upon the commissioner of personnel. He may delegate the responsibilities imposed under this section in the manner provided by law.

[1973 c 507 s 39]

43.004 SOCIAL SECURITY COVERAGE, TRANSFER OF POWERS AND DUTIES. All the powers, duties and responsibilities under Minnesota Statutes 1971, Chapter 355, relating to social security coverage is hereby transferred to and vested in the commissioner of personnel.

[1973 c 507 s 41]

43.005 EFFECT OF TRANSFER OF FUNCTIONS. Subdivision 1. With reference to the powers, duties, and responsibilities which by Laws 1973, Chapter 507 have been transferred to the department of personnel, the department of personnel is deemed to be the successor of the director of state civil service, the civil service board, the commissioner of administration and the matters within the jurisdiction of such former offices shall not be deemed to be a new authority.

With reference to the powers, duties and responsibilities which by Laws 1973, Chapter 507 have been transferred to the personnel board, the personnel board is deemed to be the successor of the state civil service board and the compensation review board and the matters within the jurisdiction of such former boards shall not be deemed to be a new authority.

With reference to the powers, duties and responsibilities which by Laws 1973, Chapter 507 have been transferred to the department of personnel from the compensation review board, the department of personnel is deemed to be the successor of the compensation review board and the matters within the jurisdiction of such former board shall not be deemed to be a new authority.

Subd. 2. Any proceeding, court action, prosecution, or other business or matter undertaken or commenced prior to the passage of Laws 1973, Chapter 507 with reference to powers, duties and responsibilities of the director of civil service, the civil service board, the compensation review board, the commissioner of administration, are hereby assigned to such agencies to which the transfer has been made, and such pending matters may be continued and completed in the same manner and under the same terms and conditions and with the same effect as if such matters were undertaken, commenced and completed prior to the date of such transfer.

Subd. 3. With reference to the powers, duties, and responsibilities transferred by Laws 1973, Chapter 507 from one state agency, department or officer to another, the respective state department, state agency, or state officer shall transfer and deliver to the department of personnel all contracts, books, maps, papers, notes, records, and other property of every description within its jurisdiction or control. The transferee agency, department, or officer is directed to take possession of such matters which have been transferred.

Subd. 4. Whenever in any other general law, heretofore or hereafter adopted, or any document, record, or proceeding authorized by the same, any word or phrase is used in reference to or descriptive of any power, duty, or responsibility which by

Laws 1973, Chapter 507 is transferred from one officer, department, or agency to another officer, department or agency, such word, phrase, or reference shall hereafter, unless the context or provision of Laws 1973, Chapter 507 otherwise requires, be deemed to describe the transferee officer, department or agency.

Subd. 5. All unexpended funds appropriated to an officer, department or agency for the purposes of any of the powers, duties, and responsibilities which by Laws 1973, Chapter 507 are transferred to another officer, department or agency are hereby transferred and reappropriated to such transferee officer, department or agency. Where unexpended funds appropriated to an officer, department or agency include funds for powers, duties, and responsibilities which are not transferred, the governor shall allocate the appropriation between the transferor and the transferee officer, agent or department, and the money so allocated is hereby reappropriated to the transferee, officer, department or agency.

Subd. 6. Except as otherwise provided in Laws 1973, Chapter 507, all persons in the classified service of the state and employed by an officer, department or agency for the purposes of any of the powers, duties or responsibilities which are transferred by Laws 1973, Chapter 507 to another officer, department or agency are hereby transferred to the transferee officer, department or agency. The position of a person in the unclassified service of the state and employed by an officer, department or agency for the purposes of any of the powers, duties, or responsibilities which are transferred by Laws 1973, Chapter 507 to another officer, department or agency are hereby abolished. Notwithstanding the provisions of Minnesota Statutes 1971, Section 43.20, any person in the unclassified service whose position is abolished hereunder may be employed as a provisional employee not to exceed 12 months following the date of abolishment of his position.

[1973 c 507 s 43]

43.006 OFFICE FACILITIES. The commissioner of administration shall supply the commissioner of personnel with such space as may be necessary to physically effect a consolidation of functions and activities within his jurisdiction.

[1973 c 507 s 46]

43.01 DEFINITIONS. Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of this chapter, shall be given the meanings ascribed to them.

Subd. 2. **Eligible.** "Eligible" means a person who is on an employment list and qualified for appointment, promotion, or reinstatement under this chapter.

Subd. 3. [Repealed, 1974 c 364 s 23]

Subd. 4. [Repealed, 1974 c 364 s 23]

Subd. 5. [Repealed, 1973 c 507 s 47]

Subd. 6. **Department.** "Department" means the department of personnel.

Subd. 7. **Board.** "Board" means the personnel board.

Subd. 8. **Commissioner.** "Commissioner" means the commissioner of personnel.

Subd. 9. **Rate of pay.** Unless otherwise prescribed by personnel rule, "rate of pay" means rate of pay for a regular work hour, "monthly rate of pay" means compensation for 174 regular hours of work and "annual rate of pay" means compensation for 2,088 regular hours of work.

Subd. 10. **Position.** "Position" means an office, position, or employment.

Subd. 11. **Appointing authority.** "Appointing authority" means the appointing officer or authority of any state office or department.

Subd. 12. **Class.** "Class" means one or more positions sufficiently similar with respect to duties and responsibilities that the same descriptive title may be used with clarity to designate each position allocated to the class, that the same general qualifications are needed for performance of the duties of the class, that the same tests of fitness may be used to recruit employees, and that the same schedule of pay can be applied with equity to all positions in the class under the same or substantially the same employment conditions.

Subd. 13. **Allocation.** "Allocation" means the assignment of an individual position to an appropriate class on the basis of the kind, difficulty, or responsibility of the work performed in the position.

Subd. 14. **Reallocation.** "Reallocation" means a reassignment, or change in allocation, of an individual position by raising it to a higher class, reducing it to a lower class, or moving it to another class at the same level, on the basis of significant changes in the kind, difficulty, or responsibility of the work performed in such position.

Subd. 15. **Total compensation.** "Total compensation" means salary, paid time off, group insurance benefits, the retirement plan, and other direct and indirect items of compensation.

Subd. 16. **Competitive.** "Competitive" means a level which is generally equal to the total compensation paid for similar types of work.

Subd. 17. **Legislative branch.** For purposes of chapters 15A and 43, "legislative branch" means all legislators and all employees of the legislature including part time or full time employees and temporary or permanent employees of legislative committees or commissions.

Subd. 18. **Judicial branch.** For the purposes of chapters 15A and 43, "judicial branch" means all justices of the supreme court, all employees of the supreme court, including commissions, boards and committees established by the supreme court, the board of law examiners, the law library, the office of the public defender, and all judges of district courts and such other agencies as may be placed in the judicial branch by law.

Subd. 19. **Executive branch.** For purposes of chapters 15A and 43, "executive branch" means heads of all departments of government elective or appointive, established by statute or constitution and all employees of such department heads which have, within their particular field of responsibility statewide jurisdiction, as opposed to jurisdiction in specifically defined geographical areas, such as regions, counties, cities, towns, municipalities, or school districts; and are not defined as part of the legislative or judicial branches of government. The executive branch shall include the governor and his staff. Not included into the executive branch shall be the university of Minnesota, the public employees retirement association, the Minnesota state retirement system, the teachers retirement association, the Minnesota historical society, and all of their employees, and any other entity which is incorporated, though it may receive state funds.

Subd. 20. **Civil service.** "Civil service" of the state means a system consisting of all employees in the legislative, the judicial, and the executive branches of state government. The state civil service shall be divided into the classified and the unclassified civil service as provided elsewhere in this chapter.

Subd. 21. **Department, agency.** For purposes of chapter 15A and of this chapter, the terms "department" and "agency" may be used interchangeably within the executive branch.

Subd. 22. **Officer, employee.** For purposes of chapter 15A and of this chapter, the terms "officer" and "employee" may be used interchangeably within the executive branch.

[1939 c 441 s 34; 1945 c 598 s 1; 1947 c 604 s 1; 1949 c 646 s 1; 1973 c 507 s 3-8; 1973 c 653 s 8-10; 1974 c 511 s 5] (254-82)

43.02 [Repealed, 1974 c 511 s 16]

43.03 PERSONNEL BOARD CREATED. Subdivision 1. The personnel board of the state of Minnesota is hereby created and established. It shall consist of seven members appointed by the governor with the advice and consent of the senate. The governor may select one appointee each from lists submitted by the speaker of the house, the minority leader of the house, the majority leader of the senate, and the minority leader of the senate. A member of the legislature is ineligible for appointment to the board. No member of the board shall hold any other public office or public employment; the office of notary public or a military office excepted, and no person shall be appointed as a member of the board who has held a paid position in a political party within the two years immediately preceding his appointment. Each member shall take an oath of office before entering upon the duties of office. The chairman of the board shall be chosen by the members of the board from among their own number under such rules as they shall make. The chairman shall have the powers of a presiding officer.

Subd. 2. The personnel board shall maintain its principal office in such space as shall be provided for it by the proper state officials and shall maintain its records at this principal office, and shall hold its regular meetings there, but special meetings may be held in other cities in the state when, in the discretion of the chairman, it is necessary to meet in some other city than the capital city of the state in the performance of the duties of the board. Meetings of the board shall be open to the public, and no meetings or hearings of the board shall be held unless at least five members of the board are present. The board shall elect its officers and shall make such rules for its proceedings as it shall deem necessary. The board shall keep records and minutes of its business and official actions, and these records and minutes shall be public records open to public inspection, subject to such rules as to hours and conditions of inspection as the board may establish. It shall be the duty of the officer or officers charged by law with the custody of the state buildings, upon written request of the personnel board, to assign suitable office space for executing the duties charged to it.

Subd. 2a. The membership terms, compensation, removal of members, and filling of vacancies on the board shall be as provided in section 15.0575.

Subd. 3. [Repealed, 1976 c 134 s 79]

[1939 c 441 s 3; 1957 c 240 s 1; Ex1971 c 32 s 1; 1973 c 507 s 10; 1973 c 653 s 11; 1976 c 134 s 17,18] (254-51)

43.04 [Repealed, 1955 c 596 s 2]

43.041 [Repealed, 1973 c 507 s 47]

43.05 DUTIES AND POWERS OF COMMISSIONER. Subdivision 1. **General duties.** The commissioner of personnel shall be the chief personnel manager of the state and shall have the responsibility and power to ascertain equitable treatment of all state employees in both the classified and unclassified civil service in the executive branch.

Subd. 2. **Specified duties.** The commissioner shall:

- (1) Attend all meetings of the board;
- (2) Prepare personnel rules for the purpose of carrying out the provisions of this chapter; these rules shall provide, among other things, for current records of efficiency, and standards of performance, for all officers and employees subject to the provisions of this chapter; the manner of completing appointments and promotions; rejection of eligible candidates; examinations; retention of examination records under the provisions of section 138.163; creation of eligible lists, with successful candidates ranked according to their ratings in the examinations; leaves of absence with and without pay; transfers, reinstatements, layoffs, vacations, and hours of work; public notice of examinations; procedure for changes in rates of pay; compulsory retirement at fixed ages; and other conditions of employment. If a rule is made concerning sick leave for illness in the immediate family of an employee, the term "immediate family" shall be limited to the spouse, minor or dependent children, or parent where the parent has no other person to provide the necessary nursing care, living in the household of the employee;
- (3) Appoint temporary and permanent employees and officers as are necessary to carry out the provisions of this chapter; these employees and officers shall be chosen in accordance with and shall be subject to, the provisions of this chapter;
- (4) Keep in the office of the department of personnel an official roster of the state civil service showing the employment history of each and every person who has been appointed to, employed, promoted, reduced, or reinstated in any position in the service; which roster shall show, in connection with each name, the date of appointment, employment, promotion, reduction, reinstatement, increases or decreases in pay, the compensation and title of the position, changes in title, transfers, sick or annual leaves, and separations from the service; and the commissioner shall have access to all public records and papers, the examination of which will aid in the discharge of his duty in connection with the roster;
- (5) Prepare, in accordance with the provisions of this chapter and the rules adopted hereunder, examinations, eligible lists, and ratings of candidates for appointment;
- (6) Make certifications for appointment within the classified service, in accordance with the provisions of this chapter;

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(7) Make investigations concerning all matters touching the enforcement and effect of the provisions of this chapter and the personnel rules prescribed hereunder;

(8) Discharge such duties as are imposed upon him by this chapter;

(9) Establish, publish and continually review logical career paths in the classified civil service;

(10) Consider all requests for other than state appropriated funds from any state department or agency for personnel purposes all of which shall be submitted to him for comment before any such request is made of a federal, local, or private agency; and

(11) Prepare rules regulating the temporary placement of positions in the unclassified civil service;

(12) Review, establish or change titles for the positions in the unclassified civil service in the executive branch of state government except those established by law or by the constitution, to make titles descriptive of positions and consistent throughout the state service; and

(13) In conformance with the rule making provisions of chapter 15, promulgate a code of ethics establishing standards of conduct to be observed by state employees in the performance of their official duties.

[1939 c 441 s 5; 1955 c 774 s 1; 1955 c 847 s 4; 1957 c 870 s 1; 1973 c 507 s 17; 1974 c 364 s 2; 1975 c 381 s 3; 1975 c 431 s 1] (254-53)

43.051 AGE FOR RETIREMENT. Subdivision 1. Notwithstanding the provisions of sections 197.45, 197.46, 197.47, 43.30, effective July 1, 1974, an officer or employee of the state of Minnesota in the classified or unclassified service of the state civil service and who is subject to the provisions of the Minnesota state retirement system must retire from his employment by the state if such officer or employee has reached the age of 68 prior to July 1, 1974, or upon reaching the age of 68. Effective July 1, 1975, an officer or employee of the state of Minnesota in the classified or unclassified service of the state civil service and who is subject to the provisions of the Minnesota state retirement system must retire from his employment by the state if such officer or employee has reached the age of 65 prior to July 1, 1975, or upon reaching the age of 65. The mandatory retirement age for all other classified officers and employees of the state, if not otherwise provided for by law, shall be 70. Nothing in this subdivision shall apply to persons in the legislative branch or judicial branch.

Subd. 2. Notwithstanding any provision to the contrary, a physician in the classified or unclassified state service may upon reaching the maximum retirement age specified in subdivision 1, continue to be employed subject to annual certification by the appointing authority of the department in which the physician is employed to the director that the employee is physically and mentally competent to fulfill the duties of his position.

Subd. 3. Notwithstanding the provisions of subdivision 1, any employee of the state of Minnesota in a covered classification as defined in the special retirement program for correctional personnel defined in chapter 352, must retire from such covered classification upon having reached or upon reaching the mandatory retirement age as of the effective dates established herein:

Effective Date	Mandatory Retirement Age
July 1, 1974	65
January 1, 1975	62
July 1, 1975	59
January 1, 1976	57
July 1, 1976	55

A covered correctional employee may be employed beyond the mandatory retirement age for a period not to extend beyond July 1, 1980, but in no event beyond age of 62, subject to an annual medical examination and the written approval of the commissioner of corrections, whose decision shall be final. A correctional employee desiring employment beyond mandatory retirement age shall be examined at his own expense and the results and findings of the medical examination shall be transmitted to the commissioner of corrections prior to the date the employee would otherwise have to retire pursuant to this subdivision.

Subd. 4. (1) Notwithstanding any provisions of chapters 352A and 352B or any other law to the contrary, conservation officers and crime bureau officers who are first employed on or after July 1, 1973 and are members of the highway patrolmen's retirement association by reason of their employment, shall not continue employment after attaining the age of 60 years, except for such fractional portion of one year as will enable the employee to complete his next full year of allowable service.

(2) Notwithstanding any provisions of chapters 352A and 352B or any other law to the contrary, conservation officers and crime bureau officers who are first employed and are members of the highway patrolmen's retirement association by reason of their employment before July 1, 1973, shall be governed by the same mandatory retirement regulations applied to other state employees who are covered by the Minnesota state retirement system.

[1967 c 193 s 6; 1967 c 741 s 27; 1973 c 653 s 12; 1973 c 765 s 23; 1975 c 230 s 1; 1975 c 368 s 12; 1976 c 329 s 1]

43.055 EXTENT OF AUTHORITY. Whenever any power or authority is given to the commissioner of personnel by any provision of chapters 15A or 43, such power or authority shall extend to all departments in the executive branch, but shall not extend to any subdivisions or employees in the judicial branch or legislative branch. The classified employees in the office of the legislative auditor, the Minnesota state retirement system, and teachers retirement association, however, shall be subject to the powers or authority of the commissioner of personnel.

