

1 Department of Employee Relations

2

3 Adopted Permanent Rules Relating to Labor; Local Government Pay

4 Equity Compliance

5

6 Rules as Adopted

7 3920.0100 DEFINITIONS.

8 Subpart 1. **Scope.** The terms used in this chapter have the  
9 meanings given them in this part.

10 Subp. 2. **Benefits.** "Benefits" means health insurance or  
11 health self-insurance programs to which a jurisdiction  
12 contributes on behalf of an employee or an employee plus  
13 dependents. Benefits does not include pensions, life insurance,  
14 dental insurance, disability insurance, or other insurance  
15 programs.

16 Subp. 3. **Compensation.** "Compensation" consists of salary,  
17 exceptional service pay, and benefits. Compensation does not  
18 include overtime pay, shift differentials, or uniform  
19 allowances, as defined in items A to C. Compensation also  
20 excludes any other payments not defined as salary, benefits, or  
21 exceptional service pay.

22 A. "Overtime pay" means payment to employees for  
23 services performed in excess of the normal work period, and when  
24 the payments are required by applicable state and federal  
25 overtime laws, by an applicable collective bargaining agreement,  
26 or by written personnel policies.

27 B. "Shift differential" means payment to employees  
28 for working other than the standard daytime weekday shift.

29 C. "Uniform allowance" means payment to employees for  
30 purchasing a specified, required uniform.

31 Subp. 4. **Department.** "Department" means the Minnesota  
32 Department of Employee Relations.

33 Subp. 5. **Employee.** "Employee" means a public employee as  
34 defined by Minnesota Statutes, section 179A.03, subdivision 14,  
35 except that employee also includes employees of charitable

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1 hospitals as defined by Minnesota Statutes, section 179.35,  
2 subdivision 3. Employee does not include employees of  
3 charitable hospitals who would be excluded under Minnesota  
4 Statutes, section 179A.03, subdivision 14, paragraphs (a) to (f).

5 Subp. 6. **Exceptional service pay.** "Exceptional service  
6 pay" means longevity pay or performance pay, as defined in items  
7 A and B.

8 A. "Longevity pay" means payment above the salary  
9 range maximum to employees with specified years of service or  
10 seniority.

11 B. "Performance pay" means payment above the salary  
12 range maximum to employees who meet specified performance or  
13 production standards.

14 Subp. 7. **In compliance, not in compliance.** "In compliance"  
15 means that the jurisdiction has established equitable  
16 compensation relationships and met the reporting requirements of  
17 Minnesota Statutes, sections 471.991 to 471.999, and this  
18 chapter. "Not in compliance" means that the jurisdiction has  
19 not established equitable compensation relationships, or has not  
20 met reporting requirements under the statute or rules.

21 Subp. 8. **Job evaluation system.** "Job evaluation system"  
22 means the system used to measure the comparable work value of  
23 work performed by each class of employees.

24 Subp. 9. **Jurisdiction.** "Jurisdiction" means a political  
25 subdivision, governmental subdivision, or public employer  
26 responsible for achieving equitable compensation relationships  
27 under Minnesota Statutes, sections 471.991 to 471.999. For  
28 purposes of pay equity compliance, jurisdiction means a public  
29 employer as defined by Minnesota Statutes, section 179A.03,  
30 subdivision 15, clause (c), except that jurisdiction may also  
31 include charitable hospitals as defined by Minnesota Statutes,  
32 section 179.35, subdivision 2.

33 If a charitable hospital does not have final budgetary  
34 approval authority for employees in the hospital, the  
35 jurisdiction for purposes of parts 3920.0100 to 3920.1300 is  
36 defined as the public employer with final budgetary approval

1 authority for employees in that hospital. If the governing  
2 board of a joint powers agency does not have final budgetary  
3 approval authority for employees in the joint powers agency, the  
4 jurisdiction for purposes of parts 3920.0100 to 3920.1300 is  
5 defined as the public employer with final budgetary approval  
6 authority for employees in that joint powers agency.

7 Subp. 10. **Salary.** "Salary" consists of wages and  
8 additional cash compensation, as defined in items A and B.

9 A. "Wages" means all regular payments for routinely  
10 scheduled labor or services made by a jurisdiction to a class of  
11 employees, whether these payments are made on an hourly,  
12 monthly, or annual basis, except for payments defined as  
13 exceptional service pay, and except for payments excluded from  
14 the definition of compensation. Wages refers to the maximum  
15 monthly payment for a job class if there is an established  
16 payment range for the class, or to the highest actual monthly  
17 wage paid to any member of a class if there is no established  
18 payment range for that class.

19 B. "Additional cash compensation" means all payments  
20 made by a jurisdiction to a class of employees when the payments  
21 are made to all employees in the class and when the payments  
22 exceed the maximum of an established payment range. Additional  
23 cash compensation includes lump sum payments and bonus payments  
24 except as provided in subitems (1) and (2).

25 (1) Additional cash compensation does not include  
26 retroactive adjustments to wages when those adjustments do not  
27 exceed the reported wage maximum, and does not include  
28 retroactive contributions to benefits when those contributions  
29 do not exceed the reported benefits contribution limits.

30 (2) Additional cash compensation does not include  
31 payments defined as exceptional service pay, and does not  
32 include payments excluded from the definition of compensation.

33 Subp. 11. **Submit, submitted by, or submitted within.** To  
34 "submit" means to provide the department with the information  
35 specified. When this chapter requires that information be  
36 submitted by a specified date, "submitted by ..." or "submitted

1 within ..." means postmarked on or before the specified date, or  
2 hand carried to the department and received by the department on  
3 or before the specified date. Hand carried materials will be  
4 accepted by the department only during regular business hours,  
5 from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding  
6 state holidays. The department's address is Second Floor  
7 Centennial Building, 658 Cedar Street, Saint Paul, Minnesota,  
8 55155.

9 3920.0200 JURISDICTION DETERMINATION.

10 Subpart 1. **Scope.** This part explains how the department  
11 will proceed when there is a question or dispute about the  
12 jurisdiction responsible for establishing equitable compensation  
13 relationships and for meeting reporting requirements under  
14 Minnesota Statutes, sections 471.991 to 471.999, and this  
15 chapter.

16 Subp. 2. **Requesting a determination.** A person or entity  
17 may request a determination of the responsible jurisdiction by  
18 writing to the department. The request must specify the  
19 employee classes in question, and must identify the jurisdiction  
20 which the requester believes may be the responsible  
21 jurisdiction. In response to a request, the department must  
22 decide that a request is without merit and that no review of  
23 documents is necessary, or that the request may have merit and a  
24 review of documents is necessary, as explained in subpart 3.

25 In addition, the department may initiate a review of the  
26 responsible jurisdiction for the purpose of ensuring that a  
27 jurisdiction's implementation report has included all classes  
28 for which that jurisdiction is responsible and has not included  
29 any classes for which the jurisdiction is not responsible.

30 Subp. 3. **Documents to support determination.** If the  
31 department decides that the request may have merit, or if the  
32 department initiates a review, the department must determine the  
33 responsible jurisdiction for the employee classes specified by  
34 the requesters or the department, based on the documents listed  
35 in items A to D. The department may require the requesters, or

1 one or more jurisdictions, to submit this information within a  
2 reasonable time set by the department as needed to make a  
3 jurisdiction determination.

4           A. Documents such as enabling legislation,  
5 ordinances, or resolutions which demonstrate that a particular  
6 jurisdiction has final budgetary approval authority for one or  
7 more employee classes.

8           B. Documents which demonstrate that a different  
9 jurisdiction has final budgetary approval authority for one or  
10 more employee classes.

11           C. Documents which identify how a jurisdiction's  
12 budget is established and how its budget is adopted.

13           D. Any other documents which identify the responsible  
14 jurisdiction as defined in part 3920.0100, subpart 9.

15           Subp. 4. **Notice to jurisdictions.** If the department  
16 undertakes a review of the responsible jurisdiction, it must  
17 send a written notice to the jurisdictions which may be affected  
18 by the review, and must provide an opportunity for those  
19 jurisdictions to submit any of the documents listed in subpart  
20 3, within a reasonable time set by the department. When the  
21 department makes a jurisdiction determination, it must send a  
22 written notice to the affected jurisdictions and to the  
23 requester, if any.

24           Subp. 5. **Impact on compliance determination.** The  
25 department must follow the procedure explained in items A and  
26 B. Any jurisdiction found not in compliance as the result of a  
27 jurisdiction determination may request reconsideration as  
28 explained in part 3920.0900. If a jurisdiction is subject to a  
29 penalty, the jurisdiction may submit a request for suspension of  
30 penalty as explained in part 3920.1100, or a contested case  
31 appeal as explained in part 3920.1200, or both.

