TO: Manual Recipients
FROM: Blaine Ryan-Lynch, Director of Staffing Services
SUBJECT: Impact of Deficit Reduction Plan on Attendance and Leave Benefits

Introduction

The following material has been prepared to assist you in implementing the attendance and leave provisions contained in Budget Bulletin B-1197 as they relate to the Deficit Reduction Plan (DRP) for Management/Confidential (M/C) employees. All M/C employees in the Executive branch are subject to the provisions of this program regardless of Attendance Rules coverage.

The DRP reduces employee compensation by 4.198% for the last nine pay periods which are paid in the 2011–2012 State Fiscal Year (SFY) and 2.008% for all paychecks which are paid in the 2012–2013 SFY. The 2011–12 SFY compensation reductions will commence with the paycheck issued December 1, 2011 for employees on the Institution Lag payroll calendar and with the paycheck issued December 7, 2011 for employees on the Administration Lag payroll calendar. Deficit Reduction Leave (DRL) will be available for M/C employee use as of November 15, 2011, regardless of which payroll calendar covers the employee. Specifically:

- Nine days of DRL will be credited to full-time employees. Employees who work less than full-time or on a per diem basis will receive the appropriate pro-rata share of DRL.
- The State will ensure that each employee who requests to use their entire allotment of DRL prior to March 31, 2013 will be permitted to do so. Time off is at employee election, subject to supervisory approval.

The following guidelines describe the way in which leave provisions of the Attendance Rules, and related laws and policies are impacted by the DRP.

DEFICIT REDUCTION PLAN
ATTENDANCE AND LEAVE GUIDELINES

Eligibility

All M/C employees in the Executive branch will be subject to this DRP regardless of coverage under the Attendance Rules, except that M/C employees who have an hourly rate of less than $7.57 in the 2011–12 SFY shall not be subject to the DRP in the 2011–12 SFY. M/C employees who have an hourly rate of less than $7.40 in the 2012–13 SFY shall not be subject to the DRP in the 2012–13 SFY.

Earning Deficit Reduction Leave (DRL)

<u>Full-Time Annual-Salaried Employees</u>
Full-time annual-salaried employees are credited with nine days of DRL, based on their basic workweek of either 37.5 or 40 hours on November 15, 2011. For example, an employee whose normal full-time work schedule is 75 hours in a biweekly pay period will be credited with 67.5 hours of DRL. An employee whose normal full-time work schedule is 80 hours in a biweekly pay period will be credited with 72 hours of DRL.

<u>Part-Time Annual-Salaried Employees</u>
Part-time annual-salaried employees are credited with nine prorated days of DRL based on their current employment percentage on November 15, 2011.

For example, a part-time annual-salaried employee whose 50% schedule requires them to work 37.5 hours in a biweekly pay period will be credited with 33.75 hours of DRL at the start of the program. A part-time annual-salaried employee whose 50% schedule requires them to work 40 hours in a biweekly pay period will be credited with 36 hours of DRL.

As stated earlier, employees on the payroll on November 15, 2011 are credited on that date with their full allotment of DRL (nine days, prorated for part-time employees). Although DRL is not earned on a biweekly basis in the same manner as other leave accruals, it is necessary to compute the precise amount of DRL associated with each pay period covered by the program. As discussed below, these biweekly rates will be used for several purposes, including crediting new employees with the appropriate amount of DRL if they are hired after November 15, 2011.

The table below specifies the DRL hours earned by M/C employees for the duration of this DRP. The hours earned by an employee depend on the hours in the employee's bi-weekly workweek, and the SFY in question.

Pay Basis	**Biweekly PP Hours**	**2011-12 SFY DRL Factor**		**2012-13 SFY DRL Factor**	
		DRL Factor	**Duration**	**DRL Factor**	**Duration**
26pp	75	3.15 Hrs / Pay Period	9PP's	1.51 Hrs / Pay Period	26 PP's
26pp	80	3.36 Hrs / Pay Period	9PP's	1.61 Hrs / Pay Period	26 PP's

<u>Employees entering M/C employment after November 15, 2011</u>
To determine the amount of DRL to be credited to an employee who becomes subject to the M/C DRP after the start of the M/C DRP, the Agency should make the following calculation (rounded down to the nearest quarter-hour):