[1974 c 511 s 7]

43.056 FILES; SECURITY. Written test questions and other information relating to the conduct of examinations shall be kept confidential to the extent necessary to ensure that all applicants for employment have a fair and equal opportunity to demonstrate their abilities to perform the duties of the position for which they are applying. An applicant appealing or contemplating an appeal of his examination score may review written test questions or other information relating to the examination unless the questions are to be used in a future examination. In the latter case, the applicant may designate a person skilled in the evaluation of employment tests to review the materials and evaluate them for his use in deciding to pursue or withdraw an appeal.

[1975 c 381 s 4]

43.06 BOARD; DUTIES, POWERS. It shall be the duty of the personnel board and it shall have power:

(1) To conduct hearings and pass upon complaints by or against any officer or employee in the classified service for the purpose of demotion, suspension, or removal of the officer or employee, in accordance with the provisions of this chapter;

(2) To hear and pass upon such other matters as the commissioner may, from time to time, bring before the board for determination; and

(3) The personnel board may employ, prescribe the duties, and, notwithstanding the provisions of section 43.064, fix the compensation of temporary and permanent hearing officers and other employees who shall be in the unclassified civil service or may be retained by contract.

(4) The personnel board shall advise the commissioner of personnel on any matters concerning his rules when requested so to do by the commissioner.

(5) The personnel board shall render its advisory opinion on all proposed personnel rules, or proposed changes of personnel rules.

[1939 c 441 s 6; 1951 c 685 s 1; 1955 c 774 s 7; 1955 c 847 s 5; 1973 c 507 s 11; 1974 c 511 s 6] (254-54)

43.062 SALARY SETTING AUTHORITY. Subdivision 1. **Salary listing.** The personnel board shall, on or before November 15 of each even numbered year, submit to the commissioner of personnel a listing of salaries for the positions listed in sections 15A.081 and 15A.083 and for members of the legislature. The board may also recommend adding or deleting of positions from this list.

Subd. 2. **Board to consider advice.** Before submitting the salary listing prescribed in subdivision 1 to the commissioner of personnel, the personnel board shall consult with the governor, the commissioner of administration, the commissioner of fi-

nance, and the commissioner of personnel concerning the salary listing and shall give due consideration to the advice of these officers. Before submitting to the commissioner of personnel a salary listing prescribed in subdivision 1 for an employee in the office of a constitutional officer, the personnel board shall consult with the constitutional officer concerning the salary listing and shall give due consideration to the advice of the officer.

Subd. 3. Base salaries and achievement awards. Except for positions for which salary ranges have been established, the salary listing shall contain a specific salary for each position defined in subdivision 1. For positions for which no salary ranges have been established, the salary listing shall further contain a specific monetary amount or percentage to which an incumbent's salary may be raised to reward achievement as prescribed by section 43.069.

The board shall determine only a fixed salary for the positions of the constitutional officers, executive secretary of the board of investment, the judge of the workers compensation court of appeals and the commissioner of public service who shall not be eligible for achievement awards as provided by section 43.069.

Subd. 4. Office of attorney general. Salaries within the ranges for professional positions within the office of the attorney general shall be established by the attorney general.

[1974 c 511 s 1; 1975 c 359 s 23; 1976 c 134 s 78]

43.063 SALARIES FOR MEMBERS OF MINNESOTA NATIONAL GUARD.

Members of the Minnesota national guard shall receive the pay and allowances prescribed by the armed forces of the United States for similar rank and time in service.

[1974 c 511 s 8]

43.064 OTHER SALARIES SET BY COMMISSIONER OF PERSONNEL.

Notwithstanding any other law to the contrary, salaries for all unclassified positions in the executive branch not enumerated in the listing described in section 15A.081, shall be established by the commissioner of personnel except for the following: (1) positions listed in section 15A.083; (2) positions listed in section 299D.03; (3) employees in the office of the governor whose salaries shall be determined by the governor; (4) employees in the office of the attorney general; (5) positions in the state university system, the community college system, and in the higher education coordinating board whose primary duties consist of instructing and counseling students, directing academic programs of schools, divisions or departments of colleges and community colleges or conducting research on academic subjects. Individual salaries for positions enumerated in clauses (4) and (5) shall be determined by the attorney general, the state university board, the state board for community colleges, and the higher education coordinating board, respectively, within the limits of salary plans which shall have been approved by the commissioner of personnel before becoming effective.

No provision of any subsequent law relating to salaries of state employees shall be construed as inconsistent with this section unless it is expressly provided in such subsequent act that the provisions of this section shall not be applicable or shall be superseded, amended, or repealed.

[1973 c 349 s 2; 1974 c 511 s 2; 1975 c 156 s 3; 1975 c 271 s 6; 1975 c 321 s 2]

43.065 SALARY REVIEW. Subdivision 1. **Salaries to be equitable.** When determining or recommending salaries for any position, the personnel board and the commissioner of personnel shall assure that:

(1) Salaries in the classified and unclassified service bear equitable relationship to one another;

(2) Salaries among the various positions listed in section 15A.081, bear equitable relationships to one another; and

(3) Salaries for state positions bear equitable relationships to salaries for similar positions outside state service.

Salaries bear equitable relationships to one another within the meaning of this section if salaries for positions which require comparable knowledge, abilities, duties, responsibilities and accountabilities are comparable and if salaries for positions which require differing knowledge, abilities, duties, responsibilities and accountabilities are directly proportional to the knowledge, abilities, duties, and responsibilities required.

Subd. 2. **Method of review.** In recommending the salary listing described in section 15A.081, the board shall consider only those criteria established by subdivision 1 and shall not take into account personal performance of individual incumbents. The board shall establish an objective system for quantifying knowledge, abilities, duties, responsibilities and accountabilities and in determining salary listings rate each position according to this system.

Subd. 3. **Information, consultants.** Each department shall furnish the board with any information which the board may request to aid in the performance of its duties. Subject to appropriations, the board may engage expert consultants.

[1974 c 511 s 3]

43.066 NO DECREASE IN PRESENT SALARIES. The salary of any state employee whose salary at the end of an odd numbered fiscal year was above the limit set in sections 43.063, 15A.081 or 15A.083, shall remain at that level at the beginning of the next fiscal year and until a vacancy in the position occurs or the salary falls below a newly established limit. New appointments shall be made at the base salary or within the salary range prescribed in sections 43.063, 15A.081 or 15A.083.

[1974 c 511 s 10]

43.067 SALARY LIMITS. The base salary of the head of any state department in the executive branch shall serve as the upper limit of compensation in his organization unless the personnel board approves an exemption in individual cases. Salaries of medical doctors paid under the provisions of section 43.126, shall be excluded from the limitation provided in this section.

[1974 c 511 s 4]

43.068 GOVERNOR MAY FIX CERTAIN SALARIES. The initial salary of a department head and any deputy of a department head occupying a position in the unclassified service hereafter established whose salary is not specifically prescribed by law shall be fixed by the governor, after consultation with the personnel board, whose recommendation shall be advisory only, in an amount comparable to the salary of a department head or a deputy of a department head having similar duties and responsibilities.

[1957 c 936 s 11; Ex1971 c 32 s 16; 1973 c 507 s 16]

43.069 BOARD MAY LIFT SALARIES. Subdivision 1. Except as provided in section 43.062, the personnel board may raise the salary for any individual incumbent of a position whose base salary is established under the provisions of section 15A.081, and which has not been provided with a salary range, provided:

(a) The incumbent has, in the opinion of the board, challenging written objectives which are specific as to amount and time and which have been agreed upon in advance by the appointing authority;

(b) The appointing authority of the incumbent applies to the board for the salary increase and simultaneously certifies to the board that the incumbent has fulfilled, or is fulfilling, his agreed upon objectives.

Subd. 2. The board may require the appointing authority or the incumbent to submit additional information as it may deem necessary.

Subd. 3. The appointing authority may apply for, and the board may approve salary raises for the incumbent by any increment, and more than once. The aggregate of the increases under this section shall not increase the individual salary beyond 25 percent of the base salary established for the position under the provisions of section 15A.081.

Subd. 4. Any achievement award granted to individuals under this section shall remain in effect for 12 months from the date of approval, unless the board determines a lesser effective period of time.

[1974 c 511 s 11]

43.07 TESTIMONIAL POWERS. Subdivision 1. **Subpoenas, issuance.** The personnel board and hearing officers, may issue subpoenas to compel the attendance, at such place as may be designated in this state, of witnesses and the production of books and papers pertinent to any inquiry or investigation authorized by this chapter; or may take depositions of witnesses in the manner provided by section 600.09, and

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the rules of civil procedure. Subpoenas shall also be issued at the request of the parties to the proceedings other than the board. The board, or any member thereof, and hearing officers may administer oaths and take testimony. The board and hearing officers may examine such public records as they require in relation to any matter which they have authority to investigate. All officers and other persons shall attend and testify when required to do so by the board.

Subd. 2. Refusal to testify, contempt of court. In case of the refusal by any person to comply with any subpoena issued hereunder or to testify to any matter regarding which he may be lawfully interrogated, the district court of any county, on application of any one of the members of the board may issue an order requiring the person to comply with the subpoena and to testify; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

Subd. 3. Witness fees and mileage. Each person not in the classified or unclassified services who appears before the board by order shall receive for his attendance the fees and mileage provided for witnesses in civil actions in the district court, which fees and mileage shall be audited and paid by the state upon presentation of proper vouchers. Witnesses subpoenaed at the request of parties other than the board shall be entitled to compensation from the state for attendance or travel only if the board certifies that the testimony of these witnesses was relevant and material to the matter investigated.

Subd. 4. Rules of evidence not technical. The board in conducting hearings and investigations in accordance with the provisions of this chapter, shall not be bound by the technical rules of evidence.

[1939 c 441 s 7; 1973 c 507 s 15; 1976 c 239 s 15] (254-55)

43.08 [Repealed, 1973 c 507 s 47]

43.09 UNCLASSIFIED SERVICE; CLASSIFIED SERVICE. Subdivision 1. **Divisions.** The civil service of the state of Minnesota is hereby divided into the unclassified and the classified services.

Subd. 2. Unclassified service. The unclassified service comprises positions held by state officers or employees who are:

(1) Chosen by election or appointed to fill an elective office;

(2) Heads of department required by law to be appointed by the governor or other elective officers, and the executive or administrative heads of departments, divisions and institutions specifically established by law, except that with respect to state institutions, the provisions of section 246.02 are hereby continued in effect; provided, this clause shall not apply to heads of divisions now existing in the department of labor and industry, nor to the director of the division of vocational rehabilitation in the department of education;

(3) Except as herein otherwise enlarged, one private secretary to each of the elective officers of this state, and in addition thereto, one deputy, clerk, or employee to the secretary of state, state auditor, and state treasurer;

(4) Intermittent help employed by the commissioner of public safety to assist in the issuance of vehicle licenses;

(5) Employees in the offices of the governor and of the lieutenant governor, and one confidential employee for the governor in the office of the adjutant general;

(6) Officers and employees of the senate and house of representatives of the legislature including temporary or permanent employees of legislative committees or commissions. Employees of the legislative audit commission, except for the legislative auditor, his deputy, and his confidential secretary, however, shall be employees in the classified civil service of the state;

(7) Teachers, research assistants, student employees on less than half-time pay basis or eligible under terms of the federal economic opportunity act work study program, presidents, deans, and administrative officers in the state universities; but this clause shall not be construed to include the custodial, clerical, or maintenance employees, or any administrative officers, or clerical workers performing duties in connection with the business administration of these institutions;

(8) Officers and enlisted persons in the national guard;

(9) Attorneys, legal assistants, examiners, and three confidential employees appointed by the attorney general or employed with his authorization;

(10) All courts and all employees thereof, referees, receivers, jurors, and notaries public, except referees and adjusters employed by the department of labor and industry;

(11) Patient and inmate help in state institutions;

(12) Members of the state highway patrol; provided that selection and appointment of highway patrol officers shall be made in accordance with applicable laws governing the classified state civil service;

(13) The deputy commissioner of agriculture, and the deputy director and assistant director of the Minnesota pollution control agency;

(14) One employee of the state treasurer, for the purpose of receiving and safekeeping assets deposited and maintained with the state treasurer, pursuant to Laws 1943, Chapter 591, and whose salary or compensation is to be reimbursed to the state under said act;

(15) Seasonal help employed by the department of revenue;

(16) Employees of the department of administration permanently assigned to the ceremonial house.

Subd. 2a. Additional unclassified positions. Notwithstanding any other law to the contrary, the personnel board, upon the request of the governor, is hereby authorized to establish permanent unclassified positions, or to unclassify previously classified positions, provided that:

(1) Positions so established involve only deputy or assistant heads of departments or agencies, or director level positions which are not specifically established by law, and who are appointed by and report directly to a head of a department or agency who is required by law to be appointed by the governor, or by a gubernatorially appointed board; as well as one position for a personal secretary of any head of a department or agency listed in clause (4).

(2) Classified incumbents of such positions, if any, are not removed from that position for a period of one year except under applicable provisions of rules and laws governing classified state employees. An incumbent of a position that is declassified pursuant to this subdivision, if he so requests within 120 days after being removed from that position, shall be appointed to a classified position comparable to the position that was declassified, or if such a position is unavailable, to a position comparable to that which he held immediately prior to being appointed to the position that was declassified. If a position is declassified and the incumbent at the time the position was declassified had no classified status immediately prior to the appointment to the position that was declassified, he shall, if he so requests within 120 days after being removed from that position, be appointed to a comparable or lower classified position within two salary ranges of the position that was declassified.

(3) If an employee in the classified civil service accepts a newly created unclassified position, he shall retain an inactive classified civil service status and, upon his request, shall be reappointed to a classified position comparable to that which he held immediately prior to being appointed to the position that was declassified.

(4) Positions so established are limited in number to six in the departments of administration, corrections, finance, transportation, natural resources, public safety, public welfare, and revenue; to five in the departments of commerce, education, health, labor and industry, and personnel; to four in the departments of agriculture, economic development, and employment services; to three in the department of public service, the planning agency, and the pollution control agency; and to two in the departments of human rights and veterans affairs. Departments or agencies not enumerated in this clause shall not be authorized to establish additional unclassified positions under the provisions of this subdivision.

(5) Funds are available.

Subd. 3. Labor service. All positions involving unskilled labor shall constitute a labor service. The commissioner shall designate the class or classes of positions which shall comprise the labor service and create rules for that service designed to expedite and make more economical the personnel processes in such service. Any appointments which shall be for a total period of not to exceed seven months in any calendar year may be made by the appointing authority not subject to other approval, provid-

ing payroll notice of such employment is regularly made to the department of personnel.

Subd. 4. Classified service. The classified service shall include the labor service and consist of all positions now existing or hereafter created and not included in the unclassified service. Appointments in the classified service shall be made according to merit and fitness from eligible lists prepared upon the basis of examination which so far as practicable shall be competitive. No person shall be appointed, transferred, promoted, reduced, or discharged as an officer, clerk, employee, or laborer in the classified service in any manner or by any means other than those prescribed in this chapter and the rules adopted in accordance therewith.

Subd. 5. Employees may be appointed from registers of eligibles. Officers authorized by law to make appointments to positions in the unclassified service, and appointing officers of departments or institutions whose employees are exempt from the provisions of this chapter because of the constitutional status of such departments or institutions shall be permitted to make appointments from appropriate registers of eligibles maintained by the department of personnel.

Subd. 6. Act not applicable to regents of University of Minnesota. The state personnel act shall not be deemed to have been heretofore or hereafter applied to the Regents of the University of Minnesota, nor to persons, institutions, or employees under their control.

Subd. 7. Classified civil service laborers. Employees in the labor service who are employed for a total of ten months within a 12 month period shall receive the same civil service status given by this chapter to other classified employees of the state not in the labor service.

Employees in the labor service entitled to tenure rights under this subdivision shall be known as classified civil service laborers.

[1939 c 441 s 9; 1941 c 533 s 1; 1943 c 543 s 1; 1943 c 605 s 1; 1945 c 586; 1947 c 482 s 1; 1953 c 408 s 1; 1955 c 774 s 2; 1961 c 113 s 1; 1961 c 351 s 1,2; 1961 c 560 s 4; 1963 c 436 s 1; 1965 c 491 s 1; 1965 c 800 s 1; Ex1967 c 1 s 6; 1971 c 25 s 67; 1973 c 254 s 3; 1973 c 259 s 1; 1973 c 507 s 18; 1973 c 582 s 3; 1974 c 161 s 3; 1974 c 364 s 3; 1974 c 483 s 1; 1974 c 511 s 9; 1975 c 321 s 2; 1975 c 381 s 5-7; 1976 c 2 s 32; 1976 c 166 s 9; 1976 c 183 s 1] (254-57)

43.10 Subdivision 1. [Repealed, 1973 c 507 s 47]

Subd. 2. [Repealed, 1973 c 507 s 47]

Subd. 3. [Repealed, 1973 c 507 s 47]

Subd. 4. [Repealed, 1973 c 507 s 47]

Subd. 5. [Repealed, 1973 c 507 s 47]

Subd. 6. [Repealed, 1973 c 507 s 47]

Subd. 7. [Repealed, 1957 c 141 s 1]

43.11 [Repealed, 1951 c 371 s 1]

43.111 POLICY. It is the public policy of the state of Minnesota that an efficient and well trained work force be maintained to carry out the work ordained by the legislature. It is further directed that modern methods of selection, training and salary administration be established and maintained. The standards of selection shall be of such a nature as to provide the proper level of preparation and experience. Recognizing the cost of excessive employee turnover, it is directed that priority be given to the maintenance of a steady work force. To this end, training, by way of in-service programs and stipend allowances shall be encouraged. It is also established as the policy of the state of Minnesota that employees be paid a total compensation which is competitive with that paid for like positions in other private and public employment. Proper attention will also be given to equitable internal pay relationships between related job classes and among the various levels within the same job family or department. Continuing analysis of pay rates and supplementary pay practices shall be carried on, as well as analyses of jobs to determine comparability of job content.