32           A. If the department determines that a jurisdiction  
33 is the responsible jurisdiction for one or more employee classes  
34 which were not included in the jurisdiction's implementation  
35 report, that report will be considered an incomplete report.  
36 Inaccurate and incomplete reports are subject to part 3920.0700,

1 subpart 2.

2 B. If the department determines that a jurisdiction  
3 reported on one or more employee classes for which it is not the  
4 responsible jurisdiction, that report will be considered an  
5 inaccurate report. Inaccurate and incomplete reports are  
6 subject to part 3920.0700, subpart 2.

7 3920.0300 IMPLEMENTATION REPORTS.

8 Subpart 1. **Report required.** Each jurisdiction must submit  
9 a pay equity implementation report as provided by Minnesota  
10 Statutes, section 471.9981, subdivision 5a. The report must be  
11 submitted to the department by January 31, 1992. The report  
12 must be based on the jurisdiction's payroll as of December 31,  
13 1991, except as otherwise provided in subpart 5, and it must  
14 include all of the information listed in subparts 3 to 8.

15 Subp. 2. **Report form.** The report must be submitted on a  
16 form provided by the department. In addition to the form,  
17 jurisdictions may submit all or part of the information on a  
18 computer diskette, in a format specified by the department.

19 Subp. 3. **Notice to employees.** The report must include a  
20 statement signed by the chief elected official verifying that  
21 employees have been notified, as provided in this subpart, that  
22 the report is public data under the Minnesota Government Data  
23 Practices Act, Minnesota Statutes, chapter 13. If there is no  
24 chief elected official, the statement must be signed by the  
25 chief appointed official of the jurisdiction.

26 The jurisdiction must send the notice to each exclusive  
27 representative, if any, for the jurisdiction. In addition, the  
28 jurisdiction must post the notice in a prominent location  
29 accessible to all employees, and make a copy available in the  
30 public library. The notices must be sent and posted before the  
31 report is submitted to the department. Posted notices must  
32 remain posted for at least 90 days after the report is submitted  
33 to the department.

34 The written and posted notices must include the following  
35 information:

1           A. a statement that the jurisdiction has submitted  
2 its implementation report to the department as required by the  
3 Local Government Pay Equity Act; and

4           B. a statement that the report is public information  
5 available to anyone requesting this information.

6           Subp. 4. **Verifications.** The report must include a  
7 statement signed by the chief elected official or, if none, the  
8 chief appointed official of the jurisdiction verifying that:

9           A. all information in the report is accurate and  
10 complete to the best of the jurisdiction's knowledge;

11           B. the governing body of the jurisdiction has  
12 reviewed and approved the report;

13           C. the job evaluation system used by the jurisdiction  
14 meets the criteria in subitems (1) and (2):

15                   (1) the job evaluation system is based on the  
16 skill, effort, responsibility, and working conditions normally  
17 required in the performance of the work; and

18                   (2) the same job evaluation system is used for  
19 determining comparable work value for all classes of employees  
20 in the jurisdiction; and

21           D. the report includes all classes of employees over  
22 which the jurisdiction has final budgetary approval authority.

23           Subp. 5. **Job class information.** The jurisdiction must  
24 submit the information listed in items A to H for each job class  
25 which had employees at any time in calendar year 1991, unless  
26 the class was abolished on or before December 31, 1991.

27           The information provided must be as of December 31, 1991,  
28 except that for classes which were vacant on that date the  
29 information must be as of the most recent date when the class  
30 was occupied, as specified in items B, C, D, and F.

31           A. **Class title.** If the jurisdiction has a two-tier  
32 pay system, and there were employees in both tiers on December  
33 31, 1991, the jurisdiction must report each tier as a separate  
34 class. The information in items B to H must be reported  
35 separately for each tier.

36           "Two-tier pay system" means a pay practice in which two

1 classes with the same duties, responsibilities, and general  
2 qualifications have different pay range minimums or maximums, or  
3 in which more recently-hired employees progress through the pay  
4 range at a different rate than less recently-hired employees.

5 B. Male employees. For classes which were vacant on  
6 December 31, 1991, the jurisdiction must report the number of  
7 male employees as of the most recent date when the class was  
8 occupied.

9 C. Female employees. For classes which were vacant  
10 on December 31, 1991, the jurisdiction must report the number of  
11 female employees as of the most recent date when the class was  
12 occupied.

13 D. Class type. The jurisdiction must identify the  
14 class type (male-dominated, female-dominated, or balanced) as  
15 defined by Minnesota Statutes, section 471.991. For classes  
16 which were vacant on December 31, 1991, the class type must be  
17 as of the most recent date when the class was occupied.

18 E. Comparable work value. The jurisdiction must  
19 report the job evaluation rating (comparable work value) of the  
20 class as determined by the job evaluation system.

21 F. Salary. The jurisdiction must report the minimum  
22 and maximum monthly salary, as determined by subitems (1) to  
23 (4). If there is no salary range for the class, the  
24 jurisdiction must note that information in the space provided on  
25 the form.

26 (1) For classes with an established hourly wage,  
27 jurisdictions must multiply the minimum and maximum hourly wages  
28 by 173.3 to determine the minimum and maximum monthly wage.  
29 When there is no established hourly wage, and there is only an  
30 annual wage, jurisdictions must divide the minimum and maximum  
31 annual wages by the number of months worked to determine the  
32 minimum and maximum monthly wages.

33 If the wage is for a class in which all employees work less  
34 than full-time equivalents, the minimum and maximum monthly  
35 wages must be adjusted to represent the full-time equivalent  
36 wage. The jurisdiction must make the adjustment by determining



1 the minimum and maximum hourly wage and multiplying that amount  
2 by 173.3.

3 (2) If any employee in the class is paid less  
4 than the minimum of the wage range, or if no wage range exists,  
5 the jurisdiction must list the lowest wage actually paid any  
6 employee in the class as the minimum monthly salary. For  
7 classes which were vacant on December 31, 1991, and for which no  
8 wage range exists, the jurisdiction must list the lowest wage  
9 actually paid any employee in the class as of the most recent  
10 date when the class was occupied.

11 (3) If any employee in the class is paid more  
12 than the maximum of the wage range, or if no wage range exists,  
13 the jurisdiction must list the highest wage actually paid any  
14 employee in the class as the maximum. For classes which were  
15 vacant on December 31, 1991, and for which no wage range exists,  
16 the jurisdiction must list the highest wage actually paid any  
17 employee in the class as of the most recent date when the class  
18 was occupied.

19 (4) If any class received additional cash  
20 compensation at any time from July 1, 1991 through December 31,  
21 1991, and if that payment resulted in pay above the wage range  
22 maximum, that payment must be prorated to determine a monthly  
23 equivalent. The prorated amount must be added to the wage range  
24 maximum in calculating the maximum monthly salary.

25 G. Years to maximum. The jurisdiction must report  
26 the number of years required to qualify for the maximum monthly  
27 salary. If no salary range exists, the jurisdiction must report  
28 the number of years of service in the class for the employee  
29 with the highest actual monthly salary.

30 H. Exceptional service pay. The jurisdiction must  
31 report the type of exceptional service pay received, if any  
32 employee in the class was receiving longevity or performance  
33 payments which resulted in pay above the salary range maximum.

34 Subp. 6. Benefits. The jurisdiction must report whether  
35 or not eligibility for benefits, or the jurisdiction's  
36 contribution limit for benefits, is different for any

1 male-dominated and female-dominated classes of comparable work  
2 value. Classes are of comparable work value for purposes of  
3 this subpart if their job evaluation ratings are within a range  
4 of ratings equal to ten percent of the total range of evaluation  
5 ratings in the jurisdiction.

6 The total range of evaluation ratings is determined by  
7 subtracting the lowest rating assigned to any class in the  
8 jurisdiction from the highest rating assigned to any class in  
9 the jurisdiction. The rating corresponding to ten percent of  
10 that amount is determined by dividing the total range of  
11 evaluation ratings by ten.

12 To determine whether differences exist, jurisdictions must  
13 compare benefits eligibility and contribution limits for each  
14 female-dominated class to benefits eligibility and contribution  
15 limits for each male-dominated class within an evaluation range  
16 extending from ten percent of the total range of evaluation  
17 ratings below the female-dominated class to ten percent of the  
18 total range of evaluation ratings above the female-dominated  
19 class.

20 If differences exist, and if the differences represent a  
21 lower contribution limit or more limited eligibility for any  
22 female-dominated class, the jurisdiction must report the  
23 following information for all classes:

24 A. eligibility or lack of eligibility for each  
25 benefit program; and

26 B. the amount of the employer's contribution limit  
27 for each benefit program, prorated to determine monthly value.