((2011–12 DRL Factor) x (Remaining Pay Periods of 2011–12 SFY Factor Duration) x (Employee's payroll percentage)) + ((2012–13 DRL Factor) x (Remaining Pay Periods of 2012–13 SFY Factor Duration) x (Employee's FTE equivalent))

For example, a half-time employee (50% payroll percentage) who is hired 6 weeks (3 pay periods) after the start of the DRP with a 26 pay period work year and 80 hour biweekly pay period would be entitled to DRL credit as follows:

((3.36) x (6) x (.5)) + ((1.61) x (26) x (.5)) = 31.00 Hours of DRL (3.88 Days)

Extra Time Worked

Both full and part-time annual-salaried employees will also be credited with a proportionate amount of additional DRL on a pay period to pay period basis, prorated based on additional hours worked beyond their set payroll percentage which do not exceed the employee's basic workweek of 37.5 or 40 hours. The exact amount of DRL will vary based on the actual time worked.

For example, an agency requires a part-time annual-salaried employee whose normal schedule is 50% (40 hours in a biweekly pay period) to work full-time (100%) during three biweekly pay periods during the 2012–13 SFY. The employee has already been credited with DRL for these pay periods in connection with the 50% work schedule. To calculate the additional DRL earned in connection with this work, take the appropriate biweekly DRL value from the table above (in this case, 1.61 hours per pay period) and multiply by 0.5 to prorate for the difference between the regular 50% work schedule and the full-time work performed. Then multiply the result (.81 hour) by the number of pay periods (three) and round the product to the nearest quarter-hour, yielding an additional DRL credit of 2.50 hours. Agencies will need to make adjustments, both positive and negative, as the program proceeds to ensure individuals are credited with the correct amount of DRL.

Employees Engaged in Extra Service

Employees who are approved for, and work, extra service will be credited with DRL in proportion to the additional hours of work performed. The computation is similar to that shown for extra time worked.

For example, a full-time annual-salaried employee whose normal schedule is 100% (80 hours in a biweekly pay period) with 26 pay periods in a work year would be credited with 72 hours of DRL on November 15, 2011. If the employee worked 16 hours of extra service in two pay periods during the 2012–13 SFY (20% of a full-time schedule), multiply the appropriate 2012–13 DRL Factor (in this case 1.61 hours per pay period) by 0.2 to prorate for a 20% work schedule and then multiply by two pay periods and round the result down to the nearest quarter-hour. In this example, the employee should be credited with an additional .5 hours of DRL (rounded down from .64 hours).

Annual-Salaried Employee Changes in Employment Percentage

Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee's percentage of employment changes.

Hourly Employees

Agencies should provide hourly employees with an appropriate pro-rated amount of DRL at the beginning of the DRP. This pro-rated amount should be based on an individual's schedule during the remainder of SFY 2011–2012 and an agency's schedule for such employee for SFY 2012–2013. For example, an agency that has employed an hourly employee for approximately 20 hours per week (where a 40 hour workweek is used) in a 26 pay period work year during SFY 2011–12 and plans on continuing such employee at 20 hours per week, should credit such employee with 36 hours of DRL on November 15, 2011. This is based on 9 pay periods of the 2011–12 SFY DRL Factor of 1.68 hours per pay period (full-time rate prorated for 50% work schedule) plus 26 pay periods of the 2012–13 SFY DRL Factor at a rate of (0.81 hours per pay period (full-time rate prorated for work schedule), rounded down to the nearest quarter-hour. If the hourly employee's actual hours of work differ from the estimate, the agency should make adjustments during the Fiscal Year so that the employee is credited with the appropriate amount of DRL. When crediting DRL, in such instances, agencies should round down to the nearest quarter-hour.

Voluntary Reduction in Work Schedule (VRWS) Employees
Employees participating in the VRWS program will be credited with a prorated amount of DRL based on their VRWS percentage. When crediting DRL, in such instances, agencies should round down to the nearest quarter-hour.

VRWS credits earned each pay period will not be affected by the DRP.