[1967 c 193 s 1; 1973 c 507 s 19; 1973 c 653 s 13]

43.12 COMMISSIONER TO CLASSIFY EMPLOYEES. Subdivision 1. **Classification specifications; duties of commissioner.** The commissioner of personnel shall ensure that all positions in the classified service are assigned to job classifica-

tions on the basis of the duties and responsibilities of each position in accordance with the appropriate line of promotion. Titles shall be established for each class of employment for use in examining and certifying names of persons for appointment under this chapter, and a description of the duties and responsibilities exercised by the persons appointed to each of them shall be drawn up, minimum qualifications required for satisfactory performance of the duties of each class formulated; and, so far as practicable, the lines of promotion from class to class shall be indicated. The titles of classifications, as defined by the specifications of duties and qualifications, shall be used for all official records affecting or relating to the status of personnel.

Subd. 2. **Salary ranges.** The following procedure will be used in establishing rates of pay for all state employees in the classified civil service whose positions are assigned to classes in the professional salary schedule, which schedule shall be known as salary schedule "A". Classes shall be assigned salary ranges within an area of compensation beginning at a prescribed minimum monthly rate of pay and extending upward by a maximum of 30 additional salary increments. Salary range assignments for each class of employment in this schedule shall include no more than ten salary steps. Effective July 9, 1975, the prescribed minimum monthly rate of pay shall be \$825. The maximum monthly rate of pay shall be \$2,672.

Subd. 3. All employees whose rates of pay are established according to salary schedule "A", effective July 9, 1975, shall be advanced in salary from their rate of pay and step in salary range immediately preceding that date to the comparable step in the new salary range for their class or to the new minimum rate of pay for their class, whichever rate is greater.

Subd. 4. Employees compensated according to salary schedule "A" whose monthly rate of pay immediately preceding July 9, 1975, exceeds the maximum monthly rate of pay for their class shall be granted a one time lump sum payment of \$300, except for those employees whose adjustment in their current maximum rate of pay would be \$12.25 or less. The amount of the lump sum payment for those employees whose adjustment would be \$12.25 or less shall be equal to the difference between \$300 and the product of the employee's monthly adjustment multiplied by 24. This payment shall be made to eligible employees in accordance with procedures established by the commissioner of finance.

Subd. 5. The following procedure shall be used to establish rates of pay for all state employees in the classified civil service whose positions are assigned to classes in the maintenance and related trades schedule, which schedule shall be known as salary schedule "B". Classes shall be assigned an orientation and base rate, one consecutive wage step apart. The orientation rate shall be paid during the first six calendar months of service and the base rate shall be paid commencing at the beginning of the pay period nearest the completion of six calendar months of service. In assigning rates of pay to classes of work covered by this schedule, the commissioner shall give primary consideration to the median of rates paid by other public and private employers for similar types of work. Supplementary pay practices shall be evaluated and costs considered in comparing the rates being paid by other employers. The commissioner is authorized to establish a percentage differential based upon full annual employment and tenure where such advantages are not common in employment outside of the state service.

Effective July 9, 1975, the minimum hourly rate of pay in the salary schedule "B" shall be \$4.59. The schedule shall provide for 14 additional wage steps with a maximum rate of \$7.23 per hour.

Notwithstanding any provision of chapter 43 to the contrary, the commissioner is authorized to establish (a) hourly equipment rates to provide appropriate compensation to employees intermittently engaged in operating maintenance equipment, (b) an hourly rate to provide appropriate compensation to employees intermittently assigned to first level highway foreman work, and (c) an eight percent differential rate rounded to the nearest cent for journeyman skilled trade classes assigned to salary schedule B and employed at adult institutions of the department of corrections. The commissioner shall establish regulations and procedures to equitably implement such rates.

Subd. 6. All permanent employees whose rates of pay are established according to salary schedule "B", effective July 9, 1975, shall be advanced in salary to the established base rate for their class.

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Employees with less than six calendar months of service, effective July 9, 1975, shall be advanced in salary to the established orientation rate for their class.

Employees compensated according to salary schedule "B" whose hourly rate of pay immediately preceding July 9, 1975, exceeds the maximum hourly rate of pay for their class shall be granted a one time lump sum payment of \$300, except for those employees whose adjustment in their current maximum rate of pay would be \$12.25 or less. The amount of the lump sum payment for those employees whose adjustment would be \$12.25 or less shall be equal to the difference between \$300 and the product of the employee's monthly adjustment multiplied by 24. This payment shall be made in accordance with procedures established by the commissioner of finance.

Subd. 7. The following procedure shall be used to establish rates of pay for all state employees in the classified civil service whose positions are assigned to classes in the clerical, technical, service and related salary schedule, which schedule shall be known as salary schedule "C". Classes shall be assigned salary ranges within an area of compensation beginning at a prescribed monthly rate of pay and extending upward 28 additional fixed salary increments. Salary range assignments for each class of employment in this schedule shall not include more than seven salary steps. Effective July 9, 1975, the prescribed minimum monthly rate of pay shall be \$450. The maximum monthly rate of pay shall be \$1,250.

Subd. 8. All employees whose rates of pay are established according to salary schedule "C", effective July 9, 1975, shall be advanced in salary from their rate of pay and step in salary range immediately preceding that date, to the comparable step in the new salary range for their class.

Subd. 9. Employees compensated according to salary schedule "C", whose monthly rate of pay immediately preceding July 9, 1975, exceeds the maximum monthly rate of pay for their class shall be granted a one time lump sum payment of \$300, except for those employees whose adjustment in their current maximum rate of pay would be \$12.25 or less. The amount of the lump sum payment for those employees whose adjustment would be \$12.25 or less shall be equal to the difference between \$300 and the product of the employee's monthly adjustment multiplied by 24. This payment shall be made to eligible employees in accordance with procedures established by the commissioner of finance.

Subd. 10. For each full four-tenths point increase in the consumers price index for urban wage earners and clerical workers for Minneapolis-St. Paul, as published by the Bureau of Labor Statistics for the months of January, 1975, and October, 1975, new series index (1967 = 100), all monthly rates of pay in the "A" and special teacher salary schedules shall be increased by two-tenths of one percent, rounded to the nearest dollar and all hourly rates of pay in the "B" and "C" salary schedules shall be increased by one cent per hour.

The increase, if any, in wages and salaries generated by this formula shall be effective January 7, 1976, and shall continue in effect until July 7, 1976.

A redetermination of the cost of living allowance shall be made in April, 1976. For each full four-tenths point increase in the consumer price index for urban wage earners and clerical workers for Minneapolis-St. Paul, as published by the Bureau of Labor Statistics for the months of January, 1975, through April, 1976, all monthly rates of pay in the "A" and special teacher salary schedules shall be increased by two-tenths of one percent, rounded to the nearest dollar and all hourly rates in the "B" and "C" salary schedules shall be increased by one cent per hour. The increase, if any, in wages and salaries generated by this redetermination shall be effective July 7, 1976, and shall continue in effect until January 5, 1977.

A redetermination of the cost of living allowance shall be made in October, 1976. For each full four-tenths point increase in the consumer price index for urban wage earner and clerical workers for Minneapolis-St. Paul, as published by the Bureau of Labor Statistics for the months of January, 1975, through October, 1976, all monthly rates of pay in the "A" and special teacher salary schedules shall be increased by two-tenths of one percent, rounded to the nearest dollar and all hourly rates in the "B" and "C" salary schedules shall be increased by one cent per hour. The increase, if any, in wages and salaries generated by this redetermination shall be effective January 5, 1977.

During periods when such cost of living allowance is in effect, it shall be added to the applicable basic hourly and monthly rates of pay of each employee, including

those that are above the maximum step of their range, and treated as a part thereof in all calculations involving employees' pay.

Subd. 11. The commissioner of administration may direct the commissioner of finance to transfer to the various departments and agencies the necessary amounts to finance subdivision 10 and section 43.121, subdivision 3. These transfers shall be from such accounts and funds from which each department or agency receives its revenue, including appropriations from the general fund and from any other fund, now or hereafter existing for the payment of salaries and in the same proportion as it pays therefrom the amounts of such salaries. Such sums of money as are necessary for such purposes are hereby appropriated to such departments or agencies from such account and fund in the state treasury. The accounts and funds referred to from which agencies receive appropriations under the terms of this section are hereby declared to be a source of revenue for the purposes of any other law or statutory enactment.

Subd. 12. Overtime worked shall be compensated for either by cash payment or compensatory time off as provided for in overtime schedules approved under the provisions of the personnel rules.

Subd. 13. None of the provisions of sections 43.12, subdivision 2, to 43.122, shall apply to employees in the classified civil service under the state civil service act who are paid on a fee basis, or to such employees who are department heads.

Subd. 14. Except as otherwise provided in this section, no class will be reassigned to a higher salary range by the commissioner during the 1975-1977 biennium.

Subd. 15. Notwithstanding the provisions of any other law to the contrary, when making an appointment to the unclassified civil service of the executive branch of government, the appointing authority shall provide the commissioner with a personal resume of the appointee and a detailed job description outlining the duties and responsibilities of the position which the appointee will occupy in such form as the commissioner may prescribe. Any changes in work assignment shall be reported in writing to the commissioner. If, in the judgment of the commissioner, additional information is required in order to establish comparability with positions in the classified civil service, the commissioner shall review the duties of the position in the same manner as a position in the classified civil service would be investigated. All persons in the unclassified civil service of the executive branch of government, except those whose salary is set specifically by statute, shall be paid according to the compensation provisions applicable to employees performing comparable work in the classified civil service, but in no event shall unclassified personnel receive rates of pay which exceed the maximum rate of the salary range established for comparable work in the classified civil service.

Subd. 16. Effective July 9, 1975, employees whose positions are assigned to classes in the A, B, C and special teachers salary schedules working an assigned shift that begins before 6:00 a.m. or which ends on or after 7:00 p.m. shall receive a shift differential of 15 cents per hour for all hours worked on that shift in addition to their regular rate of pay. Such differential shall be included in all payroll computations for hours worked but shall not apply during periods of paid leave.

Employees working the regular day schedule who are required to work overtime or who are called back to work for special projects shall not be eligible for the shift differential.

Subd. 17. Effective July 1, 1975, any permanent employee who is separated from the state classified civil service by reason of death, mandatory retirement, retirement under a state retirement program after ten years of state employment, layoff, excluding seasonal layoffs, or who is separated after completing 20 years of state service shall be entitled upon such separation, to pay in an amount equal to 30 percent, except for community college and state university system faculty employees who shall receive 25 percent of the employee's regular accumulated but unused sick leave balance at the time of separation. Effective July 1, 1976, severance pay shall be computed upon 40 percent, except for community college and state university system faculty employees who shall receive 30 percent of the employee's regular accumulated but unused sick leave balance. The provisions of this subdivision shall apply to unclassified employees in the same manner as they apply to employees in the classified civil service.

Should any employee who has received severance pay be subsequently reappointed to state service, eligibility for future severance pay shall be computed upon

the difference between the amount of accumulated but unused sick leave to the employee's credit at the time the employee was separated and the amount of accumulated but unused sick leave balance at the time of the employee's subsequent eligibility for severance pay.

The base for computing the severance pay provided for in this clause shall not exceed 800 hours, nor shall said base include lapsed sick leave hours as defined by departmental rules and regulations.

Such severance pay shall be excluded from retirement deductions and from any calculations in retirement benefits and shall be paid over a period not to exceed five years from termination of employment. In the event that a terminated employee dies before all or a portion of the severance pay has been disbursed, that balance due shall be paid to a named beneficiary or, lacking same, to the deceased's estate.

Subd. 18. The commissioner is hereby empowered to establish by rule an injured on duty compensation plan for certain classes of state employees in hazardous or dangerous classes of employment. Said plan shall not be subject to the limitations contained in section 176.021, subdivision 5.

Subd. 19. **Career executive service.** (a) There is established a career executive service within the Minnesota state service.

The purpose of the career executive service is to provide a system for identifying, developing and recognizing key individuals in the state service who occupy high level professional and managerial positions in the classified civil service.

(b) The commissioner shall designate positions in the classified civil service of the state as eligible for inclusion in the career executive service. Such positions shall include those which carry basic responsibilities for high level professional or scientific competence, policy determination, leadership, or the internal management and administration of a department or other major unit.

The incumbents of such positions shall be selected from among the employees of the state, or its political subdivisions, as set forth in this subdivision.

(c) Eligibility for appointment to the career executive service shall be in accordance with regulations and procedures as the commissioner shall determine. Assignments will be made only after the nominee has achieved permanent or probationary civil service status in the class occupied at the time nomination is made and after meeting requirements as determined by the commissioner.

(d) The provisions of this chapter, and sections 197.45 to 197.48 insofar as they relate to the selection, classification, preference, transfer, tenure and other conditions of employment shall not apply in the selection and assignment of personnel in the career executive service. Appointments may be terminated by the appointing authority, provided, however, that the termination is not based on reasons of politics, religion, race, age, sex, or disability.

(e) The commissioner shall certify the names of those persons meeting requirements established elsewhere in this subdivision to the appointing authority, and the appointing authority shall be limited in his appointment to such list.

(f) No person appointed to the career executive service shall be deemed to acquire any vested rights or tenure to such appointment, provided however, that the time served in such appointment shall be credited to the employee's seniority, sick leave, vacation, and retirement rights if the employee was appointed to the career executive service from the classified civil service. An employee may be reassigned to another career executive service position at the same or lower level at the discretion of his appointing authority. An employee removed from the career executive service who was appointed from the classified state civil service shall be reinstated to his former grade in the same or similar position under the civil service laws and his compensation shall be at the level formerly received plus any annual increments he would have received had he remained in the schedule provided in subdivision 2.

(g) The commissioner may establish and enforce regulations and procedures with respect to the career executive service to ensure compliance with the purposes and intent of this subdivision.

(h) Notwithstanding any provision to the contrary, persons appointed to the career executive service shall be subject to the retirement requirements set forth in section 43.051.

Subd. 20. Career executive service salaries. Individuals appointed to the career executive service shall be paid according to a compensation plan developed by the commissioner. Salaries established under this plan shall be limited to amounts 20 percent above the maximum of the salary range for the employee's job classification in the classified civil service.

The commissioner shall ensure that the salary administration provisions of the plan and the methods of compensation provide sufficient incentives and flexibility to encourage responsiveness, innovation, and efficiency in incumbents appointed to the career executive service.

The salary rate to be paid an employee, within the plan developed by the commissioner, shall be determined by the appointing authority within guidelines established by the commissioner. The beginning salary rate and any subsequent changes shall be reported to the commissioner by the appointing authority.

Subd. 21. Allocations. The commissioner shall allocate each position in the classified civil service to one of the classes within the classification plan, and thereafter all salary rates, schedules, or compensation policies shall apply uniformly to all positions within each class, in accordance with rules and regulations established by the commissioner, except to those positions for which special provision is made in subdivision 26. When a position which has not been allocated to one of the classes within the classification plan is established, the appointing authority shall notify the commissioner, who shall allocate the new position to its appropriate class.

Subd. 22. After the commissioner makes an allocation under subdivision 21, he shall notify the appointing authority affected, in writing, of that allocation. The allocation 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 that appointing authority may desire considered by him. The commissioner shall act upon that application within ten days after receiving it, and notify the appointing authority of his final action.

Subd. 23. Whenever, because of changes in the organizational structure of an agency, in the duties of a position, or for some other reason, a position appears to be improperly allocated, the commissioner shall, upon his own initiative, or upon the written request of a permanent employee or an appointing authority, investigate the duties of the affected position. Following that investigation he may reallocate it to an appropriate class. If the commissioner makes a reallocation or denies an application for reallocation, under this subdivision, he shall notify the appointing authority and the employee affected of his action. A permanent employee or appointing authority affected by any such action shall have the same right to make an application for reconsideration as is granted an appointing authority in the case of an original allocation by subdivision 22, and the procedure set out in subdivision 22 shall apply to such application. Except as provided in subdivision 26, any reallocation granted by the commissioner shall become effective upon the expiration of the time fixed for making an application for reconsideration, if none is made, or if one is made, at the date of notice by the commissioner of his final action.