28 **Subp. 7. Performance differences.** If a jurisdiction  
29 without salary ranges for any of its classes wants the  
30 department to consider documented performance differences which  
31 may explain compensation differences between male-dominated and  
32 female-dominated classes, as explained in part 3920.0600,  
33 subpart 7, the jurisdiction's report must so indicate. In  
34 addition, the report must include a statement that documentation  
35 about performance differences is available at the department's  
36 request.

1 Subp. 8. Total payroll. The jurisdiction must state the  
2 amount of its total actual annual payroll for the year ending  
3 December 31, 1991.

4 3920.0400 COMPLIANCE REVIEW.

5 Subpart 1. Compliance requirements. This part identifies  
6 the tests a jurisdiction must pass to be found in compliance.  
7 If a jurisdiction fails any of the tests which apply to that  
8 jurisdiction, as described in items A to D, the department must  
9 find the jurisdiction not in compliance.

10 A. A jurisdiction with six or more male-dominated  
11 classes and one or more salary ranges must pass the statistical  
12 analysis test described in part 3920.0500.

13 B. A jurisdiction with four or five male-dominated  
14 classes and one or more salary ranges, and a jurisdiction with  
15 more than three male-dominated classes and no salary ranges,  
16 must pass the statistical analysis test described in part  
17 3920.0500 or, if that test is not passed, the alternative  
18 analysis test described in part 3920.0600.

19 C. A jurisdiction with three or fewer male-dominated  
20 classes must pass the alternative analysis test described in  
21 part 3920.0600.

22 D. All jurisdictions must pass all the other tests  
23 described in part 3920.0700.

24 Subp. 2. Basis for analysis. The statistical analysis  
25 test and the alternative analysis test are based on the maximum  
26 monthly salaries and on the job evaluation ratings listed in the  
27 jurisdiction's implementation report, except as provided in  
28 items A and B.

29 A. If a jurisdiction has no salary ranges, the  
30 analysis is based on the highest actual salary paid for each  
31 class.

32 B. If a jurisdiction provides different benefits to  
33 male-dominated and female-dominated classes of comparable work  
34 value as explained in part 3920.0300, subpart 6, and if those  
35 differences represent a disadvantage to any female-dominated

1 class, the department must add the jurisdiction's benefits  
2 contribution limit to the maximum monthly salary or to the  
3 highest salary actually paid for each class.

4 Subd. 3. Data review. Before completing the compliance  
5 review, the department must mail to each jurisdiction a printout  
6 showing the data derived from the jurisdiction's implementation  
7 report which will be used in determining compliance for that  
8 jurisdiction. The department may not make a compliance decision  
9 for a period of 14 days after the date shown on the printout  
10 mailed to the jurisdiction. If a jurisdiction submits written  
11 notification to the department within the 14-day period that any  
12 of those data are in error, the department must review the data  
13 and correct any bona fide data entry errors before making a  
14 compliance decision.

15 3920.0500 STATISTICAL ANALYSIS TEST.

16 Subpart 1. Scope. This part applies to a jurisdiction  
17 with more than three male-dominated classes.

18 Subp. 2. Criteria for statistical analysis test. To pass  
19 this test, analysis of the jurisdiction's implementation report  
20 must show:

21 A. an underpayment ratio of 80.0 percent or more; or

22 B. an underpayment ratio less than 80.0 percent, and:

23 (1) for a jurisdiction with six or more  
24 male-dominated classes and with one or more salary ranges, an  
25 average pay difference which is the same for male-dominated and  
26 female-dominated classes or which does not represent a  
27 disadvantage for female-dominated classes;

28 (2) for a jurisdiction with six or more  
29 male-dominated classes and with one or more salary ranges, an  
30 average pay difference which represents a disadvantage for  
31 female-dominated classes, and a determination that the  
32 difference is not statistically significant; or

33 (3) for a jurisdiction with fewer than six  
34 male-dominated classes, and for a jurisdiction that has no  
35 salary ranges for any of its classes, a determination that the

1 jurisdiction meets the alternative analysis test described in  
2 part 3920.0600.

3 Subp. 3. **Steps in statistical analysis.** For each  
4 jurisdiction with more than three male-dominated classes, the  
5 department must conduct a statistical analysis. The analysis  
6 includes determining and analyzing the following data:  
7 predicted pay, underpayment ratio, average pay difference, and  
8 statistical significance of the average pay difference as  
9 described in subparts 4 to 9. All operations in this part are  
10 based on unrounded data, except when otherwise specified.

11 Subp. 4. **Determining predicted pay.** The department must  
12 determine predicted pay for each male-dominated and  
13 female-dominated class in the jurisdiction. Predicted pay means  
14 predicted salary for those jurisdictions which do not have  
15 different benefits for male-dominated and female-dominated  
16 classes of comparable work value, as described in part  
17 3920.0300, subpart 6. For those jurisdictions which do have  
18 different benefits for male-dominated and female-dominated  
19 classes of comparable work value, predicted pay means the total  
20 predicted amount of salary plus benefits contribution limits.

21 The department must determine predicted pay by creating a  
22 window, drawing a regression line within the window, and  
23 identifying a predicted pay point on the regression line. The  
24 process described in items A to D is continued until pay has  
25 been predicted for each male-dominated and female-dominated  
26 class in the jurisdiction.

27 A. **Creating a window.** The analysis creates a window  
28 around the class. The window defines classes of comparable work  
29 value for purposes of the statistical analysis. Except as  
30 provided in item B, each window represents 20 percent of the  
31 total range of job evaluation ratings in the jurisdiction. The  
32 total range of evaluation ratings is determined by subtracting  
33 the lowest rating assigned to any class from the highest rating  
34 assigned to any class. The result is then multiplied by 20 and  
35 divided by 100. In addition, the window must meet the criteria  
36 in subitems (1) to (4).

1           (1) The lower limit of the window is below the  
2 evaluation rating of the class being analyzed by ten percent of  
3 the total range of evaluation ratings, except when the class  
4 being analyzed is in the bottom ten percent or the top ten  
5 percent of the total range of evaluation ratings. The upper  
6 limit of the window is above the evaluation rating of the class  
7 being analyzed by ten percent of the total range of evaluation  
8 ratings, except when the class being analyzed is in the top ten  
9 percent or the bottom ten percent of the total range of  
10 evaluation ratings.

11           (a) If the evaluation rating of the class  
12 being analyzed is in the bottom ten percent of the total range  
13 of evaluation ratings, the lower limit of the window is the  
14 lowest rating assigned to any class in the jurisdiction and the  
15 upper limit of the window is 20 percent above the lower limit.

16           (b) If the evaluation rating of the class  
17 being analyzed is in the top ten percent of the total range of  
18 evaluation ratings, the upper limit of the window is the highest  
19 rating assigned to any class in the jurisdiction and the lower  
20 limit of the window is 20 percent below the upper limit.

21           (2) The window must include at least three  
22 male-dominated job classes. When analyzing a male-dominated job  
23 class, the class being analyzed is counted as one of the three  
24 male-dominated job classes.

25           (3) The window must include at least two  
26 male-dominated job classes with different job evaluation  
27 ratings. When analyzing a male-dominated job class, the class  
28 being analyzed is counted as one of the two male-dominated job  
29 classes with different ratings.

30           (4) The window must include at least 20 percent  
31 of all the male-dominated classes in the jurisdiction.

32           B. Expanding the window. If any of the criteria in  
33 item A, subitems (2) to (4) are not met, the window is expanded  
34 in increments of five percent of the total range of evaluation  
35 ratings on both sides of the previous window, except as provided  
36 in subitems (1) and (2). That is, in the first expansion the

1 lower limit becomes the rating level 15 percent below the class  
2 being analyzed and the upper limit becomes the rating level 15  
3 percent above the class being analyzed. The window is increased  
4 using these five percent increments as many times as necessary  
5 until the criteria in item A, subitems (2) to (4) are met.

6 (1) If the expansion results in a lower limit  
7 below the lowest rating assigned to any class in the  
8 jurisdiction, then the lower limit is the lowest rating assigned  
9 to any class in the jurisdiction. The upper limit is above the  
10 lower limit by the total length of the expanded window, that is,  
11 30 percent in the first expansion, 40 percent in the second  
12 expansion, and so forth. The window is expanded until the  
13 criteria in item A, subitems (2) to (4) are met.

14 (2) If the expansion results in an upper limit  
15 above the highest rating assigned to any class in the  
16 jurisdiction, then the upper limit is the highest rating  
17 assigned to any class in the jurisdiction. The lower limit is  
18 below the upper limit by the total length of the expanded  
19 window, that is, 30 percent in the first expansion, 40 percent  
20 in the second expansion, and so forth. The window is expanded  
21 until the criteria in item A, subitems (2) to (4) are met.

