

MINUTES

SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

September 15, 1993
Room 527-S -- Statehouse

Members Present

Senator Lana Oleen, Chairperson
Senator Ben Vidricksen, Vice-Chairperson
Senator Rip Gooch
Senator Sherman Jones
Senator Lillian Papay
Senator Sandy Praeger
Senator Al Ramirez
Senator Carolyn Tillotson

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Members Absent

Senator Mark Parkinson
Senator Anthony Hensley
Senator Doug Walker

Staff Present

Mary Galligan, Kansas Legislative Research Department
Emalene Correll, Kansas Legislative Research Department
Leah Robinson, Kansas Legislative Research Department
Jeanne Eudaley, Committee Secretary

Others Attending

See attached list.

The meeting was called to order by Chairman Lana Oleen at 10:00 a.m. on September 15, 1993 in Room 527-S of the Capitol.

Senator Oleen reviewed the agenda and announced that the Committee would reconvene after lunch in the Supreme Court Hearing Room at the Judicial Center to hear oral arguments in the case brought pursuant to 1993 S.R. 6007, regarding Indian casino gambling. She also announced that the joint meeting with the House Federal and State Affairs Committee tomorrow would be in Room 313-S.

The following conferees appeared before the Committee to present testimony regarding amending the state legal holiday statute (K.S.A. 35-107):

Paul Shelby, Judicial Branch, (Attachment 1); and

Bobbi Mariani, Department of Administration (Attachment 2).

Mr. Shelby also referred to a chart (Attachment 3), which compares holidays designated in state and federal law, and those observed by the Governor and the Judicial Branch. He emphasized that the Chief Justice has designated statutory holidays, and those days observed by the Executive Branch, as Judicial Branch holidays.

Ms. Mariani referred to the difference between state law and Kansas Administrative regulations which govern civil service employees. She pointed out the difference between observing a holiday on which state offices might be open for business and those holidays on which state offices are closed. She pointed out that several agencies, such as Social and Rehabilitation Services (SRS), Department of Transportation (DOT), Highway Patrol, the University of Kansas Medical Center, must operate 24 hours a day. Holidays result in additional cost to the state for paying employees up to a maximum of 2 1/2 times regular pay (premium pay) for working on holidays. She also pointed out that the Governor may designate holidays on which state offices will be closed and that the number of such holidays varies from nine to 11, depending upon whether the holiday falls during the middle of the week or on the weekend.

Committee discussion centered around the number of days off for which state employees are eligible, which for 1994 is ten, including the discretionary day, and the cost to the state of giving an additional day off. Senator Tillotson stated she would like staff to research how much each holiday costs. Mr. Shelby stated that the Chief Justice would like to follow the statutes, giving the day off for all statutory holidays. He also stated there are problems when some Executive Branch offices are closed when the Supreme Court is in session; and likewise there may be difficulties when Judicial Branch offices are closed for a holiday that is not observed by the Executive Branch. In the latter instance Executive Branch offices would not have access to the Court.

Ms. Galligan stated that language could be included in the state holiday statute to indicate on which holidays state facilities would be closed. She pointed out that if the Legislature wishes to eliminate the Governor's ability to designate those holidays on which Executive Branch offices would be closed, then it would have to amend the Civil Service Act as well as the state holiday statute.

Senator Oleen suggested a total of eight statutory holidays plus a discretionary day, to be used the day after Thanksgiving. The Governor could decide on additional holidays each year. Senators Jones and Gooch stated they have a problem with designating which day could be used as a discretionary day and if that would be the case, state offices would be closed. Mr. Shelby stated the Supreme Court Personnel Rules state that each employee is entitled to a discretionary day each year; that the employee must request that discretionary day, but it is up to the employees' supervisor to grant that day off.

Senator Praeger made and Senator Tillotson seconded, a motion directing staff to draft legislation make the following days statutory holidays: New Year's Day, Martin Luther King's Birthday, President's Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving, and Christmas. The discretionary holiday is also to be included in statute. Senator Praeger explained that her motion would not change the Civil Service Act and, therefore, does not alter the Governor's

discretion to designate those days when Executive Branch offices will be closed, as is presently being done.

Members asked for clarification of the motion. Ms. Galligan explained that the Governor has relied upon provisions of the Civil Service Act for authority to designate days on which Executive Branch offices will be closed.

Senator Jones stated he does not think the Legislature should change the holiday statute or the Civil Service Act, and should allow the Governor and Judicial Branch to choose which holidays they observe, as they have been doing for years.

Senator Tillotson withdrew her second. Senator Papay seconded the motion.

Senator Praeger clarified her motion by stating that it updates the statute by adding Martin Luther King's birthday as a holiday and provides statutorily for the discretionary day each year. It also allows the Judicial Branch and Governor to make their decisions regarding days on which government offices will be closed. Senator Oleen reminded the Committee that the motion only directs staff to draft a proposed bill for the Committee to study at the next meeting. The motion passed.