Subd. 24. In case of any allocation under subdivision 21, or any reallocation under subdivision 23, no examination of witnesses nor any trial or hearing shall be required, but the commissioner may act upon such matters as are submitted to him in writing by the employee whose position will be affected by a reallocation or by the appointing authority who will be affected by an allocation or a reallocation, and reports and records of investigators of the department, and may take official notice of the records of the department and of allocations of other comparable positions. The matters of which he takes official notice shall be set out by him in a memorandum to be filed with his order or report of investigation and made a part of his record. In all cases of applications for reallocation, the burden of proof shall be upon the person requesting the reallocation.

Subd. 25. Except as provided in subdivision 26, the incumbent of a position which has been reallocated shall continue in the position only if he is eligible for and actually is appointed to the position of the new class in accordance with the rules of the commissioner governing reallocation of positions, promotion, transfer, and demotion. In any case in which the incumbent is ineligible to continue in the position and he is not transferred, promoted or demoted, the layoff provisions of this chapter and the rules of the commissioner shall apply. Personnel changes required by the realloca-

tion of positions shall be completed within a reasonable period of time, as prescribed by the commissioner, following the reallocation notice to an appointing authority. Any employee with permanent or probationary status whose position is reallocated shall be considered eligible to compete in any examination held to fill the reallocated position, as provided in the rules of the commissioner.

Subd. 26. When a position is reallocated by the commissioner to a class in a lower salary range, or when an employee is demoted to a position in a lower salary range, the commissioner may give consideration to the employee's long or outstanding service, exceptional or technical qualifications, age, health, or substantial changes in work assignment or operational changes in state government which eliminate positions held by classified employees with permanent status. When, as a result of such consideration, the commissioner determines that the best interests of the state will be served by such action, the position shall be reallocated but the employee shall continue at the same rate of pay. Thereafter, as long as he remains in the same position, such employee shall not be eligible to receive any salary increases, except those economic adjustment increases based on the consumer's price index authorized by law, until such time as his salary once again may be within the range of the class to which his position has been reallocated.

[1939 c 441 s 12; 1943 c 639 s 1; 1945 c 598 s 2; 1947 c 604 s 2; 1947 c 606 s 1; 1949 c 646 s 2; 1951 c 161 s 1; 1955 c 659 s 1; 1957 c 716 s 1; 1957 c 877 s 1; 1963 c 754 s 1; 1967 c 193 s 2; 1969 c 6 s 4; 1969 c 144 s 1-3; 1969 c 189 s 1; Ex1971 c 32 s 2,3; 1973 c 35 s 17; 1973 c 492 s 14; 1973 c 507 s 45; 1973 c 653 s 14-17; 1974 c 364 s 4,5; 1975 c 321 s 2; 1975 c 431 s 2-5; 1976 c 229 s 3; 1976 c 239 s 16] (254-60)

43.121 SALARY RANGE ASSIGNMENT. Subdivision 1. The commissioner shall ensure that each class of employment in the classified service is assigned to one of the salary schedules established by section 43.12, subdivisions 2 to 18 and 21 to 26, at a salary level consistent with the provisions of section 43.111.

Subd. 2. When an additional class is added to the classification plan by the commissioner, it shall be assigned to one of the salary schedules set forth in section 43.12, subdivisions 2 to 18 or 21 to 26. Such assignment to a salary schedule when approved by the commissioner shall be submitted to the commissioner of finance who shall determine whether funds are available for such purposes. The commissioner of finance may approve or reject the establishment of such new classes on the basis of availability or non-availability of funds. These classes, and the approved compensation for them, shall become effective when approved by the commissioner of finance and shall be used by him in connection with all payrolls and accounting records and with all budget estimates for all departments or agencies of the state government. Upon his approval, the commissioner of finance shall file such new classes, and the approved compensation for them, in the office of the secretary of state.

Subd. 3. Notwithstanding the provisions of this section, the commissioner may assign the classes of employment which require teaching in an established school program in the department of education and institutions of the state under the jurisdiction of the department of public welfare and the department of corrections to salary ranges, which he is hereby authorized to establish. Whenever the commissioner assigns classes of employment which require teaching in an established school program to any salary range which he is authorized to establish by this subdivision, he shall prepare schedules showing the salary ranges for each class, or group of positions in the class of positions assigned by him and he shall also prepare schedules showing entrance salaries and step increases based upon educational attainments and length of satisfactory service. The salary ranges shall include a minimum rate and not more than 12 additional step increases. In assigning ranges of salaries for positions in this category the commissioner shall give consideration to the salary schedules for teachers which are in effect in other units of government of the state.

The basic salary for institution educational administrators and supervisors shall be based upon the employee's qualifications and the appropriate academic level of the special teacher salary schedule. However, the commissioner is authorized to establish a percentage differential to compensate for administrative and supervisory responsibilities. Annual length of satisfactory service salary adjustments shall be awarded beginning with the payroll period nearest the anniversary date of the special teacher's, institution educational supervisor's or institution educational administrator's original or promotional appointment to his present class, unless he is notified in writing by the appointing authority that his work has been of a less than satisfactory level.

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[1945 c 598 s 3; 1947 c 606 s 2; 1951 c 715 s 1; 1953 c 717 s 1; 1955 c 659 s 2; 1959 c 475 s 1; 1963 c 754 s 2; 1967 c 193 s 3,4; 1969 c 144 s 4; Ex1971 c 32 s 4; 1973 c 653 s 18; 1974 c 364 s 6-8; 1975 c 431 s 6-8]

43.122 INDIVIDUAL SALARY INCREASES. Subdivision 1. MS 1953 [Repealed, 1955 c 659 s 9]

Subdivision 1. Appointing authorities are authorized to grant achievement awards in the amount of one salary step for employees assigned to salary schedule A, who have demonstrated outstanding performance, subject to personnel rules which the commissioner shall issue. In no instance shall such awards be granted in excess of 30 percent of employees authorized at the beginning of each fiscal year. Employees within the 30 percent limitation who are at or above the maximum of their salary range may be granted an achievement award, but the award, if granted, shall be paid in a lump sum equal to the annual equivalent of one-half the difference between the last two steps of the employee's range. This payment shall be provided in accordance with the procedures established by the commissioner of finance. Appointing authorities shall make every effort to distribute achievement awards equitably among and within all classifications to eligible employees.

Subd. 2. Within the limits of available appropriations an appointing authority may propose salary increases within the range of more than one step or more frequently than provided in this section upon detailed written statements to the commissioner specifying the unusual employment conditions that make such action necessary. The commissioner shall review each such proposal giving due consideration to the salary rates paid other employees in the same class and agency and may deny any request which in his judgment is contrary to the best interest of the service.

Subd. 3. (a) Employees in classes assigned to the "A" salary schedule may receive a one step salary increase annually, at the beginning of the first full payroll period nearest their anniversary date, to the position rate in their salary range, provided performance is satisfactory as indicated by their appointing authority.

The position rate shall be as follows:

- 9 step salary range - 5th step
- 8 step salary range - 5th step
- 7 step salary range - 4th step
- 6 step salary range - 4th step
- 5 step salary range - 4th step
- 4 step salary range - 3rd step
- 3 step salary range - 3rd step

Beyond the position rate, employees may receive one step satisfactory performance increases biennially, at the beginning of the first full payroll period nearest their anniversary date, upon the recommendation of their appointing authority, up to and including the maximum rate of the salary range for their class.

No increases authorized by this subdivision shall be granted by the appointing authority until an appropriate employee evaluation program is filed with the commissioner. Authorized increases shall be recommended in the context of performance measured against specific performance standards or objectives.

Appointing authorities shall not recommend increases for those employees in this schedule who have not met, or only marginally attained, performance standards or objectives. Increases withheld may subsequently be granted by the appointing authority upon certification to the commissioner that the employee is achieving performance standards or objectives.

(b) Employees in classes assigned to the "C" salary schedule shall progress through the salary range for their class according to the following procedure:

Employees compensated at the first step in their salary range shall be advanced to the second step at the beginning of the first full payroll period nearest the completion of six calendar months of satisfactory service at the first step. Employees compensated at the second step in their salary range shall be advanced to the third step at the beginning of the first full payroll period nearest the completion of six calendar months of satisfactory service at the second step.

Employees compensated at or beyond the third step in their salary range shall advance to the next highest rate in their salary range at the beginning of the first full payroll period nearest completion of each subsequent 12 calendar months of satisfactory service until the maximum rate of pay is attained.

Employees compensated at the maximum step in their range or above shall receive no salary adjustments under the provisions of this subdivision.

(c) Appointing authorities may withhold increases authorized in clause (b). Those employees who will be denied an increase because of unsatisfactory service must be notified in writing. Increases withheld may subsequently be granted by the appointing authority upon certification to the commissioner that the employee has achieved a satisfactory level of performance.

Subd. 4. To determine anniversary dates for the purposes of this section, the following procedure shall be used. For all persons employed on or before May 30, 1973, annual anniversary dates shall be computed from that date. For those employed subsequent to May 30, 1973, the anniversary date shall be computed from the date of employment. For those promoted, reinstated after resignation or retirement, or reemployed subsequent to May 30, 1973, the anniversary date shall be computed from the date of the action. The date of reinstatement shall be the anniversary date for an employee reinstated during the period May 30, 1973 through June 30, 1975, after a leave of absence. After June 30, 1975, a reinstatement from a leave of absence shall not affect the employee's anniversary date. Anniversary dates shall not be affected by the withholding of increases authorized in subdivision 3, clause (a).

[1945 c 598 s 4; 1967 c 193 s 5; 1969 c 144 s 5; Ex1971 c 32 s 5; 1973 c 507 s 20,45; 1973 c 653 s 19; 1975 c 431 s 9-11]

43.123 Subdivision 1. [Repealed, 1967 c 193 s 7]

Subd. 2. [Repealed, 1967 c 193 s 7]

Subd. 3. [Repealed, 1967 c 193 s 7]

Subd. 4. [Repealed, 1967 c 193 s 7]

Subd. 5. [Repealed, 1955 c 659 s 9]

Subd. 6. [Repealed, 1955 c 659 s 9]

Subd. 7. [Repealed, 1967 c 193 s 7]

43.124 [Repealed, 1955 c 659 s 9]

43.125 [Repealed, 1967 c 193 s 7]

43.126 SPECIAL RATES OF PAY. Subdivision 1. Notwithstanding the provisions of sections 43.12 and 43.121 to 43.123, the following salary ranges are established with annual salaries as shown:

Range A	\$23,000	to	\$32,000
Range B	\$28,000	to	\$38,000
Range C	\$30,000	to	\$45,000

Subd. 2. When it becomes apparent that the performance of certain functions of the state government is of such public concern as to demand employment of exceptionally qualified doctors of medicine and where it can be clearly demonstrated that such employees cannot be employed at the rate provided for in sections 43.12 and 43.121 to 43.123, an appointing authority may propose that positions in the classified service be assigned to one of the ranges listed in subdivision 1. Such proposals shall be made to the commissioner of personnel who shall take into consideration the standards of eligibility established by the appropriate national medical specialty board. The commissioner shall conduct local and nationwide surveys of compensation paid for like positions, shall give consideration to this data, and may assign to one of the ranges listed in subdivision 1, on an individual basis, such positions as he determines to come under the provisions of this subdivision. All such assignments and future reassignments made under the provisions of this section shall be reported to each branch of the legislature if it is in session, or if it is not in session, at the opening of the next legislative session. Positions so assigned, and positions and employees in such classes shall be subject to the provisions of all applicable sections of this chapter except sections 43.12, subdivisions 2 to 18 and 43.121 to 43.123. Employees in such classes shall not be eligible for economic adjustment increases nor for increases above the maximum of their ranges as established by subdivision 1. The procedures outlined

in this section concerning the assignment of positions into the ranges provided for in subdivision 1 shall in no way supersede, amend or stand in place of the provisions of section 43.13.

Subd. 3. The commissioner may subsequently reassign a position to a different range listed in subdivision 1, if in his judgment such reassignment is in the public interest. Assignments or reassignments to ranges listed in subdivision 1 shall continue until such time as the commissioner determines that the reasons for such special assignments no longer exist, at which time the commissioner shall remove such positions from such assignment. Subsequent to such action he shall assign such positions to one of the schedules listed in section 43.12, subdivisions 2 to 18, as provided in section 43.121, subdivision 2.

Subd. 4. The salary rate to be paid to an employee, within the range assigned by the commissioner, shall be determined by the appointing authority. The beginning salary rate and any subsequent changes shall be reported to the commissioner by the appointing authority.

[*Ex1961 c 37 s 1-4; 1967 c 667 s 1; 1969 c 6 s 5,6; Ex1971 c 32 s 6; 1973 c 653 s 20; 1974 c 364 s 9-11; 1975 c 431 s 13,14*]

43.127 STATE MANAGEMENT GROUP. Subdivision 1. Development of plans. The commissioner shall establish appropriate plans for training and development, mobility and compensation for those classified positions identified as being managerial pursuant to section 43.326. Such plans shall be oriented toward enhancing the capability of state managers to effectively and efficiently direct the resources and programs for which they are accountable.

Subd. 2. **Managers excluded from bargaining units.** Incumbents of classified positions defined as managerial by section 43.326 shall be excluded from any bargaining units under the provisions of chapter 179.

Subd. 3. **Management compensation schedule.** The management compensation schedule shall provide compensation methods and levels for state managers that will be generally comparable to those applicable to managers in other public and private employment. Provisions of the schedule shall ensure that compensation within assigned salary ranges is directly related to level of performance. In assigning salary ranges, the commissioner shall utilize an objective evaluation system which takes into consideration the knowledge, ability, responsibility, and accountability of positions. Employees assigned to positions in the management compensation schedule shall be exempt from all overtime provisions.

Subd. 4. **Salary progression.** All salary increases within ranges for employees compensated according to this section must be specifically recommended by the appointing authority and based on evaluated job performance according to the results oriented performance appraisal system as provided by section 43.245. The commissioner shall establish and enforce guidelines which relate the amount and timing of achievement increases to relative levels of evaluated job performance.

Appointing authorities shall file a written report with the commissioner by August 15 of each year, in the format prescribed by the commissioner, indicating all increases granted during the previous fiscal year under the provisions of this subdivision. On the basis of the reports the commissioner may require prior approval of all increases for managerial employees in departments where guidelines are not being appropriately applied.

Subd. 5. **Adjustments of salary ranges.** Salary ranges for classifications assigned to the management compensation schedule shall be adjusted by cost-of-living provisions on the same dates and by the same amounts as determined for salary ranges in the "A" schedule as provided in section 43.12; provided that if the cost-of-living adjustment for an "A" schedule employee is to be computed as a percentage of his salary, the amount of the adjustment for an employee compensated pursuant to the management compensation schedule shall not exceed the amount that would result if that percentage were applied to the average salary of all employees compensated pursuant to the management compensation schedule. Employees whose monthly rate of pay is lower than the adjusted minimum monthly rate for their class as a result of any cost-of-living adjustment shall be adjusted to the new minimum rate. All other employees eligible under subdivision 1 shall not receive the adjustments unless specifically recommended by their appointing authority on the basis of evaluated job performance.

Subd. 6. **Employee benefits.** The commissioner may design an employee benefit system for employees defined as managerial providing flexibility between leave, insurance, and other compensation items, which may differ from those for other state employees. Retirement items shall not be included in the commissioner's authority.

[1975 c 276 s 2]

43.128 SALARY INCREASES, UNCLASSIFIED SERVICE. Subdivision 1. The salaries of all employees in the unclassified civil service of the executive branch whose salary is not fixed by section 15A.081, shall be adjusted to the class of persons in the classified civil service performing comparable work and having comparable responsibility, as determined by the commissioner of personnel but in no event to an amount in excess of the maximum of such class.

Subd. 2. The provisions of subdivision 1 shall not apply to state employees listed in sections 43.09, subdivision 2, clause (7) and 136A.03, except that the appointing authority of such employees shall submit a salary schedule to the commissioner for approval before such schedule may become effective. The provisions of subdivision 1 shall further not apply to salaries for positions which are exempted from the commissioner's salary setting authority under the provisions of section 43.064.

[Ex1971 c 3 s 51; Ex1971 c 48 s 4; 1973 c 507 s 21; 1974 c 511 s 13]

43.13 EXAMINATIONS. Subdivision 1. **Fair tests; records.** All examinations for positions in the classified service shall relate to those matters which will fairly test the capacity and fitness of the persons examined to efficiently discharge the duties of the office or employment sought by them. Each applicant in an oral examination shall be rated individually by each examiner who shall sign his rating of the applicant. The average of the examiners, separate ratings, if more than one examiner conducts the oral examinations, is the applicant's oral examination rating. The appointing authority may pay reasonable travel expenses actually incurred to applicants invited for oral examinations for those positions where unusual difficulty in recruiting qualified applicants is being encountered.