22 C. Drawing a line. Using conventional statistical  
23 regression techniques, the analysis fits a linear regression  
24 line to all male-dominated classes in the window. The line is  
25 weighted to reflect the number of employees in each  
26 male-dominated class. The regression line represents the  
27 relationship between job evaluation ratings and salary, or  
28 between job evaluation ratings and salary plus benefits in the  
29 case of jurisdictions with different benefits for male-dominated  
30 and female-dominated classes of comparable work value, as  
31 explained in part 3920.0300, subpart 6.

32 D. Predicting pay. The analysis predicts pay for the  
33 class being analyzed by determining the dollar value on the  
34 regression line which corresponds to the job evaluation rating  
35 of the class being analyzed.

36 Subp. 5. Determining underpayment ratio. The analysis

1 tabulates the number of female-dominated and male-dominated  
2 classes which are paid below predicted pay for their job  
3 evaluation ratings. The analysis then calculates  
4 female-dominated classes paid below predicted pay as a  
5 percentage of all female-dominated classes in the jurisdiction,  
6 and male-dominated classes paid below predicted pay as a  
7 percentage of all male-dominated classes in the jurisdiction, as  
8 follows:

9           A. the number of male-dominated classes which are  
10 paid below predicted pay is divided by the total number of  
11 male-dominated classes, and the result is multiplied by 100;

12           B. the number of female-dominated classes which are  
13 paid below predicted pay is divided by the total number of  
14 female-dominated classes, and the result is multiplied by 100;  
15 and

16           C. the result from item A is divided by the result  
17 from item B, and the quotient is multiplied by 100 and rounded  
18 to one decimal place. This is the underpayment ratio.

19           Subp. 6. **Analyzing underpayment ratio.** If the  
20 underpayment ratio is 80.0 percent or more, the department must  
21 find that the jurisdiction passes the statistical analysis  
22 test. If the underpayment ratio is less than 80.0 percent, the  
23 department must continue the compliance review as explained in  
24 items A to C.

25           A. If the underpayment ratio is less than 80.0  
26 percent, and the jurisdiction has fewer than six male-dominated  
27 classes, the department must use the alternative analysis test  
28 described in part 3920.0600. The department must not continue  
29 the statistical analysis as described in subparts 7 to 9.

30           B. If the underpayment ratio is less than 80.0  
31 percent, and the jurisdiction has no salary ranges for any of  
32 its classes, the department must use the alternative analysis  
33 test described in part 3920.0600. The department must not  
34 continue the statistical analysis as described in subparts 7 to  
35 9.

36           C. If the underpayment ratio is less than 80.0



1 percent, and the jurisdiction has six or more male-dominated  
2 classes and one or more salary ranges, the department must  
3 continue the statistical analysis as described in subparts 7 to  
4 9.

5 Subp. 7. **Determining average pay difference.** For a  
6 jurisdiction described in subpart 6, item C, the department must  
7 determine and analyze the average pay difference. The average  
8 pay difference is the dollar amount of the average difference  
9 from predicted pay, calculated as follows:

10 A. The number of employees in each female-dominated  
11 class is multiplied by the dollar amount of the difference from  
12 predicted pay for that class. Both positive amounts (above  
13 predicted pay) and negative amounts (below predicted pay) are  
14 included.

15 B. The sum of the amounts in item A is divided by the  
16 total number of employees in female-dominated classes and  
17 rounded to the nearest whole dollar. The result is the average  
18 difference from predicted pay for female-dominated classes.

19 C. The process explained in items A and B is repeated  
20 for male-dominated classes. The result is the average  
21 difference from predicted pay for male-dominated classes.

22 Subp. 8. **Analyzing average pay difference.** The department  
23 must evaluate the average pay difference as explained in items A  
24 and B.

25 A. If the average pay difference is the same for  
26 male-dominated and female-dominated classes, or if the average  
27 pay difference does not represent a disadvantage for  
28 female-dominated classes, the department must find that the  
29 jurisdiction passes the statistical analysis test.

30 B. If the average pay difference represents a  
31 disadvantage for female-dominated classes, the department must  
32 continue the analysis as described in subpart 9.

33 Subp. 9. **Significance of average pay difference (t-test).**  
34 If the average pay difference represents a disadvantage for  
35 female-dominated classes, a standard test of statistical  
36 significance called the t-test must be applied to this finding.

1 The department must evaluate the results as explained in items A  
2 and B.

3           A. The t-test of ~~pooled~~ pooled variance is applied  
4 using conventional statistical techniques. Significance is  
5 determined at the five percent level for a one-tailed test. The  
6 statistical analysis rounds the value of t to three decimal  
7 places. The sample t table is taken from a standard statistical  
8 text: Blalock, Social Statistics, Second Edition 1972,  
9 published by McGraw-Hill, page 559. The degrees of freedom is  
10 the total number of employees in male-dominated and  
11 female-dominated classes, minus two. To be significant, the  
12 value of t for a jurisdiction must be at or above the level  
13 listed, except that for degrees of freedom not listed, the  
14 required level of t is taken from a standard normal distribution  
15 table.

16           Distribution of t (five percent significance)

17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55			
				Degrees of Freedom					Value of t																																
				1					6.314																																
				2					2.920																																
				3					2.353																																
				4					2.132																																
				5					2.015																																
				6					1.943																																
				7					1.895																																
				8					1.860																																
				9					1.833																																
				10					1.812																																
				11					1.796																																
				12					1.782																																
				13					1.771																																
				14					1.761																																
				15					1.753																																
				16					1.746																																
				17					1.740																																
				18					1.734																																
				19					1.729																																
				20					1.725																																
				21					1.721																																
				22					1.717																																
				23					1.714																																
				24					1.711																																
				25					1.708																																
				26					1.706																																
				27					1.703																																
				28					1.701																																
				29					1.699																																
				30					1.697																																

1	40	1.684
2	60	1.671
3	120	1.658
4	infinity	1.645

5  
6 B. If the t-test is not significant, the department  
7 must find that the jurisdiction has passed the statistical  
8 analysis test. If the t-test is significant, the department  
9 must find that the jurisdiction has failed the statistical  
10 analysis test and is not in compliance.

11 3920.0600 ALTERNATIVE ANALYSIS TEST.

12 Subpart 1. **Scope.** This part applies to:

13 A. a jurisdiction with three or fewer male-dominated  
14 classes;

15 B. a jurisdiction with four or five male-dominated  
16 classes, when the jurisdiction has an underpayment ratio of less  
17 than 80.0 percent as explained in part 3920.0500, subpart 6; and

18 C. a jurisdiction with no salary ranges for any of  
19 its classes, when the jurisdiction has an underpayment ratio of  
20 less than 80.0 percent as explained in part 3920.0500, subpart 6.

21 Subp. 2. **Criteria for alternative analysis test.** To pass  
22 the alternative analysis test, a jurisdiction must meet one of  
23 the following criteria:

24 A. an initial review shows that salary, or salary  
25 plus benefits, for female-dominated classes is not consistently  
26 below that of male-dominated classes of comparable work value,  
27 as described in subpart 4;

28 B. for classes with no salary ranges, differences in  
29 years of service explain the underpayment for all underpaid  
30 female-dominated classes, as described in subpart 6;

31 C. for classes with no salary ranges, differences in  
32 performance, separately or in combination with differences in  
33 years of service, explain the underpayment for all underpaid  
34 female-dominated classes, as described in subpart 7; or

35 D. for classes with no salary ranges, combined  
36 differences in years of service and performance explain the  
37 underpayment for some of the underpaid female-dominated classes,  
38 and the remaining number of underpaid female-dominated classes

1 is 20.0 percent, or less, of female-dominated classes in the  
2 jurisdiction, as explained in subparts 6 and 7.

3 Subp. 3. Basis for alternative analysis. The analysis is  
4 based on the maximum monthly salaries and job evaluation ratings  
5 listed in the jurisdiction's implementation report, except as  
6 described below. If the jurisdiction has no salary ranges, the  
7 analysis is based on the highest actual salary paid for each  
8 class. If a jurisdiction provides different benefits to  
9 male-dominated and female-dominated classes of comparable work  
10 value, and if those differences represent a disadvantage to any  
11 female-dominated class, the analysis is based on the  
12 jurisdiction's benefits contribution limit plus the maximum  
13 monthly salary, or on the jurisdiction's benefits contribution  
14 limit plus the highest salary actually paid for each class.