Senator Oleen recognized Michael Brungardt, Executive Director of the Kansas Human Rights Commission, who introduced Commission staff and Phillip De La Torre, a Commissioner. Mr. Brungardt gave the Committee an update on the Human Rights Commission investigation backlog (Attachment 4). Senator Oleen stated that last year a subcommittee was appointed to work on the backlog problem and this Committee concurred in the subcommittee's recommendation by supporting the Human Rights Commission's request for additional staff. Members of that subcommittee devoted time to hearing testimony from the Commission as well as studying statistics on the case backlog. She told Mr. Brungardt that his department needs to work with the Governor and be sure it has support from the Governor. Mr. Brungardt stated his agency felt last year that they had support from the Governor, but that there was confusion near the end of the session, which caused the veto.

Several members of the Committee supported Senator Oleen's statement and spoke of complaints they have received in their districts because of the Commission's case backlog and the length of time before complaints can be heard. Senator Jones stated that the problem is with intake. Senator Gooch cautioned against the "quota" system for investigators, as he feels it restricts performance and that Commission members can help to close some cases. Senator Oleen stated that the Commission's problems have not been fixed and the Commission should look to restructuring and proceeding in other ways. One idea may be to shift cases to other state departments. She advised Mr. Brungardt to work closely with the Budget Division and the Governor's Office.

Mr. Brungardt introduced Robert Lay, Assistant Director, who briefly made comments regarding the intake problem, budget, and contracts with the federal government. He stated that agency funds come from two sources -- the State General Fund and contracts with the federal government. Mr. Lay explained that the Commission loses federal funds if Department of Housing and Urban Development (HUD) and Equal Employment Opportunity Commission (EEOC) complaints are not handled within a specified time period. Funds have been lost because of the shortage of investigators in the agency. Senator Oleen asked if it is possible to shift employees to work on the contract complaints. Mr. Lay responded that the Commission created a Housing Section within the agency last year to accommodate increased numbers of complaints and the strict federal guidelines for contract work. He also stated that the Commission will ask for 15 additional positions

at a cost of \$585,000 in its FY 1995 budget. The Commission also will request \$167,000 in supplemental funds for FY 1994 to make up for federal funds that have been lost.

Brandon Myers, Chief Legal Counsel, stated that the agency has appealed the revocation of contracts with EEOC and HUD.

The meeting recessed for lunch at 12:15 p.m., Senator Oleen reminded the Committee to meet in the Supreme Court Hearing Room by 1:15 p.m.

Following Committee attendance at the Supreme Court hearing, the Committee reconvened in Room 527 at 3:30 p.m. Dr. Tom Severn briefed the Committee on the status of military retirees' income tax. Dr. Severn outlined court decisions for the Committee and explained that the state has exempted civil service retirement pay from income tax, but until 1992 had not exempted military retirees' pay. Dr. Severn stated that the pending case will be heard by Kansas District Court Judge Adrian Allen tomorrow.

Senator Oleen explained that the Department of Revenue (DOR) has notified military retirees that income tax forms must be amended and sent to DOR stating that the person wishes to have a hearing. After that, the retiree hears nothing else from DOR, which has caused much confusion. Several Committee members stated their constituents think DOR is ignoring the federal decision and are very angry.

Senator Oleen asked Dr. Severn to outline for the Committee the Legislative history relating to military retirement pay. Dr. Severn stated that in the early 1970's, legislation was passed which created an exemption of \$2,000 for those age 65 or over. In 1980, legislation was introduced which would have changed the amount to \$3,000 for those age 62 and over. Prior to its enactment the legislation was amended by changing the exemption to a \$120.00 credit.

Senator Oleen recalled that in 1989, an interim bill was introduced to stop collecting the tax from military retirees. That bill was attached to the tax bill and was vetoed by the Governor. The state stopped collecting the tax in 1992. At the request of the Committee, Dr. Severn will draft a summary of legislative action on this issue.

Dr. Severn stated that the fiscal note from the Department of Revenue is approximately \$92,500,000. He outlined for the Committee arguments of the state regarding refunds to retirees. The Committee discussed how other states have handled the situation and the variety of ways to pay back taxes collected from military retirees.

Senator Oleen announced the joint meeting tomorrow with the House Federal and State Affairs Committee and asked members for input for the agenda in November.

The meeting adjourned at 4:30 p.m..

Prepared by Jeanne Eudaley
Edited by Mary Galligan

Approved by Committee on:

November 22, 1993
(Date)

GUEST LIST

COMMITTEE: *Interim* Senate Federal & State Affairs

DATE: Sept. 15, 1993

[illegible]

State Holidays
Senate Federal and State Affairs Committee
September 15, 1993

Testimony of Paul Shelby
Assistant Judicial Administrator
Office of Judicial Administration

Thank you Madam Chair and members of the committee for the opportunity to appear today to discuss amending the state legal holiday statute K.S.A. 35-107.