Subd. 2. **Eligibility; time; place.** The competitive examinations shall, after published notice, be open to all applicants, and who meet with reasonable standards or requirements fixed by the commissioner with regard to such factors as may be held to relate to the ability of the candidates to perform with reasonable efficiency the duties of the position. No standards or requirements shall be fixed with reference to education or physical condition except such as relate directly to the duties of the office or employment to be filled. Persons under such physical disability as not to make them ineligible by reason thereof, shall be examined in such manner as will fairly test their ability to perform the duties of the position, notwithstanding such physical disability. In the case of an applicant who is blind, the department shall provide the applicant with either a braille examination, the services of a reader chosen by the applicant with the approval of the department, or, subject to the approval of the applicant, such other means of examination as are available to the examining department. The commissioner may require candidates in filing their applications to submit certificates of general or special qualifications as the good of the service may require.

Subd. 3. **Tests validated.** Examination for positions in the classified service shall relate to those areas which will reasonably measure success on the job. Appropriate scientific means of selection shall be used and empirical studies to validate examinations shall be conducted wherever feasible. No means of selection shall be used which are culturally specific unless it can be demonstrated that performance on such measures is significantly and directly related to job performance. The commissioner shall have discretionary authority regarding oral entrance level examinations.

[1939 c 441 s 13; 1953 c 516 s 1; 1955 c 774 s 3; 1965 c 299 s 1,2; 1969 c 145 s 1; 1971 c 158 s 1; 1973 c 507 s 22] (254-61)

43.14 EXAMINATION REFUSED; APPEAL; BOND. Subdivision 1. **Reasons for refusal.** The commissioner may refuse to examine an applicant, or after examination may refuse to certify an eligible, who is found to lack any of the preliminary requirements established for the examination for the position or employment for which he applies; or who is physically so disabled as to be rendered unfit for the proper performance of the duties of the position to which he seeks appointment; or who is addicted to habit-forming drugs or is an habitual user of intoxicating liquors to excess; or who has been guilty of any crime involving moral turpitude or of infamous or notoriously

disgraceful conduct; or who has been dismissed from the public service for delinquency or misconduct; or who has made a false statement of any material fact; or who, directly or indirectly, shall give, render or pay, or promise to give, render or pay, any money, service, or other valuable thing to any person for, or on account of, or in connection with, his test, appointment, or proposed appointment; or who practiced, or attempted to practice, any deception or fraud in his application, in his certificate, in his examination, or in securing his eligibility or appointment; or who refuses to furnish testimony as required in section 43.07.

Subd. 2. **Appeal from refusal.** When the commissioner refuses to examine an applicant, or after an examination refuses to certify an eligible, as provided in this section, then the commissioner, upon request of the person so rejected, shall furnish to him a statement of the reasons for such refusal to examine or refusal to certify, as the case may be.

Subd. 3. **Requirement for bond included in notice of examination.** When any position requires the appointee to furnish a bond, such requirements shall be included in the announcement of the examination for the position.

[1939 c 441 s 14; 1973 c 507 s 45; 1974 c 364 s 12] (254-62)

43.15 DISCRIMINATION FORBIDDEN. No discrimination shall be exercised, threatened, or promised by any person in the civil service against, or in favor of, any applicant, eligible, or employee in the civil service because of his political or religious opinions or affiliations, or age, race, sex, or disability.

[1939 c 441 s 15; 1973 c 507 s 23] (254-63)

43.16 [Repealed, 1975 c 399 s 2]

43.17 APPOINTMENTS. Subdivision 1. **Appointments; promotions; reinstatements.** Appointments, promotions, and reinstatements to all positions in the classified service under the provisions of this chapter, and the rules made in pursuance thereof, shall be made from among those certified to the appointing officer.

Subd. 2. **Term of eligibility.** The term of eligibility of applicants on original entrance lists shall be six months, and on promotion and reinstatement lists shall be one year, but the term of any list may be extended by the commissioner. In no case may eligibility be extended for a period of more than three years, except for layoff lists, eligibility on which shall extend for eight years or the length of the employee's state seniority, whichever is less.

Subd. 3. **Certified lists; appointments made from.** Appointments shall be made from the appropriate eligible list, but if no such list exists, then the commissioner may certify from such other list as he deems the next most nearly appropriate. A new and separate list shall be created for a stated position only when there is no satisfactory list. The commissioner shall have authority to establish separate eligible lists applicable to various localities. No person shall be appointed or employed under any title not appropriate to the duties performed, and no person shall be transferred to, nor assigned to perform the duties of, any position in the classified service, unless he has previously qualified therefor under the provisions of this chapter.

Subd. 4. [Repealed, 1973 c 233 s 3]

Subd. 4a. Notwithstanding any law to the contrary, persons may be employed by any governmental department in the classification of service worker or be employed as a pre-service trainee, as defined by applicable personnel job description or personnel rule, in excess of any personnel limitations, quotas or complements as established by law. Said employment shall be subject to restrictions contained in section 16.173 and shall be subject to the advance approval of the commissioner of administration.

[1939 c 441 s 17; 1971 c 538 s 1; 1973 c 233 s 1; 1973 c 507 s 24,45; 1975 c 381 s 8; 1975 c 431 s 12] (254-65)

43.171 [Repealed, 1957 c 141 s 1]

43.18 VACANCIES. Subdivision 1. **Notice.** Appointing officers shall give written notice to the commissioner of personnel of their intention to establish new positions and of the existence of any vacancy to be filled in any office or employment in the classified service, and, within a reasonable time after the receipt of this notice, the commissioner shall certify, from the list of eligibles, appropriate for the grade and class in which the position is classified, names in the manner as provided in this section.

Subd. 2. Promotions. In the case of positions to be filled by examinations other than open competitive examinations, the commissioner shall certify, from the list of eligibles, appropriate for the grade and class in which the position is classified, the first three names on such list together with any additional names of persons having an examination rating within three points of the person on the list with the highest examination rating, except as provided in sections 43.23 and 43.19, subdivision 1.

Subd. 3. MS 1971 [Repealed, 1973 c 507 s 47]

Subd. 3. Original entry. In the case of positions to be filled by open competitive examination, the commissioner shall certify the first ten names on the list. Appointments from the list shall only be made from the first ten available eligibles. The commissioner shall promulgate rules so that a determination of unavailability by an appointing authority will be based on a statement of unavailability from the eligible or lack of response by the eligible to notification by certified mail of the open position. Before requesting a recertification based on unavailability or rejection of an eligible, the appointing authority shall demonstrate the unavailability of an eligible or shall provide reasons for requesting the removal of an eligible's name from the certification.

Subd. 4. Appointment; probation. The appointing officer shall appoint on probation, with sole reference to merit and fitness, one of the said candidates, whose name is certified in the manner above set forth, to fill such vacancy, except as provided in section 43.23. Seniority in length of service shall also be one of the factors in an appointment in the manner as provided by personnel rule. The provisions of this section shall not apply when the office or employment is among those listed in section 43.20, for which competitive examinations are not required.

[1939 c 441 s 18; 1955 c 774 s 4; 1973 c 507 s 25; 1975 c 45 s 1; 1975 c 431 s 15]
(254-66)

43.19 VACANCIES; PROMOTIONS; DISMISSALS. Subdivision 1. **Vacancies filled by promotion.** (1) Vacancies in positions shall be filled, so far as practicable, by promotion from among persons holding positions in the classified service, and, subject to such exceptions as the commissioner may provide, from the lower class or group within the particular classification, and in accordance with section 43.18 and personnel rules. Except as provided in clause (2), promotions shall be based upon merit and fitness, to be ascertained by competitive examinations in which the employee's efficiency, character, and conduct shall all constitute a factor. For positions defined by personnel rule as "non-managerial" seniority shall also constitute a factor.

(2) The commissioner may authorize the appointing authority of any state office or department to promote any employee in that office or department to a position of a higher grade or class requiring peculiar and exceptional qualifications of an administrative, scientific, professional, or expert character, following a non-competitive examination, which shall be practical and shall involve only the duties of the position.

(3) The commissioner shall give the non-competitive examinations provided for in clause (2) upon request of any appointing authority, in accordance with personnel rules.

Subd. 2. Increase, when a promotion. For the purpose of this section, the commissioner shall determine, by personnel rule, what shall constitute a promotion.

Subd. 3. Restoration to position after dismissal. Any promotional appointee who is dismissed for cause other than misconduct or delinquency on his part from the position to which he has been promoted either during the probationary period, or at the conclusion thereof by reason of the failure of the appointing authority to file a request for his continuance in the position, shall be restored to the position from which he was promoted. Nothing contained in this section shall be construed to prevent any employee of the classified service from competing for places upon registers of persons eligible for original appointments.

Subd. 4. Managerial or professional position, filling. Notwithstanding any provision in this chapter, to the contrary, every vacancy in a managerial or professional position shall be open to any state employee qualifying through examination and in accordance with the provisions of section 43.18, subdivision 1. The commissioner of personnel may require the filling of this type of vacancy by any qualified person, but in no case shall the filling of such a vacancy be limited to only the employees of a department or agency. Seniority in length of service shall also be one of the factors in an

appointment in the manner as provided by personnel rule.

[1939 c 441 s 19; 1947 c 604 s 3; 1973 c 507 s 26; 1974 c 364 s 13; 1975 c 431 s 16] (254-67)

43.20 NON-COMPETTIVE POSITIONS. Subdivision 1. Positions in the classified service may be filled without competition only as provided in this section.

Subd. 2. When there are urgent reasons for filling a vacancy in any position in the classified service and the commissioner is unable to certify from any appropriate eligible list for the vacancy, the commissioner may issue a provisional permit or certify a suitable person to fill such vacancy provisionally only until a selection and appointment can be made after competitive examination; but no person shall receive more than one provisional appointment nor serve more than six months in any 12 month period as a provisional appointee, except, where in individual cases the commissioner grants an exception for the good of the service.

Subd. 3. In case of an emergency, an appointment may be made without regard to the provisions of this chapter, but in no case shall it continue longer than ten working days, and in no case shall successive emergency appointments be made; this provision shall apply to both persons and positions; and no person shall receive more than three emergency appointments in any one or different positions within one year.

Subd. 4. In case of a vacancy in a position where peculiar and exceptional qualifications of a scientific, professional, or expert character are required, and upon satisfactory evidence that for specified reasons competition in this special case is impracticable and that the position can best be filled by the selection of some designated person of high and recognized attainments in these qualities, the commissioner may suspend the requirements of competition in this case, but no suspension shall be general in its application to the position.

Subd. 5. Where the services to be rendered by an appointee are for a temporary period not to exceed six months, the commissioner shall certify from an eligible list for the temporary service any person he deems qualified; the acceptance or refusal by an eligible of a temporary appointment shall not affect his standing on the register for permanent employment, nor shall the period of temporary service be counted as a part of the probationary period in case of subsequent appointment to a permanent position. No person shall receive more than one temporary appointment within one year. No temporary appointment shall exceed six months except to fill a vacancy created by an approved leave of absence not to exceed one year or where the commissioner grants an extension of temporary appointment to the maximum of one year in the best interests of the state.

Subd. 6. Notwithstanding any law to the contrary no agency of the state acting pursuant to any express or implied authority to enter into contracts for services shall enter into a contract with a private entity whereby the agency becomes entitled to receive the services of persons who, were they members of the classified service, would occupy positions assigned to schedule C, except as hereinafter provided. Upon the request of an agency requiring the services of such persons, the commissioner shall make a temporary appointment pursuant to subdivision 5. In the event that the eligible list does not contain the names of persons able to perform the requested services the commissioner shall utilize the free employment offices of the department of employment services to find persons available for such temporary appointments. In the event that the commissioner determines by written opinion that the agency requiring the services will be unable to obtain qualified persons within a reasonable period of time from the department of employment services, the agency may enter into a contract with a private entity as described above.

[1939 c 441 s 20; 1951 c 685 s 2; 1955 c 654 s 1; 1957 c 447 s 1; 1959 c 5 s 1; 1973 c 254 s 3; 1974 c 364 s 14; 1974 c 511 s 14; 1975 c 381 s 9] (254-68)

43.21 PROBATIONARY PERIOD. Except as in this chapter otherwise provided, all original appointments and promotions within the classified civil service, shall be for a probationary period the duration of which is determined by personnel rule for each class, or group of classes to be not less than 30 days and not more than two years but dismissals or demotions may be made at any time during such period, subject to the provisions of section 43.19, subdivision 3. No employee transferred or promoted from one position in the classified civil service to another position in the classified civil service shall be dismissed, except for just cause, demoted or transferred without his consent until he shall have served a trial period of at least 15 days in his

new position. At the end of the probationary period the appointing officer shall notify the commissioner, in writing, whether the probationer is a satisfactory employee and should receive the status of a permanent appointee. Upon such notice or in the absence of notice to the commissioner, the employee shall be deemed to have a permanent classified civil service status. Work performance evaluation shall be provided to a probationary employee during the probationary period in a manner and frequency in accordance with rules established by the commissioner.

[1939 c 441 s 21; 1947 c 489 s 1; 1949 c 490 s 1; 1965 c 298 s 1; 1969 c 144 s 6; 1973 c 507 s 27; 1975 c 381 s 10; 1975 c 431 s 17] (254-69)

43.212 DEPARTMENTAL PERSONNEL OFFICERS. Each department or agency shall establish a position of departmental personnel officer either on a full or part time basis. The departmental personnel officer shall be accountable to his department head for employee counseling, labor relations, performance appraisal, training, manpower planning, compensation, conditions of employment and such other personnel functions as may be prescribed by law, by personnel rule, or by the department head.

Except when otherwise prescribed by the department head in a specific instance, the personnel officer shall be assumed to be the authority accountable to the department head over any other officer or employee in the department regarding personnel functions.

[1973 c 507 s 30]

43.22 TRANSFERS; LEAVES OF ABSENCE; REINSTATEMENT. Subdivision 1. **Transfers.** Transfers in the classified service may be made from a position in one grade and class to a position in another grade and class when the duties and compensation are similar and when such action is specifically approved by the commissioner of personnel.

Subd. 2. **Leaves of absence.** Any person holding a permanent position in the classified service of this state may be granted a leave of absence on the grounds of sickness, disability, or other good and sufficient reason; provided, that no leave, except military leave, sick or disability leave, leave to accept an elected public office as provided by section 43.28, leave to accept an appointive position in the state unclassified service, leave to accept employment with a civil defense survival plan project to which the state is a party, and leave to attend an accredited college or university under a training program authorized by the state, shall exceed one year. However, a leave of absence to attend an accredited college or university may be extended, by order of the commissioner, upon application duly made and approved by the appointing authority, for such period of time necessary to complete a particular course of study, but not to exceed one year.

Subd. 3. **Leaves, when granted.** Leave of absence may be granted to an employee in the classified civil service to enable such person to take an appointive position in the state unclassified civil service. Persons having accepted or accepting appointive positions in the unclassified civil service shall, at any time within 60 calendar days of the termination of the appointment, upon application to the commissioner of personnel, be restored to a position with the same status and classification as the position the employee held immediately prior to appointment to the unclassified civil service.

Subd. 4. **Reinstatement, when.** Any person who has held a position by permanent appointment in the classified service under the civil service law and rules and who has been separated from the service without any delinquency or misconduct on his part or who has been granted a leave of absence under subdivision 2, may be reinstated within one year from the date of the separation or within one year from the expiration of an approved leave of absence, to a position in the same or similar grade or class in the classified service, but such action shall be subject to the approval of the commissioner of personnel.

Subd. 5. [Repealed, 1957 c 141 s 1]

Subd. 6. [Repealed, 1957 c 141 s 1]

Subd. 7. [Repealed, 1967 c 193 s 7]

Subd. 8. [Repealed, 1974 c 364 s 23]

[1939 c 441 s 22; 1941 c 533 s 4; 1943 c 640 s 2,3; 1947 c 604 s 4; 1957 c 296 s 1,2; 1959 c 628 s 1; 1961 c 560 s 5; 1961 c 687 s 1; 1969 c 217 s 1; 1973 c 507 s 45; 1975 c 381 s 11,12] (254-70)

43.221 [Repealed, Ex1971 c 48 s 20]

43.222 TRANSFERS; SICK LEAVE AND ANNUAL LEAVE BENEFITS; UNCLASSIFIED EMPLOYEES. An employee in the unclassified service of the state, who is subsequently employed in the classified service within a period of one year following the last day of service in the unclassified service, shall have his accumulated sick leave posted to his credit in the records of the employing department. The manner in which the sick leave is accumulated shall be in accordance with the personnel commissioner's rules as they apply to the classified service.