15 Subp. 4. Initial review. The department must conduct an  
16 initial review to determine whether salary, or salary plus  
17 benefits, for female-dominated classes is not consistently below  
18 that of male-dominated classes of comparable work value. The  
19 department must examine salary or salary plus benefits for each  
20 female-dominated class using the criteria in items A to D, and  
21 must identify each female-dominated class which is underpaid.  
22 For purposes of this part, "underpaid" means paid less than the  
23 level established by these criteria.

24 The department must count the number of underpaid  
25 female-dominated classes and calculate underpaid  
26 female-dominated classes as a percentage of all female-dominated  
27 classes in the jurisdiction. If 20.0 percent or a smaller  
28 percentage of female-dominated classes are underpaid according  
29 to the criteria in items A to D, the department must find that  
30 the jurisdiction has passed the alternative analysis test. If  
31 more than 20.0 percent of female-dominated classes are underpaid  
32 according to these criteria, the department must proceed as  
33 explained in subpart 5.

34 A. If there are any female-dominated classes with  
35 higher job evaluation ratings than male-dominated classes, and  
36 there are no male-dominated classes with ratings higher than

1 those female-dominated classes, the amount of salary or salary  
2 plus benefits for each of those female-dominated classes must be  
3 equal to or higher than the amounts for each lower-rated  
4 male-dominated class.

5 B. If there are any female-dominated classes with job  
6 evaluation ratings falling between lower-rated and higher-rated  
7 male-dominated classes, the amount of salary or salary plus  
8 benefits for each of the female-dominated classes must fall  
9 between the amounts for the male-dominated classes.

10 C. If there are any female-dominated classes with the  
11 same job evaluation ratings as male-dominated classes, the  
12 amount of salary or salary plus benefits for each of those  
13 female-dominated classes must be equal to or higher than the  
14 amounts for any of the male-dominated classes. This criterion  
15 does not apply if there are any male-dominated classes which are  
16 rated higher than the female-dominated class, but which receive  
17 salary or salary plus benefits amounts equal to or lower than  
18 the amounts for the female-dominated class.

19 D. If there are any female-dominated classes with job  
20 evaluation ratings lower than all male-dominated classes, those  
21 female-dominated classes must be compensated as reasonably in  
22 proportion to their job evaluation ratings as other classes in  
23 the jurisdiction.

24 Subp. 5. Failure to meet initial review standard. If more  
25 than 20.0 percent of female-dominated classes are underpaid  
26 according to the criteria in subpart 4, the department must  
27 determine whether the jurisdiction has salary ranges for its  
28 classes.

29 A. If there is no salary range for one or more  
30 underpaid female-dominated classes, or if there is no salary  
31 range for one or more male-dominated classes with which the  
32 underpaid female-dominated classes are being compared, the  
33 department must analyze years of service under subpart 6.

34 B. If there are salary ranges for the underpaid  
35 female-dominated class and for all male-dominated classes with  
36 which the female-dominated class is being compared, the

1 department must find that the jurisdiction has failed the  
2 alternative analysis test and is not in compliance.

3       **Subp. 6. Years of service.** The department must analyze  
4 the years of service for employees in female-dominated and  
5 male-dominated classes in the situation described in subpart 5,  
6 item A. For each of the underpaid female-dominated classes, the  
7 department must determine whether differences in years of  
8 service explain the underpayment.

9       The department must then count the remaining number of  
10 underpaid female-dominated classes for which years of service do  
11 not explain the underpayment, and evaluate the result as  
12 explained in items A to C.

13       **A.** If the remaining number of underpaid  
14 female-dominated classes is 20.0 percent or a smaller percentage  
15 of female-dominated classes in the jurisdiction, the department  
16 must find that the jurisdiction has passed the alternative  
17 analysis test.

18       **B.** If the remaining number of underpaid  
19 female-dominated classes is more than 20.0 percent of  
20 female-dominated classes, and if the jurisdiction has no salary  
21 ranges for any of its classes, the department must request and  
22 analyze any documents about performance differences submitted by  
23 the jurisdiction, as explained in subpart 7.

24       **C.** If the remaining number of underpaid  
25 female-dominated classes is more than 20.0 percent of  
26 female-dominated classes, and if the jurisdiction has salary  
27 ranges for some or all of its classes, the department must find  
28 that the jurisdiction has failed the alternative analysis test  
29 and is not in compliance.

30       **Subp. 7. Performance.** In the situation described in  
31 subpart 6, item B, if a jurisdiction reported that documentation  
32 of performance differences is available, as explained in part  
33 3920.0300, subpart 7, the department must request the  
34 documentation from the jurisdiction. The department must find  
35 that a jurisdiction which does not submit this information  
36 within the time set by the department has submitted an

1 incomplete or inaccurate report, as explained in part 3920.0700,  
2 subpart 2.

3 The department must analyze the documentation in each case  
4 where a female-dominated class is underpaid according to subpart  
5 4. For each of these female-dominated classes, the department  
6 must decide whether differences in performance explain the  
7 underpayment, separately or in combination with information  
8 about years of service for classes without salary ranges.

9 The department must then count the remaining number of  
10 underpaid female-dominated classes for which neither years of  
11 service nor performance explain the underpayment, and evaluate  
12 the result as explained in items A and B.

13 A. If the remaining number of underpaid  
14 female-dominated classes represents 20.0 percent or a smaller  
15 percentage of female-dominated classes in the jurisdiction, the  
16 department must find that the jurisdiction has passed the  
17 alternative analysis test.

18 B. If the remaining number of underpaid  
19 female-dominated classes represents more than 20.0 percent of  
20 female-dominated classes, the department must find that the  
21 jurisdiction has failed the alternative analysis test and is not  
22 in compliance.

23 3920.0700 OTHER TESTS.

24 Subpart 1. **Scope.** This part describes additional tests to  
25 be passed in the compliance review. If a jurisdiction fails any  
26 of the tests which apply to that jurisdiction as explained in  
27 subparts 2 to 5, the department must find the jurisdiction not  
28 in compliance.

29 Subp. 2. **Complete and accurate information test.** Each  
30 jurisdiction must report accurately and completely all of the  
31 information required by Minnesota Statutes, sections 471.991 to  
32 471.999, and this chapter. If a jurisdiction fails to submit a  
33 report by January 31, 1992, the department must find that  
34 jurisdiction not in compliance.

35 Any person or entity may submit a complaint about the

1 accuracy or completeness of a jurisdiction's report by writing  
2 to the department. The complaint must specify the information  
3 believed to be inaccurate or incomplete. In response to a  
4 complaint, the department must decide either that the complaint  
5 is without merit and that no review is necessary, or that the  
6 complaint may have merit and a review is necessary.

7 In addition, the department may initiate a review of the  
8 accuracy and completeness of a jurisdiction's report for the  
9 purpose of ensuring that the compliance review is based upon  
10 correct and complete information.

11 If the department decides that a review is necessary, the  
12 department must notify the jurisdiction in writing that a review  
13 is being undertaken. The department's notice must identify the  
14 missing information, the information which may be inaccurate,  
15 and any information required to demonstrate the completeness and  
16 accuracy of the report. The department must establish and  
17 notify the jurisdiction of a reasonable time period for the  
18 jurisdiction to submit missing information or to verify the  
19 information.

20 If the jurisdiction does not respond within the established  
21 time period, or if the department determines after reviewing the  
22 response that the report remains inaccurate or incomplete, the  
23 department must find the jurisdiction not in compliance.

24 **Subp. 3. Reopening department determinations.** If the  
25 conditions listed in items A and B are met, the department must  
26 reopen the jurisdiction determination under part 3920.0200, the  
27 compliance review under part 3920.0400, the reconsideration  
28 review under part 3920.0900, or the request for suspension of  
29 penalty review under part 3920.1100. The appropriate review  
30 process must be reopened if:

31 A. after making a jurisdiction determination, a  
32 compliance determination, a reconsideration determination, or a  
33 determination on a request for suspension of penalty, the  
34 department becomes aware that information submitted by a  
35 jurisdiction may be inaccurate or incomplete; and

36 B. the department has reason to believe that the



1 completing or correcting the information is likely to affect one  
2 of those determinations.

3 If any of the review processes are reopened, the department  
4 must use the procedure in subpart 2. In addition, the  
5 department must consider the evidence, notify the jurisdiction,  
6 and undertake all other procedures appropriate for the affected  
7 review process.

8 Jurisdictions found not in compliance as the result of  
9 reopening a review process may submit a reconsideration request  
10 under part 3920.0900. Jurisdictions subject to a penalty as the  
11 result of reopening a review process may submit a request for  
12 suspension of penalty under part 3920.1100, a contested case  
13 appeal as provided in part 3920.1200, or both.