Per Diem Employees
Per diem employees are also subject to the DRP and therefore are entitled to DRL once the DRP begins. Agencies will need to compare a per diem employee's schedule to that of a full-time schedule and credit a per diem employee with an appropriate pro-rated share of DRL. Agencies should contact the Attendance & Leave Unit for guidance in determining the appropriate amount of DRL for per diem employees.

Using DRL

All DRL credits must be used prior to the end of the 2012–2013 SFY. DRL credits may not be carried over beyond March 31, 2013. For the **2013 calendar year only**, the vacation credit balance of an employee may not exceed 45 days on January 1, 2013.

Employees **must** obtain prior supervisory approval before using DRL. Employees should provide reasonable advance notice of their requested DRL and agencies may take operational need into account when approving such requests.

DRL credits may be used in quarter-hour increments.

DRL credits may not be used to cover unscheduled absences, such as employees calling in sick, but may be used for preplanned appointments, with prior supervisory approval, including medical appointments or prescheduled absences normally charged to sick leave.

Time charged to DRL is considered full pay status for the purpose of earning biweekly accruals, eligibility for holidays, calculation of overtime, and Health/Dental/Vision insurance.

Agencies retain discretion as to whether charges to DRL will or will not count for purposes of completing employee probationary periods.

Seniority will be the determining factor if there are multiple requests for DRL use on the same day.

Time Record Maintenance

Agencies should adjust their time records systems to allow for this new type of leave and are required to track its use.

Separations

Employees that are separated from State service for any reason during the DRP period will forfeit all unused DRL credits.

For employees who leave State employment, or who do not leave State employment but are no longer subject to the M/C DRP for any reason during the DRP period and have used more DRL credits than the employee earned based on the employee's time in the DRP, the State will offset the excess DRL by reducing the employee’s vacation, holiday leave, floating holiday leave, overtime non-compensatory time and/or personal leave accruals. To the extent that such accruals are insufficient to offset the excess DRL, the State may utilize any other legal remedies available to recoup the value of the excess DRL. The offset will be computed based on the following calculation (rounded down to the nearest quarter-hour):

(DRL hours charged) - ((2011–12 DRL Factor) x (Pay Periods of 2011–12 SFY Factor Duration in which employee participated in the DRP) x (Employee's payroll percentage)) + ((2012–13 DRL Factor) x (Pay Periods of 2012–13 SFY Factor Duration in which employee participated in the DRP) x (Employee's payroll percentage))

For example, a full-time employee (1 FTE) (26 pay period work year, 80 hour biweekly workweek) who participates in the DRP for all 9 pay periods in the 2011–12 SFY and 5 pay periods in the 2012–13 SFY leaves State service after charging all 9 DRL days (72 DRL hours) will have other accruals offset based on the following calculation:

(72.00 hours) - ((3.36) x (9) x (1)) + ((1.61) x (5) x (1)) = (72.00 hours) - (38.29 hours) = 33.71 hours rounded down to 33.5 hours (4.19 days) to be offset by charges to other leave accruals

There is no lump sum payment for unused days of DRL.

Movement from a position subject to the M/C DRP to a position not subject to the M/C DRP

Agencies will have to adjust the DRL credited to an employee who leaves the M/C position for a position in another bargaining unit. Agencies will have to determine the DRL earned by an employee based on the following calculation (rounded down to the nearest quarter hour):

((2011–12 DRL Factor) x (Pay Periods of 2011–12 SFY Factor Duration in which employee participated in the DRP) x (Employee's payroll percentage)) + ((2012–13 DRL Factor) x (Pay Periods of 2012–13 SFY Factor Duration in which employee participated in the DRP) x (Employee's payroll percentage))

Once an agency determines the amount of DRL earned by the employee, the agency may need to offset other leave balances belonging to the employee if the employee charged more DRL than the employee earned (see *"Separations"* section for calculation) prior to leaving the M/C position.

For example, a full-time employee (26 pay period work year, 80 hour biweekly workweek) who participates in the DRP for 9 pay periods in the 2011–12 SFY and 5 pay periods in the 2012–13 SFY changes to another position after charging 4 DRL days (32 DRL hours). An agency would make the following calculations:

DRL earned: ((3.36) x (9) x (1)) + ((1.61) x (5) x (1)) = 38.29 hours (rounded down to 38.25 hours) of earned DRL

DRL Retained / Offset: (38.25 hours of earned DRL) - (32 hours of charged DRL) = 6.25 hours of DRL retained by the employee in the employee's new unit until March 31, 2013.