An employee in the unclassified service of the state, who is subsequently employed in the classified service without any interruption in state service, shall have his accumulated annual leave posted to his credit in the records of the employing department. The manner in which the annual leave is accumulated shall be in accordance with the personnel commissioner's rules as they apply to the classified service.

[1967 c 805 s 2; 1974 c 364 s 15]

43.223 PAY TO EMPLOYEE ANNUAL LEAVE ALLOWANCE. Any employee of the state who is separated from the state service by layoff, resignation, death or otherwise, and any employee who is transferred or who accepts employment under the jurisdiction of a new appointing authority of the state, shall be entitled upon such separation, transfer, or acceptance of such new employment, to pay for any unused portion of his annual leave allowance.

[1945 c 492 s 1]

43.224 ANNUAL LEAVE ALLOWANCES. No employees in the unclassified service shall be paid for unused portions of annual leave allowances provided for by section 43.223, for any greater period of time than is permitted employees in the classified service. No elected state employee, with the exception of elected employees of the legislature, shall be paid for unused annual leave allowances or a severance pay allowance based upon unused sick leave pursuant to section 43.12, subdivision 2, upon retirement or termination of service for any reason whatsoever.

[1965 c 863 s 9; 1975 c 381 s 13; 1976 c 91 s 1]

43.225 [Repealed, 1957 c 141 s 1]

43.226 [Repealed, 1957 c 141 s 1]

43.227 TIME OFF IN EMERGENCIES. At the request of a department head, and after consultation with the commissioner of public safety, the commissioner may authorize the requesting department head to excuse state employees from duty with full pay in the event of a natural or man made emergency, if continued operation would involve a threat to the health or safety of individuals. Absence with pay shall not exceed 16 working hours at any one time unless the governor authorizes a longer duration.

[1975 c 381 s 14]

43.23 SENIORITY RIGHTS; POSITIONS ABOLISHED; PREFERENCE. Subdivision 1. **Right of seniority.** When one or more employees in the classified civil service are laid off because of a shortage of funds or curtailment of service or for any other reason beyond their control, the order of layoff shall be determined according to personnel rules which shall be based on seniority, and the names of such employees shall be placed at the head of the appropriate registers.

Subd. 2. **Notice of layoff.** In every case of layoff of a permanent officer or employee, the appointing authority shall, at least seven days before the effective date thereof, give written notice to the employee and shall certify to the commissioner the reasons therefor. In any case where an appointing authority fails to certify before the effective date thereof, that the layoff was for reasons not reflecting discredit on the employee, it shall be deemed a dismissal and shall be subject to the provisions concerning dismissals, as provided in this chapter.

Subd. 3. **Positions abolished.** When positions in the classified service are abolished by statute or by administrative action, the names of the incumbents of these

positions, if they are members of the classified service, shall be placed at the head of the appropriate register, according to seniority.

Subd. 4. Preferences. Persons who have been separated from the classified service because of layoff or the abolition of positions shall be given preference over all other eligibles in filling vacancies in the same or similar positions within the department in which they were employed immediately prior to their separation from the service, and the commissioner shall certify for each vacancy only the former officer or employee whose name stands first on the appropriate eligible register.

Subd. 5. Military service. In determining seniority rights of any state employee who held a position in the classified service and became separated therefrom to enter military service, and who was honorably discharged therefrom and reentered state service within six months thereafter, full credit shall be given for all state service prior to such military service.

[1939 c 441 s 23; 1949 c 611 s 1; 1973 c 507 s 28; 1975 c 431 s 18,19] (254-71)

43.24 REMOVAL. Subdivision 1. Written statement. No permanent employee in the classified service, under the provisions of this chapter or the rules made pursuant thereto, shall be removed, discharged, suspended without pay for more than 30 days, or reduced in pay or position, except for just cause, which shall not be religious or political, or because of the employee's race, sex, disability or age, subject however to the mandatory retirement ages specified by law. In case of any disciplinary action, as enumerated in this section, the employee shall, before the action is taken, be furnished with a statement, in writing, setting forth the reasons for the disciplinary action, be permitted five days time to reply thereto, in writing, or upon his request, to appear personally and reply to the head of the department. A copy of the statement and the employee's reply, if any, shall be filed with the commissioner prior to the effective date thereof.

Subd. 2. Appeal to board; public hearings, findings, hearing conference. Any permanent employee who is removed, discharged, suspended without pay, or reduced in pay or position and who has not elected to proceed pursuant to a grievance procedure, if such procedure is available, pursuant to sections 179.61 to 179.77, may appeal to the board within 30 days after the effective date of such removal, discharge, suspension or reduction in pay or position. In no event may an employee avail himself of both the procedure under this section and the grievance procedure under sections 179.61 to 179.77. Upon such appeal, both the appealing employee and the appointing authority or their representatives shall meet with the hearing officer, at a place and on such date as set by him for the purpose of determining the facts at issue. Prior to the hearing conference, both parties may stipulate on mutually agreed matters relevant to the dismissal or other disciplinary action referred to in this subdivision. If the hearing officer is successful in reaching a mutually agreed settlement between both parties, such agreement shall be certified to the board, with copies furnished to both parties, and such agreement, if approved by the board, shall become binding on both parties. The hearing conference shall be conducted in such manner and follow such procedures as prescribed by the board. The issues and facts on which agreement has not been reached will be decided during the hearing at which hearing technical rules of evidence shall not apply. If the board finds that the action complained of was not taken by the appointing authority for just cause, the employee shall be reinstated to his position, or an equal position in another department or division, without loss of pay. If the board finds that there exist sufficient grounds for institution of dismissal but extenuating circumstances are brought out in testimony and evidence, it may in its discretion reinstate the employee, with full, partial, or no pay, or it may modify the appointing authority's action by substituting a lesser disciplinary action. The hearing officer shall recommend to the board an appropriate disposition of the case. If no exceptions are made, the hearing officer's recommended disposition shall, at the option of the board, become final. If exceptions are taken, the board, upon a review of the record, may accept the officer's recommendations with or without additional oral or written evidence from the parties, may remand the case to the officer for further hearing, adopt the hearing officer's report with any changes warranted by the record, or issue its own report of findings and orders. In those cases in which the board finds just cause for dismissal, the findings and recommendations of the board shall be submitted to and considered by the appointing authority, who may, not later than 30 days after receipt of such findings and recommendations, reinstate the employee with or without pay for the period of suspension, or otherwise modify his original decision of

suspension, demotion, or discharge. When any permanent employee is dismissed and not reinstated after appeal, the board may direct that his name be placed on an appropriate reemployment list, for employment in any similar position other than the one from which he has been removed, which direction shall be enforced by the commissioner.

Subd. 3. **Request for written statement.** When any such permanent employee shall be suspended without pay, he shall, within 30 days time after being notified of such disciplinary action, be furnished with a statement in writing specifically setting forth the reasons for the disciplinary action, and a copy of such statement shall then also be filed with the commissioner.

[1939 c 441 s 24; 1943 c 607 s 1; 1947 c 604 s 5; 1955 c 431 s 1; 1955 c 774 s 5,6; 1965 c 497 s 1; 1973 c 507 s 29; 1973 c 653 s 21; 1974 c 406 s 8] (254-72)

43.245 PERFORMANCE APPRAISAL SYSTEM. The commissioner shall design and implement an employee performance appraisal system for the classified service. This system shall be based on uniform position description and results oriented performance standards formats. The commissioner, in consultation with the departments, shall develop criteria and content as necessary so long as the system is uniform for all departments. The commissioner shall establish and enforce rules with respect to the utilization of the results of this performance appraisal system in all decisions relating to the status of employees. The commissioner may further by rule prescribe the extent to which these reports shall be open to inspection by the public and by the affected employee. Each employee in the classified and unclassified service in the executive branch shall be evaluated and counseled at least once a year on his work performance. Individual pay increases shall be based on such evaluation.

[1973 c 507 s 32]

43.25 COMMISSIONER NOTIFIED OF ANY DISCHARGE OR EMPLOYMENT. Each appointing officer shall report to the commissioner forthwith, in writing, upon any appointment or employment in the service, the name of the appointee, or employee, the title and character of his office or employment, the date of commencement of service by virtue thereof, and the salary or compensation thereof, and shall report, from time to time, upon the date of the official action in, or knowledge of, any separation of a person from the service, or any promotion, reduction, suspension, transfer, reinstatement, or other change therein, the efficiency of his subordinates and employees, and other information, in such manner as may be prescribed by the commissioner.

[1939 c 441 s 25; 1974 c 364 s 16] (254-73)

43.26 PAYROLLS, CERTIFICATION. Subdivision 1. Neither the commissioner of finance nor other fiscal officer of this state shall draw, sign, or issue, or authorize the drawing, signing, or issuing of any warrant on the treasurer or other disbursing officer of the state, nor shall the treasurer or other disbursing officer of the state pay any salary or compensation to any person in the classified or unclassified service of the state, unless a payroll register for such salary or compensation containing the name of every person to be paid shall bear the certificate of the commissioner of personnel that the persons named in such payroll register have been appointed, employed, reinstated, or promoted and are performing service as required by law and the rules established thereunder and that the salary or compensation is within the salary or wage schedule fixed pursuant to law. This provision shall not apply to positions defined in section 43.09, subdivision 2, clauses (4), (6), (7), (8), (10), and (11). Persons to whom this subdivision does not apply may be paid on the state's payroll system and the appointing authority or fiscal officer submitting their payroll register shall be responsible for the accuracy and legality of the payments.

Subd. 2. **Salaries paid contrary to provisions recovered from appointing officer.** Any sum willfully paid contrary to the provisions of this section may be recovered from any officer making the appointments in contravention of the provisions of law or of the rules made in pursuance of law, or from any officer signing or countersigning or authorizing the signing or countersigning of any warrant for the payment of same, or from the sureties on the official bond of any officer, in an action in the district court of any county within the state, maintained by the commissioner of personnel. All moneys recovered in any action brought under this section when collected shall be paid into the state treasury.

Subd. 3. Action against appointing officers; not reimbursed for sums paid. Any person employed or appointed contrary to the provisions of this chapter and the rules hereunder, whose payroll or account is refused certification, shall have action against the appointing officer employing or appointing or attempting to employ or appoint him for the amount due by reason of the employment or purported employment and the costs of the action. No appointing authority, during the time of his official service, or thereafter, shall be reimbursed by the state for any sum so paid or recovered in any such action.

Subd. 4. Commissioner to make special rules. The commissioner shall have power to make special rules and regulations for matters requiring conformance to federal law or regulations.

[1939 c 441 s 26; 1941 c 533 s 5; 1973 c 507 s 45; 1974 c 364 s 17,18] (254-74)

43.27 COMPLIANCE WITH LAW. All officers and employees of this state shall conform to, comply with, and aid in all proper ways in carrying into effect the provisions of this chapter and the rules prescribed hereunder. Any wilful violation of this chapter by officers, officials, or employees of the state shall be deemed a misdemeanor and punished accordingly. Conviction of same shall render the public office or position held by such person vacant.

[1939 c 441 s 27] (254-75)

43.28 POLITICAL ACTIVITIES PROHIBITED. No officer, agent, clerk, or employee of this state shall, directly or indirectly, during his hours of employment solicit or receive funds, or at any time use his authority or official influence to compel any officer or employee in the classified service to apply for membership in or become a member of any organization, or to pay or promise to pay any assessment, subscription, or contribution, or to take part in any political activity. Any person who violates any provision of this section shall be guilty of a misdemeanor, and shall be punished accordingly, and if any officer or employee in the classified service is found guilty of violating any provision of this section, he is automatically separated from the service.

Except as herein provided any officer or employee in the state classified service shall:

(1) Take leave of absence upon assuming an elected federal or state public office, including elected state legislative office;

(2) Take leave of absence upon assuming any elected public office other than enumerated in clause (1), if, in the opinion of the commissioner of personnel, the holding of such office conflicts with his regular state employment;

(3) Upon his request, be granted leave of absence upon becoming a candidate, or during the course of such candidacy, for any elected public office;

(4) Take leave of absence upon becoming a candidate, or during the course of candidacy, for any elected public office if, in the opinion of the commissioner of personnel, such candidacy conflicts with his regular state employment.

All requests for opinions of the commissioner of personnel, and opinions from the commissioner under the provisions of clauses (2) and (4) shall be in written form and shall be delivered by registered mail.

The commissioner of personnel shall issue an opinion under the provisions of clauses (2) and (4) within seven calendar days of receipt of the request.

[1939 c 441 s 29; 1951 c 655 s 1; Ex1967 c 39 s 1; 1973 c 45 s 1; 1973 c 507 s 45] (254-77)

43.29 ACCOMMODATIONS FURNISHED EXAMINERS. The officers having control of public buildings in political subdivisions of the state and school districts shall, upon request of the commissioner of personnel, furnish without charge convenient space for examinations and necessary furniture, heat, and light for accommodation of the local examiners and for the holding of examinations. The commissioner may request state or local officers or employees to aid in carrying out the provisions of this chapter and it shall be the duty of such officers and employees, insofar as it may be consistent with their other duties, to give such aid upon written request of the commissioner.

[1939 c 441 s 30; 1963 c 754 s 3; 1973 c 507 s 45] (254-78)

43.30 VETERANS PREFERENCE. The provisions of this section shall govern the granting of veterans' preference for the state civil service.

A veterans' preference shall be available pursuant to this section to every person who has been separated under honorable conditions from any branch of the armed forces of the United States; (a) after having served on active duty for 181 consecutive days or (b) by reason of disability incurred while serving on active duty, and who is a citizen of the United States. A veteran thus preferred shall not be disqualified from holding any position in the classified service on account of his age or by reason of any physical disability provided such age or physical disability does not render him incompetent to perform the duties of the position.

Recognizing that training and experience in the services of the government and loyalty and sacrifice for the government are qualifications of merit which cannot be readily discovered by examination; there shall be added to the examination rating of a disabled veteran, if he so elects, a credit of ten points if the veteran obtained a passing grade without the addition of the credit points; and if the disabled veteran is able to perform the duties of the position sought with reasonable efficiency, his name shall be placed on the list of eligibles with the names of other eligible persons. The name of a veteran with such augmented rating shall be entered ahead of a nonveteran when their ratings are the same.

There shall be added to the examination rating of a nondisabled veteran, if he so elects, a credit of five points if the veteran obtained a passing grade without the addition of the credit points. The name of a veteran with such augmented rating shall be entered ahead of a nonveteran when their ratings are the same.

A governmental agency, when notifying an applicant that he has passed an examination, shall notify the veteran of his specific score and shall also notify the applicant that he may elect to use a veteran's preference to augment his passing rating.

A veteran's preference under this section may only be used in the state civil service and political subdivisions of the state in the securing of positions to be filled by open competitive examinations and may not be used for the filling of promotional positions. An open competitive examination is an examination open to current employees and nonemployees of the state or political subdivision. A veteran's preference under this section may not be used by any veteran who is receiving or who is eligible to receive a monthly veteran's pension benefit based exclusively on length of military service.

Notwithstanding the foregoing restrictions on use, in any governmental agency giving an examination, where an applicant for a promotional position is a disabled veteran who has passed the promotional examination for his first promotion after entering that position, he may elect to have a credit of five points added to that examination rating. The decision to make such election may be made either before or after the examination. This promotional preference may only be successfully used one time and only in the securing of the first promotional position after securing public employment.

A preference given by this section is hereby extended to the surviving spouses of deceased veterans and to the spouse of a disabled veteran, who because of the disability is unable to qualify.

The fact that an applicant has claimed a veterans preference shall not be made known to the examiners. The preference credit shall be added to the examination rating, and the records shall show the examination rating and the preference credit.

A disabled veteran is one who has a compensable service connected disability as adjudicated by the United States Veterans Administration, or by the retirement boards of the several branches of the armed forces, and which disability is existing at the time preference is claimed. The commissioner may require candidates claiming preference as disabled veterans to submit documentary evidence in support of their claim and may anticipate certification by the veterans administration where necessary to avoid delays in establishing an eligible list. For purposes of the preference to be used by a disabled veteran in securing a promotional position, the term "disabled veteran" means a person who, at the time of election to use his promotional preference, is entitled to disability compensation under laws administered by the veterans administration for a permanent service connected disability rated at 50 percent or more.

In the event of the rejection by the appointing officer of the person so preferred when certified to fill a vacancy or a new position, the appointing officer shall forth-

with file in writing with the commissioner the reasons for such rejection and shall furnish to the rejected veteran a copy thereof.