14 Subp. 4. **Salary range test.** The average number of years  
15 required for female-dominated classes to qualify for the maximum  
16 monthly salary may not be consistently larger than the average  
17 number of years required for male-dominated classes to qualify  
18 for the maximum monthly salary. If a jurisdiction provides a  
19 different number of years to qualify for the maximum monthly  
20 salary for male-dominated and female-dominated classes, the  
21 department must evaluate this information as follows. The  
22 evaluation is limited to classes with an established number of  
23 years to reach maximum salary.

24 A. Calculate the average years to maximum for  
25 female-dominated classes by adding the years to maximum for  
26 female-dominated classes and dividing the result by the number  
27 of female-dominated classes.

28 B. Calculate the average years to maximum for  
29 male-dominated classes by adding the years to maximum for  
30 male-dominated classes and dividing the result by the number of  
31 male-dominated classes.

32 C. Divide the result from item B by the result from  
33 item A, and multiply the result times 100. If this amount is  
34 80.0 percent or more, the department must find that the  
35 jurisdiction has passed the salary range test. If this amount  
36 is less than 80.0 percent, the department must find that the

1 jurisdiction has failed the salary range test and is not in  
2 compliance.

3 Subp. 5. **Exceptional service pay test.** The percentage of  
4 female-dominated classes receiving exceptional service pay may  
5 not be consistently below the percentage of male-dominated  
6 classes receiving exceptional service pay. If employees in  
7 male-dominated classes receive exceptional service pay, the  
8 department must evaluate the information as provided in items A  
9 to D.

10 A. Count the number of male-dominated classes in  
11 which employees are receiving some form of exceptional service  
12 pay. Divide the sum by the total number of male-dominated  
13 classes, and multiply the quotient by 100.

14 B. If the result from item A is 20.0 percent or less,  
15 the department must find that the jurisdiction has passed the  
16 exceptional service pay test. If the result from item A is more  
17 than 20.0 percent, the department must continue the evaluation.

18 C. Count the number of female-dominated classes in  
19 which employees are receiving some form of exceptional service  
20 pay. Divide the sum by the total number of female-dominated  
21 classes, and multiply the quotient by 100.

22 D. Divide the result from item C by the result from  
23 item A, and multiply the quotient by 100. If the result is 80.0  
24 percent or more, the department must find that the jurisdiction  
25 has passed the exceptional service pay test. If the result is  
26 less than 80.0 percent, the department must find that the  
27 jurisdiction has failed the exceptional service pay test and is  
28 not in compliance.

29 3920.0800 COMPLIANCE NOTIFICATION.

30 Subpart 1. **Written notice.** When the department makes a  
31 compliance decision, it must notify the jurisdiction in writing.

32 Subp. 2. **Jurisdictions in compliance.** If a jurisdiction  
33 is in compliance, the department must notify the jurisdiction of  
34 the date on which the next implementation report must be  
35 submitted to ensure that pay equity is maintained, as explained

1 in part 3920.1300, subpart 2.

2       Subp. 3. **Jurisdictions not in compliance.** If a  
3 jurisdiction is not in compliance, the department must provide a  
4 detailed description of the basis for the finding, specific  
5 recommended actions to achieve compliance, an estimated cost of  
6 compliance, a date by which compliance must be achieved to avoid  
7 a penalty, and a date by which the jurisdiction must submit a  
8 revised report for reexamination by the department.

9       The revised report must consist of the same information  
10 required in the original implementation report, except that the  
11 information must be revised to be current as of the date by  
12 which compliance must be achieved to avoid a penalty. The date  
13 by which the jurisdiction must submit a revised report must be  
14 30 days after the date by which compliance must be achieved to  
15 avoid a penalty.

16       In setting the date by which compliance must be achieved to  
17 avoid a penalty, the department must consider the basis for the  
18 noncompliance finding and the actions recommended to achieve  
19 compliance.

20       Subp. 4. **Report to legislature.** The department must list  
21 all jurisdictions found not in compliance in its annual pay  
22 equity report to the legislature.

23       Subp. 5. **Next steps.** If a jurisdiction found not in  
24 compliance disagrees with the compliance decision or the date by  
25 which compliance must be achieved to avoid a penalty, the  
26 jurisdiction may request reconsideration of the decision under  
27 part 3920.0900. If a jurisdiction found not in compliance  
28 agrees with the compliance decision, it must act to come into  
29 compliance and it must submit a revised report by the date  
30 specified in the compliance notice.

31       After the date specified in the compliance notice, the  
32 department must examine the revised report and make a revised  
33 compliance decision by the methods explained in parts 3920.0400  
34 to 3920.0700.

35       A. If the department finds the jurisdiction in  
36 compliance as of the date specified, based on the revised

1 report, no penalty may be imposed. The department must notify  
2 the jurisdiction that it is in compliance and must specify the  
3 date on which the next report must be submitted to ensure that  
4 pay equity is maintained, as explained in part 3920.1300,  
5 subpart 2.

6 B. If the department finds the jurisdiction not in  
7 compliance as of the date specified, based on the revised  
8 report, the department must notify the jurisdiction that the  
9 jurisdiction is not in compliance and that a penalty will be  
10 imposed under part 3920.1000. The department must provide a  
11 detailed description of the basis for the finding, specific  
12 recommend actions to achieve compliance, and an estimated cost  
13 of compliance. The jurisdiction may submit a request for  
14 suspension of penalty under part 3920.1100, a contested case  
15 appeal as explained in part 3920.1200, or both.

16 3920.0900 RECONSIDERATION.

17 Subpart 1. **Scope.** If a jurisdiction disagrees with the  
18 department's compliance decision or with the time provided by  
19 the department to achieve compliance, it may request  
20 reconsideration of the decision. As the result of a  
21 reconsideration, the department must decide, based on the  
22 written information described in subparts 7 to 9:

23 A. that its original noncompliance decision and date  
24 for achieving compliance were correct;

25 B. that the original noncompliance decision was  
26 incorrect and the jurisdiction is in compliance; or

27 C. that the original noncompliance decision was  
28 correct but that more time will be provided for the jurisdiction  
29 to achieve compliance.

30 Subp. 2. **Initiating a reconsideration request.** To  
31 initiate a reconsideration request, the jurisdiction must give  
32 written notice to the department. The reconsideration request  
33 must be submitted within 30 days after the date of the  
34 noncompliance notice sent by the department.

35 Subp. 3. **Submitting information.** The jurisdiction must

1 submit written information to support the request within 60 days  
2 after the date of the noncompliance notice sent by the  
3 department.

4           A. A jurisdiction requesting reconsideration must  
5 submit the information listed in subpart 5, notice to employees.

6           B. A jurisdiction requesting reconsideration of the  
7 time provided to achieve compliance, but not requesting  
8 reconsideration of the original compliance decision, must also  
9 submit the information listed in subpart 8, compliance plan.

10           C. A jurisdiction may also submit any of the  
11 information listed in subpart 9, evidence for reconsideration.

12           Subp. 4. **Burden of proof.** During the reconsideration  
13 process, the burden of proof is on the jurisdiction to  
14 demonstrate to the department that the compliance decision was  
15 incorrect or that the time allowed to achieve compliance should  
16 be extended.

17           Subp. 5. **Notice to employees.** Reconsideration requests  
18 must include:

19           A. a statement signed by the chief elected official,  
20 or if none, the chief appointed official, verifying that  
21 exclusive representatives and employees have been notified of  
22 the reconsideration request, as explained in subpart 6; and

23           B. a copy of the notice sent and posted, as explained  
24 in subpart 6.

25           Subp. 6. **Notice requirements.** A jurisdiction requesting  
26 reconsideration must send a written notice to each exclusive  
27 representative, if any, for employees of the jurisdiction. The  
28 jurisdiction must also post the notice in a prominent location  
29 accessible to all employees, and make a copy available in the  
30 public library.

31           The notices must be sent and posted before the request for  
32 reconsideration is submitted to the department. Posted notices  
33 must remain posted for at least 90 days after the  
34 reconsideration request is submitted to the department.

35           The written and posted notices must include the following  
36 information:

1           A. a statement that the jurisdiction has been found  
2 not in compliance with the Local Government Pay Equity Act and  
3 that the jurisdiction is requesting a reconsideration of that  
4 decision or a longer period of time to achieve compliance;

5           B. a description of the grounds for the  
6 reconsideration request;

7           C. a statement that the department's determination  
8 and the materials submitted in support of the reconsideration  
9 request are public information available to anyone requesting  
10 the information;

11           D. a statement that any comments concerning the  
12 reconsideration request may be submitted to the department; and

13           E. the department's address and telephone number.

14       **Subp. 7. Comments.** A person or entity may submit a  
15 complaint about the accuracy or completeness of a jurisdiction's  
16 reconsideration request by writing to the department. The  
17 complaint must specify the information believed to be inaccurate  
18 or incomplete. In response to a complaint, the department must  
19 decide either that the complaint is without merit and that no  
20 review is necessary, or that the complaint may have merit and a  
21 review is necessary.