NOTE: Earned and unused DRL retained by an employee who leaves the M/C position prior to March 31, 2013 will expire on March 31, 2013.

Promotion or Reassignment within an Agency or Within a Facility or Institution

Employees who are promoted or reassigned within an agency or within a facility or institution retain unused DRL.

Movement from one Agency to another or between Facilities or Institutions within an Agency

Employees who move from one agency to another or between facilities or institutions within an agency retain unused DRL.

Movement under a Reciprocal Agreement

Employees who move to an entity covered by a reciprocal agreement should be given the opportunity to exhaust earned DRL prior to movement, subject to supervisory approval. In no event will DRL be carried over to an entity covered by reciprocal agreement.

Sick Leave at Half-Pay

DRL must be exhausted prior to employees being placed on sick leave at half-pay.

Annual-salaried employees on sick leave at half-pay at the beginning of the program will only be credited with nine days of DRL, prorated at 50%. Additional DRL will be credited to these employees on a prorated basis for future pay periods covered by the DRP upon return to their regular schedule. Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee on sick leave at half-pay, with unused DRL, will not return to the payroll before the end of the Fiscal Year.

Annual-salaried employees who go on sick leave at half-pay after the start of the DRP may need to have their DRL balance reduced proportionate to the reduction in salary that will be taken under the DRP. Therefore, an agency should consult the Attendance & Leave Unit before it places an individual on sick leave at half-pay to ensure that the employee has been credited with and has used the appropriate amount of DRL.

When crediting DRL, in these instances, agencies should round down to the nearest quarter-hour.

Workers' Compensation Benefits

Annual-salaried employees out of work on one of the various Workers' Compensation Programs, at the start of the DRP, will be credited with DRL on a pay period to pay period basis, prorated based on the number of pay periods that an employee's compensation has been reduced under the DRP. Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee on workers' compensation leave, with unused DRL, will not return to the payroll before the end of the Fiscal Year.

Annual-salaried employees who go out of work on one of the various Workers' Compensation Programs, following the start of the DRP may need to have their DRL balance reduced proportionate to the number of pay periods that an employee's compensation has been reduced under the DRP.

DRL charged during a period of workers' compensation leave for which the State has received a "Credit New York State" issued by the State Insurance Fund for wages paid, will only be restored to an employee if the credit is received prior to the end of the DRP period.

Income Protection Plan

Employees on Short Term Disability (STD) at the beginning of the program will **not** be credited with DRL unless/until they return to the regular payroll. DRL will be credited to these employees on a prorated basis for future pay periods covered by the DRP upon return to their regular schedule.

Employees on Long Term Disability (LTD) at the beginning of the program will **not** be credited with DRL unless/until they return to the regular payroll. DRL will be credited to these employees on a prorated basis for future pay periods covered by the DRP upon return to their regular schedule.

Employees who go on STD/LTD after the start of the DRP may need to have their DRL balance reduced proportionate to the number of pay periods that an employee's compensation has been reduced under the DRP.

When crediting DRL, in these instances, agencies should round down to the nearest quarter-hour.

Military Leave

Annual-salaried employees on military leave on November 15, 2011 will be credited with 9 days of DRL. Agencies should contact the Attendance & Leave Unit for guidance when an annual-salaried employee on military leave, with unused DRL, will not return to the payroll before March 31, 2013. Similarly, questions regarding excess DRL should be directed to the Attendance & Leave Unit.

Annual-salaried employees who go on military leave following November 15, 2011 will need to have their DRL credit computed as described above based on the applicable biweekly DRL rate. Questions about this should be directed to the Attendance & Leave Unit.

When crediting DRL, in these instances, agencies should round down to the nearest quarter-hour.

Leave Donation

DRL must be exhausted prior to employees being eligible for the Leave Donation Program. DRL may not be donated.

Family and Medical Leave Act (FMLA)

A day of DRL used in relation to an approved period of FMLA will count against the employee's 12 weeks of entitlement.

Questions concerning this Program should be directed to the Attendance & Leave Unit of this Department at 518-457-2295.