[1939 c 441 s 31; 1943 c 157 s 1; 1947 c 395 s 1; 1949 c 222 s 1; 1953 c 699 s 2; Ex1967 c 4 s 1; 1974 c 364 s 19; 1975 c 45 s 2; 1975 c 381 s 15] (254-79)

43.31 SERVICES AVAILABLE TO POLITICAL SUBDIVISIONS; APPROPRIATION. The services and facilities of the state personnel department and its staff shall be available upon request, subject to rules prescribed therefor by the commissioner, to political subdivisions of the state. In making such service and facilities available, it shall be understood that requirements for the enforcement and administration of the provisions of this chapter shall be given precedence and that the political subdivisions shall reimburse the state for the reasonable cost of such services and facilities.

The commissioner may enter into arrangements with personnel agencies in other jurisdictions for the purpose of exchanging services and effecting transfers of employees. The commissioner may also join or subscribe to any association or service having as its purpose the interchange of information relating to the technique of personnel administration. There is hereby appropriated to the state personnel department from such moneys as are credited to their account an amount sufficient to pay for the purposes of this section.

[1939 c 441 s 32; 1959 c 157 s 3; 1974 c 364 s 20] (254-80)

43.32 TRAINING PROGRAM. Subdivision 1. **Purpose; participation by employees.** The commissioner shall develop and have the power to enforce plans for and cooperate with appointing authorities and personnel officers in the conduct of employee training programs. Provision may be made in the rules adopted to permit employees in the classified service to secure leaves of absence for the purpose of enrolling in courses of training for government service; and provision also may be made in these rules to permit qualified students to serve as internes or apprentices for a period not greater than two years in the several departments and agencies concerned except for psychiatric residencies and public health physician residencies where the period shall not exceed five years.

Subd. 2. **Specialized training.** The commissioner shall by personnel rule prescribe: (a) conditions under which employees may be assigned to take specialized training; and (b) conditions under which employees may be reimbursed for tuition fees and other necessary expenses in connection with specialized training authorized by the appointing authority to meet the needs of the service. The commissioner shall further prescribe the conditions under which an employee may be required to reimburse the state for the costs of such training in the event he fails to remain in state service for a reasonable time after receiving the training. The commissioner shall report biennially to each house of the legislature in session concerning activities under this subdivision.

Subd. 3. **Departmental responsibility.** The head of each department shall be responsible for planning, budgeting, conducting and evaluating training programs within the limits of the personnel rules. He shall foster employees' self-development by creating a work environment in which such development is encouraged, and by making opportunities for training and self-study reasonably available and giving recognition to department directed or self-initiated improvement in qualifications and performance.

Subd. 4. **Manpower planning.** The commissioner shall develop a statewide system of manpower planning in cooperation with state departments and agencies which shall provide for an assessment of present and future manpower needs. The commissioner shall coordinate departmental training activities and other personnel actions throughout the state service in order to meet the current and projected personnel requirements of the state.

Subd. 5. **Training authority.** The commissioner is authorized to enter into, as an agent of the state of Minnesota, contracts, compacts or cooperative agreements involving other governments. He has authority and responsibility for coordinating the training programs throughout the state service and providing training assistance to local governments under approved training plans when so requested. Grants made available by federal legislation, or fees paid by political subdivisions of the state for training purposes are to supplement appropriations to the department for carrying out these aims and are hereby appropriated annually therefor.

Subd. 6. **Funds.** The commissioner may apply for, receive, and accept federal funds or other funds made available by the United States of America or any agency thereof or other source for any of the purposes enumerated in this section and may disburse such moneys in accordance with the rules and regulations which the donor of such funds may prescribe. Moneys so received shall be deposited in the state treasury and are hereby appropriated therefrom annually to the department of personnel for the purposes for which the moneys are received.

Subd. 7. **Programs of appointing authority; reports.** In cooperation with all departments, the commissioner shall initiate training in specialties common to more than one department. He shall review all training programs in the various departments in terms of methodology, but not in terms of technical contents; in matters of methodology, each department is required to abide by the commissioner's decision.

Subd. 8. **Minimum training standards.** The commissioner shall in consultation with the commissioner of finance establish minimum training standards which shall be binding on all departments and agencies.

Subd. 9. **Management training.** The commissioner shall identify the minimum elements necessary to support a coordinated management system and shall design and operate a management training program accordingly. No management training shall be conducted by any department unless specifically approved by the commissioner.

Subd. 10. **Supervisory training.** The commissioner shall require departments to conduct programs in supervisory training. No state employee shall be promoted permanently into a supervisory position unless he has successfully completed supervisory training for the position as approved by the commissioner.

Subd. 11. **Review of training plans.** The head of each department shall be responsible, with the advice and counsel of the commissioner, for planning, budgeting and conducting training programs within the scope of the overall training plan. He shall submit his training plans and budgets for each year of the biennium to the commissioner for review and comment prior to the implementation of any program, but in any case no later than six weeks after the budget appropriations are approved.

For purposes of training, the commissioner may accept funds from any source and may be reimbursed by the various departments for reasonable program cost.

Subd. 12. **Personnel rules on training.** The commissioner shall issue such personnel rules as he deems necessary to carry out the provisions of this section.

[1939 c 441 s 33; 1955 c 533 s 1; 1957 c 758 s 1; 1969 c 584 s 1; 1971 c 936 s 1; 1973 c 507 s 31] (254-81)

43.321 GRIEVANCE PROCEDURE. The commissioner shall promulgate by personnel rule procedures relating to grievances of any state officer or employee in the executive branch and provide the circumstances under which the grievance procedure is available, except that no state employee may avail himself of more than one grievance procedure on any one complaint.

[1973 c 507 s 36]

43.322 TRANSFER OF BENEFITS. Notwithstanding any other law to the contrary, the commissioner shall provide by personnel rule for the transfer of accumulated sick leave and vacation leave and other rights and benefits when an employee transfers from one department of state government to another. Such personnel rule shall enhance mobility of state employees among and between the various departments.

[1973 c 507 s 37]

43.323 PERSONNEL RULE; PROCEDURE. Subdivision 1. When so authorized by law, the commissioner of personnel shall issue, in conformance with the requirements of chapter 15, personnel rules, or changes thereof, and shall submit such proposed rules, or changes to existing rules, to the personnel board, for its opinion which shall be advisory only.

Within three weeks after receipt of such proposed rules or changes to existing rules, the personnel board shall file its opinion on the proposed rule or rule change with the commissioner.

After receipt of the board's advisory opinion on the proposed rule or change of rule, the commissioner shall within seven days promulgate or withdraw the proposed

rule or proposed change of rule. A provision of an agreement entered into by the commissioner pursuant to section 179.74, subdivision 5 shall supersede the provisions of any rule or portion thereof which is inconsistent therewith.

Subd. 2. A personnel rule having been issued under the provisions of subdivision 1 shall have the effect of law and shall be binding on all state departments and agencies.

[1973 c 507 s 38; 1976 c 252 s 1]

43.324 COMPENSATION PLAN. Subdivision 1. On or before December 1 of each even numbered year, the commissioner of personnel shall after consultation with the commissioner of finance submit to the governor, or if a governor has been elected in that year to the governor-elect, his recommendations concerning compensation to be paid all employees in the classified and unclassified civil service in the executive branch with the exception of salaries for positions exempted from the commissioner's salary setting authority in section 43.064. The recommendations so submitted shall be in bill form, drafted in conformity with the rules of the senate and house of representatives and may contain proposals concerning salaries, paid holidays, health and life insurance benefits, and other items of compensation for all employees in the executive branch. The recommendations shall also include any agreements reached through collective bargaining, or ordered by arbitrators, or which may be the results of any negotiations conducted under a public employment labor relations law applicable to state employees to the extent that such agreements pertain to issues or items included in the commissioner's compensation recommendations described in this subdivision.

Subd. 2. The recommendation of the commissioner as required by subdivision 1 shall include the recommendations of the personnel board concerning salaries in the unclassified service or any modifications thereof which he has made. But no modification of the personnel board's recommendations shall be made by the commissioner without a written explanation therefor, and in no event may the commissioner make any changes in the recommendations of the personnel board concerning positions in the legislative and judicial branches.

Subd. 3. As part of his budget message to the opening of a regular session of the legislature in January of each odd numbered year, the governor shall also transmit for legislative consideration the commissioner's proposals as recommended by the commissioner or as modified by the governor, but the governor shall not modify any recommendations concerning positions in the legislative or judicial branches, or any recommendations reached through collective bargaining, or ordered by arbitrators, or which may be the result of any negotiations conducted under a public employment labor relations law applicable to state employees.

[1973 c 507 s 40; 1974 c 511 s 12]

43.326 IDENTIFICATION OF POSITIONS. Subdivision 1. **Managerial and professional positions.** By personnel rule, the commissioner shall identify individual positions, or groups of positions in the classified and unclassified civil service in the executive branch as being "managerial" or "non-managerial" and as "professional" or "non-professional" in a manner that clearly identifies for each employee of the state the category into which his position belongs.

Subd. 2. **Supervisory positions.** By personnel rule, the commissioner shall identify individual positions, or groups of positions in the classified and unclassified civil service in the executive branch as being "supervisory" or "non-supervisory" in a manner that clearly identifies for each employee of the state the category into which his position belongs. The determination of a position as "supervisory" by the commissioner under the provisions of this section shall not be construed to be a definition of "supervisory" under the provisions of any public employees relation act.

[1973 c 507 s 42]

43.327 TRAVEL AND RELOCATION EXPENSES. Subdivision 1. **Commissioner to make rules on relocation.** The commissioner shall make personnel rules relating to the expenses of moving state officers and employees, their families and household goods to new stations, subsistence, realtor fees, and such other expenses as may be incident to assignment to such stations.

Subd. 2. **Commissioner to make rules on travel.** The commissioner shall make personnel rules relating to travel of state officers and employees on state business and expenses incurred thereon.

Subd. 3. **Commissioner of finance to enforce rules.** The commissioner of finance shall enforce the personnel rules concerning travel or relocation and provide for the payment of expenses actually incurred or for payment on a daily flat rate as the rules may permit.

[1973 c 507 s 44]

43.328 MILEAGE ALLOWANCES. Subdivision 1. Except as provided in subdivision 3, the maximum amount which shall be paid by any county, city, town, or school district, to any employee as compensation or reimbursement for the use by the employee of his own automobile in the performance of his duties shall not exceed 15 cents a mile.

Subd. 2. Except as provided in subdivision 3, in counties having more than 300,000 and less than 450,000 inhabitants, and in any city of the first class situated in such county, the county board or the welfare board supported jointly by such county and a city of the first class therein, or the governing body of such city of the first class, may determine to pay, and in counties having more than 550,000 inhabitants, the county board may determine that the county shall pay a base allowance of \$1.50 per day for each day the employee or officer's automobile is officially used. This base allowance shall not be paid for more than 20 days in each month. The minimum base allowance shall be \$20 per month for each employee or officer required to have his own automobile available for official public business and using that automobile for such business periodically throughout the month. If a base allowance is paid it shall be in addition to a mileage allowance which shall not exceed seven and one half cents a mile for the first 500 miles in any one month and five cents a mile thereafter.

Subd. 3. Any city, county, town, or school district may pay any officer or employee thereof as compensation or reimbursement for the use by such officer or employee of his own automobile in the performance of his official duties such mileage allowances as the governing body or town board may prescribe and may provide a monthly or periodic allowance in lieu of mileage; but no such allowance in lieu of mileage shall be paid to the members of such governing body or town board except as otherwise provided by special law or home rule charter.

[1931 c 331 s 1,2; 1933 c 13 s 1; 1935 c 225 s 1; 1949 c 681 s 1; 1951 c 641 s 1; 1953 c 159 s 1; 1955 c 796 s 1; 1957 c 904 s 1; 1965 c 510 s 1; 1967 c 851 s 1; Ex1971 c 3 s 76 subds 1,4; Ex1971 c 48 s 22; 1973 c 123 art 5 s 7; 1973 c 661 s 1,2; 1975 c 431 s 20] (254-47,254-48)

43.329 TRAVEL EXPENSES, BOARDS AND COMMISSIONS. Notwithstanding the provisions of any other law, the members and staff of all state boards, councils, and commissions in the executive branch, established by state law or otherwise, shall only be reimbursed for travel expenses both in-state and out-of-state in accordance with the rules and regulations promulgated by the commissioner of personnel governing the travel of state officers and employees.

[1973 c 720 s 78; 1974 c 364 s 21]

43.33 MS 1953 [Repealed, 1957 c 141 s 1]

43.33 TRAVEL EXPENSES; ADVANCES. Notwithstanding the provisions of any law to the contrary, the head of any state department or agency may advance, from appropriations, the estimated cost of all travel expenses to an officer or employee who is to travel on official business. The commissioner of personnel shall prepare such rules and regulations as he may deem the public interest shall require.

[Ex1967 c 48 s 80; 1974 c 184 s 2]

43.34 [Repealed, 1973 c 507 s 47]

43.35 VIOLATIONS; PENALTIES. Any personnel board member, the commissioner, or examiner or any other person,

(1) who wilfully or corruptly, by himself or in cooperation with one or more persons, defeats, deceives, or obstructs any person with respect to his rights of examination or application according to this chapter, or to any rules or regulations prescribed pursuant thereto, or

(2) who wilfully or corruptly falsely marks, grades, estimates, or reports upon the examination or proper standing of any person examined, registered, certified, em-

ployed, or promoted pursuant to the provisions of these sections, or aids in so doing, or who wilfully destroys any examination questions, answers, or records thereon of any applicant for civil service within a period of one year after any examination has been completed, or

(3) who wilfully or corruptly makes or files any false representations concerning the persons examined, registered, certified, appointed, employed, or promoted, or

(4) who wilfully or corruptly furnishes any person with any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, registered, or certified, being appointed, employed, or promoted, or

(5) who personates any other person, or permits or aids in any manner any other person to personate him in connection with any examination or registration, or application or request to be examined or registered, or

(6) who wilfully or corruptly shall appoint to a position in the classified service, or dismisses, suspends, reduces in rank or pay any officer or employee from any position in the classified service otherwise than in compliance with, and in conformity to, the provisions of this chapter and the rules and regulations of the commissioner of personnel adopted pursuant thereto, or

(7) who wilfully or corruptly refuses or neglects otherwise to comply with, or conform to, the provisions of this chapter and the rules and regulations made pursuant thereto, or violates any of these provisions, shall be deemed guilty of a misdemeanor and punished accordingly.

Any conviction under this section shall render the public officer or position held by the person so convicted vacant, and such person shall be ineligible to hold public office for a period of five years from the date of the conviction.

[1939 c 441 s 28; 1973 c 507 s 45; 1976 c 2 s 6] (254-76)

43.36 [Repealed, 1957 c 141 s 1]

43.37 PUBLIC EMPLOYEES; PURCHASE OF SURPLUS PROPERTY; EXCEPTIONS; PENALTY. No officer or employee of the state or any of its political subdivisions shall sell or procure for sale or have in his possession or control for sale to any other officer or employee of the state or the subdivision, as appropriate, any property or materials owned by the state or subdivision except pursuant to conditions provided in this section. Property or materials owned by the state or a subdivision, except real property, and not needed for public purposes, may be sold to an employee of the state or the subdivision after reasonable public notice at public auction or by sealed bid if the employee is the highest responsible bidder and if he is not directly involved in the auction or sealed bid process. Requirements for reasonable public notice may be prescribed by other law or ordinance so long as at least one week's published or posted notice is specified. A state employee may purchase no more than one motor vehicle from the state in any 12 month period. A person violating the provisions of this section is guilty of a misdemeanor. This section shall not apply to the sale of property or materials acquired or produced by the state or subdivision for sale to the general public in the ordinary course of business. Nothing in this section shall prohibit an employee of the state or a political subdivision from selling or having in his possession for sale public property if the sale or possession for sale is in the normal course of the employee's duties.

[1976 c 92 s 1]

LIFE AND HEALTH BENEFITS

43.42 INSURANCE BENEFITS INTENT. It is the intent of sections 43.42 to 43.49 to provide certain state employees with basic life insurance and basic health benefits coverage, including such basic health benefits coverage as the commissioner may make available from prepaid group practice plans, to be paid for by the state and to authorize an eligible state employee to enroll himself, and his dependents in such optional coverages as are made available therefor by the commissioner to be paid for by the employee through payroll deductions. Optional group coverages may include additional life insurance, auto insurance, disability insurance, dental insurance, legal insurance, homeowners insurance, and vision insurance.

[1965 c 780 s 1; 1967 c 103 s 1; 1973 c 507 s 34; 1975 c 381 s 16]

43.43 DEFINITIONS. Subdivision 1. For the purposes of sections 43.42 to 43.49, the terms defined in this section have the meanings given them.