22       In addition, the department may initiate a review of the  
23 accuracy and completeness of a jurisdiction's reconsideration  
24 request for the purpose of ensuring that the reconsideration is  
25 based upon correct and complete information. If the department  
26 decides that a review is necessary, it must follow the  
27 procedures in part 3920.0700, subpart 2.

28       **Subp. 8. Compliance plan.** If a jurisdiction agrees that  
29 it is not in compliance, but requests reconsideration of the  
30 time allowed to achieve compliance, it must submit the following  
31 information to the department in writing:

32           A. a plan for achieving compliance, including the  
33 jurisdiction's proposed actions and response to the department's  
34 recommendations;

35           B. a proposed date for achieving compliance and for  
36 submitting a revised report for department review; and

1 C. a statement by the chief elected official or, if  
2 none, the chief appointed official, that the plan and proposed  
3 date have been approved by the jurisdiction's governing body.

4 Subp. 9. Evidence for reconsideration. In submitting a  
5 request for reconsideration of the compliance decision or for  
6 reconsideration of the time allowed to achieve compliance, the  
7 jurisdiction may submit written evidence concerning any of the  
8 facts in items A to H.

9 A. Nongender-based inequities. A jurisdiction may  
10 demonstrate that compensation inequities between male-dominated  
11 and female-dominated classes are not gender-based. The  
12 jurisdiction may submit any relevant information.

13 B. Recruitment difficulties. A jurisdiction may  
14 demonstrate that one or more female-dominated classes receive  
15 lower compensation than male-dominated classes because of  
16 recruitment difficulties in male-dominated classes. The  
17 jurisdiction may submit information documenting that:

18 (1) recruitment problems in female-dominated  
19 classes would be identified, evaluated, and treated the same as  
20 recruitment problems in male-dominated classes; and

21 (2) the higher compensation for male-dominated  
22 classes is needed to attract qualified candidates for those  
23 classes.

24 C. Retention difficulties. A jurisdiction may  
25 demonstrate that one or more female-dominated classes receive  
26 lower compensation than male-dominated classes because of  
27 retention difficulties in male-dominated classes. The  
28 jurisdiction may submit information documenting that:

29 (1) retention problems in female-dominated  
30 classes would be identified, evaluated, and treated the same as  
31 retention problems in male-dominated classes; and

32 (2) the higher compensation for male-dominated  
33 classes is needed to retain employees in those classes.

34 D. Recent arbitration. A jurisdiction may  
35 demonstrate that one or more female-dominated classes receive  
36 lower compensation than male-dominated classes because of recent

1 arbitration awards that are inconsistent with equitable  
2 compensation relationships. The jurisdiction may submit any  
3 relevant information.

4 E. Good faith. A jurisdiction may demonstrate that  
5 it has made a good faith effort to achieve compliance. The  
6 jurisdiction may submit any information supporting subitems (1)  
7 to (3).

8 (1) Since 1984, the jurisdiction has  
9 substantially reduced the frequency or amount of compensation  
10 inequities for female-dominated classes in comparison with  
11 male-dominated classes.

12 (2) Since 1984, a substantial portion of funds  
13 available for compensation increases has been spent on reducing  
14 compensation inequities for female-dominated classes.

15 (3) There is other evidence of the jurisdiction's  
16 good faith efforts to achieve compliance.

17 F. Continued progress. A jurisdiction may  
18 demonstrate its continued progress toward compliance. The  
19 jurisdiction may submit any relevant information.

20 G. Constraints. A jurisdiction may demonstrate any  
21 constraints it faces. The jurisdiction may submit any  
22 information supporting subitem (1) or (2).

23 (1) severe fiscal constraints have made  
24 implementation difficult or impossible; or

25 (2) there are other constraints which have made  
26 implementation of pay equity difficult or impossible.

27 H. Other evidence. A jurisdiction may submit any  
28 other information to demonstrate that the department's  
29 compliance decision was incorrect or that more time should be  
30 provided to achieve compliance.

31 Subp. 10. **Reconsideration decision and notice.** The  
32 department must notify the jurisdiction in writing of its  
33 decision after reconsideration.

34 A. If the department decides that the original  
35 noncompliance decision was incorrect and the jurisdiction is in  
36 compliance, the department must notify the jurisdiction of that



1 decision. The notice must specify the date on which the next  
2 implementation report must be submitted to ensure that pay  
3 equity is maintained, as explained in part 3920.1300, subpart 2.

4 B. If the department decides that the original  
5 noncompliance decision and date for achieving compliance were  
6 correct, the department must notify the jurisdiction of that  
7 decision. The notice must include a detailed description of the  
8 basis for the finding, specific recommended actions to achieve  
9 compliance, and an estimated cost of compliance, if any of that  
10 information is revised from the department's original  
11 noncompliance notice. If the jurisdiction does not achieve  
12 compliance and submit a revised report by the date specified in  
13 the department's original compliance notice, a penalty will be  
14 imposed under part 3920.1000.

15 C. If the department decides that the original  
16 noncompliance decision was correct but that more time will be  
17 provided to achieve compliance, the department must notify the  
18 jurisdiction of that decision. The notice must specify the  
19 revised date by which compliance must be achieved to avoid a  
20 penalty, as explained in part 3920.0800, subpart 3. In  
21 addition, the notice must include a detailed description of the  
22 basis for the finding, specific recommended actions to achieve  
23 compliance, and an estimated cost of compliance, if any of that  
24 information is revised from the department's original  
25 noncompliance notice.

26 Subp. 11. **Next steps.** If a reconsideration results in a  
27 time extension for achieving compliance, the jurisdiction must  
28 submit a revised report by the date established by the  
29 department. The department must examine the revised report by  
30 the methods in parts 3920.0400 to 3920.0700, and make a revised  
31 compliance decision.

32 A. If a reexamined jurisdiction is found in  
33 compliance, the department must notify the jurisdiction of the  
34 date on which the next implementation report must be submitted  
35 to ensure that pay equity is maintained, as explained in part  
36 3920.1300, subpart 2.

1           B. If a reexamined jurisdiction is again found not in  
2 compliance, the department must notify the jurisdiction that a  
3 penalty will be imposed, as explained in part 3920.0800, subpart  
4 5, item B.

5 3920.1000 PENALTIES.

6           Subpart 1. **Department of Revenue notification.** If a  
7 reexamined jurisdiction is found not in compliance, the  
8 department must notify the Department of Revenue and the  
9 jurisdiction that the jurisdiction is subject to a financial  
10 penalty under Minnesota Statutes, section 471.9981, subdivision  
11 6, paragraph (c).

12          Subp. 2. **Enforcement conditions.** The Department of  
13 Revenue must enforce the penalty beginning in calendar year  
14 1992, except that the penalty may not be enforced until after  
15 the end of the first regular legislative session in which the  
16 jurisdiction was listed not in compliance. In addition, the  
17 penalty must be suspended under the circumstances in part  
18 3920.1100, subpart 8, item A, and no penalty may be imposed  
19 under the circumstances in part 3920.1200, subpart 3.

20          Subp. 3. **Enforcement procedure.** The Department of Revenue  
21 must enforce the penalty by deducting aid or by fining the  
22 jurisdiction. For purposes of this part, "aid" means amounts  
23 otherwise payable under Minnesota Statutes, section 124A.23,  
24 273.1398, or 477A.011 to 477A.014. The Department of Revenue  
25 must determine which of the amounts in items A and B is larger,  
26 and deduct the aid or assess the fine accordingly:

27           A. an amount equivalent to five percent of the aid  
28 otherwise payable for calendar year 1992, calculated from  
29 January 1, 1992, added to an amount equivalent to five percent  
30 of the aid otherwise payable for all additional years after  
31 1992, in which the department certifies that the jurisdiction  
32 remains not in compliance; or

33           B. an amount equivalent to \$100 a day, calculated  
34 from January 1, 1992, until the date the department certifies to  
35 the Department of Revenue that the jurisdiction has achieved

1 compliance.

2 3920.1100 REQUEST FOR SUSPENSION OF PENALTY.

3       Subpart 1. **Scope.** A jurisdiction which has been notified  
4 that it is subject to a penalty under Minnesota Statutes,  
5 section 471.9981, subdivision 6, paragraph (c), may submit a  
6 request for suspension of penalty with the department. A  
7 jurisdiction is not required to submit a reconsideration request  
8 before submitting a request for suspension of penalty.