Subd. 2. "State employee" for the purpose of determining eligibility for the basic life insurance and basic health benefits coverage hereunder means:

(1) An employee in the classified service of the state civil service paid on a state payroll;

(2) An employee in the unclassified service of the state paid on a state payroll who is not excluded from any of the provisions of sections 43.42 to 43.49;

(3) A permanent employee of the legislature or a permanent employee of a permanent study or interim committee or commission;

(4) A judge of the supreme court or an officer or employee of such court; a judge of the district court;

(5) A salaried employee of the public employees retirement association;

(6) Full time military or civilian personnel in the unclassified service of the department of military affairs whose salary is paid from state funds;

(7) A salaried employee of the Minnesota historical society, whether paid from state funds or otherwise, who is not a member of the governing board;

(8) An employee of the regents of the University of Minnesota, who is a member of the academic staff with the rank of instructor, research fellow, or above, including a lecturer, serving on not less than 75 percent regular appointment;

(9) An employee of the regents of the University of Minnesota and a member of the civil service staff under the civil service plan, adopted by the university of Minnesota, who is employed on a monthly salaried appointment;

(10) An employee of the state university board or the state board for community colleges who is a member of the academic staff, who is employed for not less than a 75 percent time basis, and who is paid on a state salary payroll; or

(11) An employee of the state university board or the state board for community colleges who is either in the classified service or the unclassified service of the state civil service whose salary is paid from the university board of the state of Minnesota, revenue fund or the university activity fund. The required premium payment of such an employee is to be paid, however, from the fund from which the employee's salary is paid.

(12) A member of the state legislature.

(13) A seasonal employee of the waters, soils and minerals division of the state department of natural resources whose duties include the sampling, weighing or grading of iron ore, taconite, or other minerals; provided that the employee shall receive the benefits provided in sections 43.42 to 43.50, at no cost to the employee for the period in each calendar year when the employee is not working at his occupation, and the premiums therefor shall be paid from the same salary fund or account as the salary of the employee.

(14) A person employed in the state service as a pre-service trainee on a full time basis.

Subd. 3. "Hospital benefits coverage" means:

A plan that provides coverage for, or pays, or reimburses expenses for hospital services.

Subd. 4. "Medical benefits coverage" means:

A plan that provides coverage for, or pays, or reimburses expenses for medical services and medical expenses prescribed by a doctor.

Subd. 5. "Employee life insurance benefits coverage" means:

A plan that provides life insurance coverage on the lives of eligible employees. Waiver of premium disability benefit and accidental death and dismemberment coverage may be included.

Subd. 6. "Carrier" means:

(1) For hospital benefits coverage, an insurance company licensed to do business in the state or a nonprofit hospital service association or a prepaid group practice hospital care plan authorized to do business in the state.

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(2) For medical benefits coverage, an insurance company authorized to do business in the state or a nonprofit medical service association or a prepaid group practice medical care plan authorized to do business in the state.

(3) For employee life insurance benefits coverage, an insurance company authorized to do business in the state.

Subd. 7. "Commissioner" means the commissioner of personnel.

Subd. 8. A new eligible state employee's basic coverages shall become effective on the first day of the first payroll period beginning on or after the 28th day following the first day of employment.

[1965 c 780 s 2; 1967 c 103 s 2; 1967 c 905 s 5; 1969 c 1129 art 3 s 1; 1973 c 349 s 2; 1973 c 507 s 35; 1975 c 321 s 2; 1975 c 381 s 17; 1976 c 239 s 17]

43.44 ENROLLMENT OF ELIGIBLE EMPLOYEES. Subdivision 1. Every eligible employee meeting the requirements of subdivision 2 shall, at such time, in such manner, and under such conditions of eligibility as the commissioner may by regulation prescribe, be enrolled in the employee life insurance benefits coverage, the hospital benefits coverage and the medical benefits coverage. Such regulations shall be within the framework of intent as set forth in section 43.42.

Subd. 2. A state employee determined to be eligible for the benefits provided in sections 43.42 to 43.49 shall continue to be eligible therefor so long as he appears on a state payroll for at least one working day during each payroll period except as otherwise provided in this subdivision. If the state employee is employed on the basis of a school year and whose employment contemplates absences from the state payroll during the summer months and during vacation periods occurring at Christmas, New Years, and Easter, he nonetheless shall continue to be eligible for such benefits provided he appears on his regular payroll for at least one working day for the payroll period immediately preceding such vacation periods. An academic employee of the University of Minnesota, the state university board, or the state board for community colleges, otherwise eligible for basic life insurance and basic health benefits coverage paid for by the state shall have continuous basic coverages maintained during the period of a sabbatical leave.

If the state employee is granted a leave of absence to work for the legislature or either branch thereof, during a regular or special legislative session, he nonetheless shall continue to be eligible for such benefits provided he appears on the state payroll or the legislative payroll for at least one working day for each payroll period.

A state employee who is disabled and off the state payroll as a result of personal injury arising out of and in the course of employment with the state and is otherwise eligible for the basic life insurance and basic health benefits coverage paid for by the state shall be eligible for state paid for coverage and shall continue to be eligible therefor during the period such employee is receiving workers compensation payments for temporary total or temporary partial disability pursuant to award of the workers compensation court of appeals.

Subd. 3. A member of the state legislature who becomes eligible for basic life insurance and health coverages on or after the first Monday in January, 1969, may decline to be enrolled for such basic coverages by filing a written waiver with the commissioner, provided that such waiver shall not prohibit that person from enrolling himself or his dependents for optional coverages, without cost to the state, as otherwise provided for in Laws 1967, Chapter 103.

[1965 c 780 s 3; 1967 c 103 s 3; 1967 c 759 s 3; Ex1967 c 1 s 6; 1973 c 349 s 2; 1973 c 507 s 34; 1975 c 271 s 6; 1975 c 321 s 2; 1975 c 359 s 23; 1976 c 134 s 78]

43.45 CONTRACTING AUTHORITY. Subdivision 1. The commissioner is authorized to request bids from carriers or to negotiate with carriers and to enter into contracts with carriers which in the sole judgment of the commissioner are best qualified to underwrite and service the benefit plans. The commissioner shall consider such factors as the cost and conversion options relating to the contracts as well as the service capabilities, character, financial position, and reputation with respect to such carriers and any other factors which the commissioner may deem appropriate. Each such contract shall be for a uniform term of at least one year, but may be made automatically renewable from term to term in the absence of notice of termination by either party.

Subd. 2. Each contract under sections 43.42 to 43.49 shall contain a detailed statement of benefits offered and shall include such maximums, limitations, exclusions, and other definitions of benefits as the commissioner may deem necessary or desirable.

Subd. 3. The commissioner shall make available through such carriers as it may authorize as many optional coverages as it deems feasible and advantageous to eligible state employees and their dependents which said employees may pay for at their own expense to be paid for through payroll deductions.

[1965 c 780 s 4; 1967 c 103 s 4; 1973 c 507 s 34]

43.46 CONTRIBUTIONS BY STATE. The total contribution by the state for each state employee under sections 43.42 to 43.49 shall be otherwise prescribed by law and which contribution shall be applied to provide basic hospital benefits, basic medical benefits and basic life insurance of such amounts as may be determined from time to time by the commissioner.

[1965 c 780 s 5; 1967 c 103 s 5; 1973 c 507 s 34]

43.47 EXCLUSION OF CERTAIN STATE EMPLOYEES. Subdivision 1. Except as provided in section 43.491, the persons enumerated in this section and their dependents are excluded from the provisions of sections 43.42 to 43.49:

Subd. 2. An emergency, temporary, or intermittent employee of the state; a part time or seasonal employee of the state serving on less than a 75 percent time basis; but this exclusion shall not apply to a part time or seasonal employee of the state in the classified service who prior to April 1, 1967 was eligible for state paid basic life insurance and health benefits;

Subd. 3. A deputy registrar of motor vehicles;

Subd. 4. An election official;

Subd. 5. An independent contractor engaged in work for the state under a contract or any employee thereof;

Subd. 6. A judge of any court, and an officer or employee thereof except as otherwise provided in section 43.43;

Subd. 7. A notary public;

Subd. 8. Patient or inmate help in a state institution including but not limited to the Minnesota veterans home;

Subd. 9. A student at a state educational institution who may be employed as student help;

Subd. 10. A person rendering a professional service whose duties are assigned and whose compensation is paid on a per diem basis;

Subd. 11. A member of a state board or commission who serves the state intermittently, who serves without compensation or who is paid on a per diem basis; an officer, including a secretary or treasurer, employed by a state board or commission and whose compensation is less than \$2,000 per year;

Subd. 12. A temporary employee of the legislature or a temporary employee of a study or interim committee or commission except as otherwise provided in section 43.44, subdivision 2;

Subd. 13. An employee of the board of regents of the University of Minnesota on the academic staff serving on less than a 75 percent regular appointment;

Subd. 14. An employee of the board of regents of the University of Minnesota and member of the civil service staff under the civil service plan adopted by the University of Minnesota, who is employed on an emergency, temporary, or intermittent basis; a part time or seasonal employee or member serving on less than a 75 percent time basis;

Subd. 15. An employee of the board of regents of the University of Minnesota, who has chosen to have his wages and fringe benefits governed by the terms of a master or uniform contract ("prevailing rate" employee) in accordance with the provisions of the University of Minnesota civil service rule 5.12, as amended;

Subd. 16. An employee in the unclassified civil service who is employed by the state university board or the state board for community colleges as a member of the academic staff serving on less than a 75 percent time basis;

Subd. 17. An employee of the state agricultural society; an employee of the board of regents of the University of Minnesota who is eligible for coverage under the federal employees health benefits program;

Subd. 18. A person employed in the federal economic opportunity act program, including but not limited to a neighborhood youth corps enrollee and work site supervisor, except a person who otherwise meets the eligibility requirements of sections 43.42 to 43.49, and performs administrative and clerical duties in connection with the administration by the state of the program, provided the required premium is paid from such federal funds as may be available for the administrative costs of the program.

[1965 c 780 s 6; 1967 c 103 s 6; 1967 c 148 s 2; 1967 c 759 s 1; 1971 c 198 s 1; 1973 c 349 s 2; 1975 c 321 s 2; 1975 c 381 s 18]

43.48 ADMINISTRATION. After the commissioner shall have entered into contracts with carriers as provided in section 43.45, it shall be his responsibility to maintain records, prepare reports, and to perform such other functions as may be necessary to carry out the intent of sections 43.42 to 43.49. The commissioner may promulgate such regulations as may be necessary to carry out the provisions of sections 43.42 to 43.49. Upon request of the commissioner, the commissioner of finance shall perform necessary accounting and disbursements functions.

[1965 c 780 s 7; 1973 c 507 s 33]

43.49 REPORTS AND AUDITS. Subdivision 1. The commissioner shall transmit to each regular session of the legislature a report concerning the operations of sections 43.42 to 43.49.

Subd. 2. The commissioner shall include provisions in contracts with carriers which would require carriers to (1) furnish such reasonable reports as the commissioner determines to be necessary to enable it to carry out its functions under sections 43.42 to 43.49, and (2) permit the commissioner to examine records of the carriers as may be necessary to carry out the purposes of sections 43.42 to 43.49.

Subd. 3. Each state department and agency shall keep such records, make such certifications, and furnish the commissioner or carriers with such information and reports as may be necessary to enable the commissioner or carriers to carry out its functions under sections 43.42 to 43.49.

[1965 c 780 s 8; 1973 c 507 s 34]

43.491 OPTIONAL COVERAGES FOR NONELIGIBLE STATE EMPLOYEES.

Subdivision 1. A member of the legislature until the first Monday in January, 1969, or a person not specifically included as an eligible state employee in section 43.43, or not specifically excluded by section 43.47, if employed on a state payroll, and his dependents may be enrolled in the employee life insurance benefits coverage, the hospital benefits coverage, the medical benefits coverage, and such optional coverage, without cost to the state, at such time, in such manner, and under such conditions of eligibility as the commissioner may by regulation prescribe and otherwise approve. If such person and his dependents are enrolled in such coverages the commissioner may also provide by regulation for payroll deductions to be made in the same manner, and under the same conditions, as provided for by section 43.50, subdivision 1a, authorizing payroll deductions for an eligible state employee and his dependents.

Subd. 2. The following persons enumerated in this subdivision though excluded by Laws 1967, Chapter 103, from coverage, are nonetheless eligible for coverages at their own expense pursuant to the provisions of subdivision 1:

(1) A part time or seasonal employee of the state serving on less than a 75 percent time basis;

(2) An employee of the board of regents of the University of Minnesota on the academic staff serving on less than a 75 percent regular appointment;

(3) A part time or seasonal employee of the board of regents of the University of Minnesota and a member of the civil service staff under the civil service plan serving on less than a 75 percent time basis;

(4) An employee in the unclassified service of the state civil service who is employed by the state university board or the state board for community colleges as a member of the academic staff serving on less than a 75 percent time basis;

- (5) An officer or employee of the state agricultural society;
- (6) A civilian employee of the adjutant general who is paid from federal funds and who is not eligible to benefits from any federal civilian employee group life insurance or health benefits program;
- (7) An officer or employee of the state capitol credit union or the hiway credit union.

Subd. 3. Any member who has served in the legislature may, following such service, enroll himself and his dependents in the hospital benefits coverage and the medical benefits coverage at his own expense. Costs of coverage shall be at applicable group rates and shall be paid by payroll deductions, or in the manner prescribed by regulation of the commissioner.

Subd. 4. Notwithstanding the restrictions contained in section 43.44, subdivision 2, a retired judge of the supreme court or district court, within 90 days of April 1, 1976 or within 30 days of the effective date of his retirement, whichever period terminates later, may elect to participate at his own expense in the hospital benefits coverage and medical benefits coverage provided by sections 43.42 to 43.50. The retired judge may also, at his own expense, obtain hospital benefits coverage and medical benefits coverage for his dependents who meet the general dependent eligibility requirements for those coverages. The commissioner by rule shall establish forms and procedures for exercise of the option provided by this section and for the payment of necessary premiums. A retired judge shall pay the full cost of the coverages provided to him or to his dependents under this section, as determined from time to time by the commissioner. Until rules are established under this section, a retired judge may exercise his option by notifying the commissioner in writing and by tendering payment of premiums as required by the commissioner.

[1967 c 103 s 7; 1967 c 759 s 2; 1973 c 349 s 2; 1973 c 507 s 34; 1974 c 420 s 1; 1975 c 321 s 2; 1975 c 417 s 1; 1976 c 98 s 1]

43.50 PAYMENT OF PREMIUMS. Subdivision 1. Each department of the state government shall pay the amounts due for basic life insurance and basic health benefits coverage authorized for eligible state employees as provided by this chapter. Additionally, and notwithstanding any law to the contrary, effective July 9, 1975, each department of the state government shall contribute \$20 per month toward the cost of dependent hospital-medical insurance coverage premiums for their eligible employees who have eligible dependents. Effective July 7, 1976, each department shall contribute \$30 per month for the coverage. To enable employees to receive benefit from this provision, open enrollment periods during the full months of August, 1975 and August, 1976, are established. During open enrollment periods employees may enroll their dependents in hospital-medical coverage without proof of insurability. Effective January 1, 1975, the state contribution of \$10 per month shall apply to eligible members of the legislature who have eligible dependents. Effective January 1, 1977, the increased benefits provided in this section shall apply to eligible members of the legislature who have eligible dependents. Each of the departments shall pay such amounts from accounts and funds from which the department receives its revenues, including appropriations from the general fund and from any other fund, now or hereafter existing for the payment of salaries and in the same proportion as it pays therefrom the amounts of salaries. Such sums of money as are necessary for such purposes are hereby appropriated to the departments from such account and funds in the state treasury. In order to enable the commissioner of finance to maintain proper records covering the appropriations made by this section, he may require certifications in connection therewith as he may deem necessary from any state department whose employees receive benefits pursuant to this chapter. The accounts and funds referred to from which departments receive appropriations under the terms of this section are hereby declared to be a source of revenue for the purposes of any other law or statutory enactment.

Subd. 1a. If an eligible state employee enrolls himself or his dependents for any of the optional coverages made available by the commissioner pursuant to section 43.45, subdivision 3, the commissioner of finance, upon such employee's written order, shall deduct from the salary or wages of such employee those amounts required from time to time to maintain such optional coverages in force, and issue his warrant therefor to the appropriate carrier.

Subd. 2. If for any reason there is insufficient moneys in the state treasury to provide moneys to expend under the appropriations made by subdivision 1 from any

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account or fund in the state treasury, such additional moneys as may be necessary therefor are hereby appropriated from the general fund in the state treasury for such purpose.

Subd. 3. In order to provide sufficient moneys to administer the life insurance and health benefit plan referred to in this section as otherwise provided for during the 1965 session of the legislature, there is appropriated for such purposes from the general fund in the state treasury the sum of \$25,000 for the fiscal year beginning July 1, 1965, and the additional sum of \$50,000 for the fiscal year beginning July 1, 1966.

[1965 c 901 s 83; 1967 c 103 s 8,9; 1969 c 399 s 1; 1973 c 492 s 14; 1973 c 507 s 34; 1973 c 653 s 22; 1975 c 431 s 21]