9       Subp. 2. **Evidence for request.** The department may suspend  
10 the penalty for a specified time if a jurisdiction provides  
11 written evidence to the department demonstrating that:

12           A. the failure to implement equitable compensation  
13 relationships was attributable to circumstances beyond its  
14 control or to severe hardship; or that

15           B. noncompliance results from factors unrelated to  
16 the sex of the members dominating the affected classes and that  
17 the subdivision is taking substantial steps to achieve  
18 compliance to the extent possible.

19       Subp. 3. **Initiating a request.** To initiate a request for  
20 suspension of penalty, the jurisdiction must submit written  
21 notice to the department within 30 days after the date of the  
22 penalty notice sent by the department.

23       Subp. 4. **Burden of proof.** During the request for  
24 suspension of penalty process, the burden of proof is on the  
25 jurisdiction to demonstrate to the department that the penalty  
26 should be suspended.

27       Subp. 5. **Notice to employees.** A request for suspension of  
28 penalty must include:

29           A. a statement signed by the chief elected official  
30 or, if none, the chief appointed official, verifying that  
31 exclusive representatives and employees have been notified of  
32 the request for suspension of penalty, as explained in subpart  
33 6; and

34           B. a copy of the notice sent and posted as explained  
35 in subpart 6.

1           Subp. 6. **Notice requirements.** A jurisdiction submitting a  
2 request for suspension of penalty must send a written notice to  
3 each exclusive representative, if any, for employees of the  
4 jurisdiction. The jurisdiction must also post the notice in a  
5 prominent location accessible to all employees, and make a copy  
6 available in the public library.

7           The notices must be sent and posted before the request for  
8 suspension of penalty is submitted to the department. Posted  
9 notices must remain posted for at least 90 days after the  
10 request for suspension of penalty is submitted to the department.

11           The written and posted notices must include the following  
12 information:

13           A. a statement that the jurisdiction is subject to a  
14 penalty for noncompliance with the Local Government Pay Equity  
15 Act and that the jurisdiction is submitting a request for  
16 suspension of penalty;

17           B. a description of the grounds for the request;

18           C. a statement that the department's determination  
19 and the materials submitted in support of the request for  
20 suspension of penalty are public information available to anyone  
21 requesting the information;

22           D. a statement that any comments concerning the  
23 request for suspension of penalty may be submitted to the  
24 department; and

25           E. the department's address and telephone number.

26           Subp. 7. **Comments.** A person or entity may submit a  
27 complaint about the accuracy or completeness of a jurisdiction's  
28 request for suspension of penalty by writing to the department.  
29 The complaint must specify the information believed to be  
30 inaccurate or incomplete. In response to a complaint, the  
31 department must decide either that the complaint is without  
32 merit and that no review is necessary, or that the complaint may  
33 have merit and a review is necessary.

34           In addition, the department may initiate a review of the  
35 accuracy and completeness of a jurisdiction's request for  
36 suspension of penalty for the purpose of ensuring that the

1 department's suspension decision is based upon correct and  
2 complete information. If the department decides that a review  
3 is necessary, it must follow the procedures in part 3920.0700,  
4 subpart 2.

5 Subp. 8. **Decision on request.** The department must make a  
6 finding on the request for suspension of penalty, based on the  
7 evidence in subparts 2 and 7, and must provide written notice of  
8 the finding to the jurisdiction.

9 A. If the department finds that the penalty should be  
10 suspended, it must notify the Department of Revenue of its  
11 decision. In this case, the department must extend the time to  
12 achieve compliance and notify the jurisdiction of the date when  
13 a second revised report will be required. The department must  
14 review the second revised report according to parts 3920.0400 to  
15 3920.0700.

16 B. If the department finds that the penalty should  
17 not be suspended, the Department of Revenue must enforce the  
18 penalty except as provided under part 3920.1200.

19 3920.1200 CONTESTED CASE APPEAL.

20 Subpart 1. **Scope.** A jurisdiction which has been notified  
21 that it is subject to a penalty may file an appeal to be decided  
22 as a contested case. A jurisdiction is not required to submit a  
23 reconsideration request or a request for suspension of penalty  
24 before filing a contested case appeal.

25 Subp. 2. **Initiating a contested case appeal.** To initiate  
26 a contested case appeal, the jurisdiction must submit written  
27 notice to the department within 30 days after the date of the  
28 penalty notice sent by the department.

29 Subp. 3. **No penalty pending appeal.** When it receives a  
30 contested case appeal notice, the department must notify the  
31 Department of Revenue that the appeal is pending. No penalty  
32 may be imposed while an appeal is pending.

33 Subp. 4. **Contested case procedure.** When it receives a  
34 contested case appeal notice, the department must initiate a  
35 contested case proceeding under Minnesota Statutes, sections

1 14.57 to 14.62.

2 3920.1300 MAINTAINING PAY EQUITY.

3 Subpart 1. **Scope.** After the original implementation date  
4 and reporting date, a jurisdiction must maintain equitable  
5 compensation relationships and submit additional reports as  
6 required by the department. The department must monitor  
7 compliance on an on-going basis and must report to the  
8 legislature annually. This part explains procedures for  
9 monitoring pay equity after the first implementation cycle.

10 Subp. 2. **Future reports.** The department must establish a  
11 schedule for future reporting, providing that approximately  
12 one-third of all jurisdictions must report each year beginning  
13 in 1994.

14 A. The department must give a jurisdiction at least  
15 one year's notice of the date when its next scheduled report  
16 will be due.

17 B. The department must require, and a jurisdiction  
18 must submit, the same information required in the original  
19 implementation report, except that the information must be  
20 revised to be current as of the date 30 days before the new  
21 report. In addition, a jurisdiction must:

22 (1) submit information on additional cash  
23 compensation paid at any time in the 12 months before the new  
24 report; and

25 (2) verify that the jurisdiction has notified the  
26 department if the jurisdiction has adopted a new job evaluation  
27 system, or substantially modified an existing system, at any  
28 time after December 31, 1991.

29 Subp. 3. **Future compliance reviews and notifications.** The  
30 department must review the reports and make compliance decisions  
31 according to parts 3920.0400 to 3920.0700, and notify  
32 jurisdictions of its decisions according to part 3920.0800.

33 Subp. 4. **Future reconsideration and appeal.** A  
34 jurisdiction which was found in compliance at one time, but  
35 which is found not in compliance at a future date, may initiate

1 the reconsideration request under part 3920.0900. If a  
2 jurisdiction is subject to a penalty after reexamination, the  
3 jurisdiction may initiate the request for suspension of penalty  
4 under part 3920.1100, and the contested case appeal described in  
5 part 3920.1200. The department must consider the evidence and  
6 make decisions as provided in parts 3920.0900, 3920.1100 and  
7 3920.1200.

8       **Subp. 5. Future penalties.** A jurisdiction which was found  
9 in compliance at one time, but which is found not in compliance  
10 at a future date, and which remains not in compliance after  
11 reexamination, is subject to the penalties in part 3920.1000,  
12 except that the penalty applies only to the period the  
13 jurisdiction is found not in compliance under subpart 6.

14       **Subp. 6. Enforcement conditions for future penalties.** The  
15 Department of Revenue must enforce the penalty beginning in the  
16 calendar year in which the department finds the jurisdiction not  
17 in compliance, except that the penalty may not be enforced until  
18 after the end of the first regular legislative session in which  
19 the jurisdiction was listed not in compliance. In addition, the  
20 penalty must be suspended under the circumstances in part  
21 3920.1100, subpart 8, item A, and the penalty may not be imposed  
22 under the circumstances in part 3920.1200, subpart 3.

23       **Subp. 7. Enforcement procedures for future penalties.** The  
24 Department of Revenue must enforce the penalty by deducting aid  
25 or fining the jurisdiction. For purposes of this part, "aid"  
26 means amounts otherwise payable under Minnesota Statutes,  
27 section 124A.23, 273.1398, or 477A.011 to 477A.014. The  
28 Department of Revenue must determine which of the amounts in  
29 items A and B is larger, and deduct the aid or assess the fine  
30 accordingly:

31           A. an amount equivalent to five percent of the aid  
32 otherwise payable for the calendar year in which the department  
33 finds the jurisdiction not in compliance, added to an amount  
34 equivalent to five percent of the aid otherwise payable for all  
35 additional years in which the department certifies that the  
36 jurisdiction remains not in compliance; or

1           B. an amount equivalent to \$100 a day, calculated  
2 from the date the department finds the jurisdiction not in  
3 compliance until the date the department certifies that the  
4 jurisdiction has achieved compliance.