As provided by section 1 of article 3 of the Kansas constitution and K.S.A. 20-101, the supreme court shall have general administrative authority over all courts in this state and that the chief justice shall be the spokesman for the supreme court and shall exercise the court's general administrative authority over all courts of this state.

The chief justice shall have the responsibility for executing and implementing the administrative rules and policies of the supreme court, including supervision of the personnel and financial affairs of the court system.

One of these responsibilities of the chief justice is to designate official holidays for the Judicial Branch of government. The chief justice has been concerned about the designation of state holidays which do not conform to our state statutes and our national policy as adopted by the federal government.

Each year the chief justice has attempted to issue a holiday order which accommodates the holidays proclaimed by Executive Order of the Governor, and with our Kansas statute on holidays as he does not feel justified in entering an order which does not follow the state statute. For calendar year 1994 for instance, he has followed the policy of adhering to both the executive order and K.S.A. 35-107. His only departure from the statute has been to recognize President's Day rather than the two statutory holidays of Lincoln's birthday and Washington's birthday. The Judicial Branch observes Columbus Day and President's Day but most state agencies do not.

In addition, K.S.A. 35-107 does not include Martin Luther King, Jr. Day. The chief justice followed the Executive order and included this holiday.

Both the executive and judicial branches have traditionally declared the Friday after Thanksgiving a holiday.

Senate Committee
on Federal & State Affairs
Sept. 15, 1993
Attachment 1 1-1

For calendar year 1994, the federal government policy allows a total of 10 holidays;
Our state's Executive Order allows a total of 9 holidays;
The Judicial Branch allows a total of 11 holidays.
Following K.S.A. 35-107 would allow a total of 10 holidays.

I also bring to your attention the Rules of Civil Procedure and specifically K.S.A. 1992 Supp. 60-206, which governs the computation and extension of time in the filing of documents and setting of hearings in the courts. A legal holiday is defined as, "Legal Holiday includes any day designated as a holiday by the congress of the United States, or by the legislature of this state". The inconsistencies between the federal and state statutes and the policies of the branches complicate the computation of time under this code. We feel this is another reason why the holiday schedules should be consistent. For the most part Kansas and federal law agree as to which days are holidays. However, there are exceptions.

To summarize the situation, I would close with this:

1. The state statute does not include Martin Luther King Day which is a federal holiday and has been observed by executive order and by order of the supreme court for the past several years.
2. The state statute still observes Lincoln's Birthday, which is the twelfth day in February. The federal, executive and judiciary observe Washington's Birthday, but on the third Monday in February and as President's Day.
3. The executive and judicial branches have traditionally declared the Friday after Thanksgiving a holiday.

Recommendations: We urge the committee to:

1. Amend K.S.A. 35-107 to conform with the schedule of federal holidays, and with the wishes of the Executive Branch; or
2. Amend K.S.A. 60-206's definition of "legal holiday" to include holidays declared by Supreme Court Order.



Paul

Supreme Court of Kansas

RICHARD W. HOLMES
Chief Justice

Kansas Judicial Center
Topeka, Kansas 66612-1507

(913) 296-4898

July 13, 1993

Honorable Joan Finney
2nd Floor - Capital

Re: 1994 State Holidays

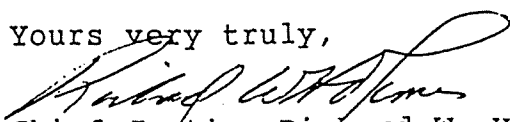
Dear Governor Finney,

I have received a copy of your June 15, 1993, memorandum which designates the official state holidays for 1994. For many years now I have been concerned about the designation of state holidays which do not conform to our state statutes and our national policy as adopted by the federal government. Each year for several years the Judicial Branch has attempted to comply with not only the Executive order of the Governor, but also with our Kansas Statutes, and as a result, we end up with the Judicial Branch of government receiving at least 2 more holidays than other state employees. I do not feel justified in entering an order which does not follow the state statutes and so once again, we have followed the policy of adhering to both your executive order and K.S.A. 35-107. Our only departure from the statute has been to recognize President's Day rather than the two statutory holidays of Lincoln's birthday and Washington's birthday.

I enclose for your information a copy of the statute, a copy of our order entered today, and a copy of your order. I am sending a copy of this letter along with the enclosures to the chairpersons of the Senate and House State and Federal Affairs Committees, with the request that they consider legislation to bring our statute into compliance with National policy and the wishes of the Executive Branch. I hope you will join with me in asking for a change in the statute. If you have any questions, please do not hesitate to contact me.

With best personal regards.

Yours very truly,


Chief Justice Richard W. Holmes

RWH/slg

cc: Senator Lana Oleen
Representative Clyde Graeber
Howard Schwartz

1-3

IN THE SUPREME COURT OF THE STATE OF KANSAS

Administrative Order No. 88

Re: Calendar Year 1994 Holidays

Pursuant to K.S.A. 35-107, Section 8.10 of the Kansas Court Personnel Rules, and the executive memorandum issued by Governor Finney on June 15, 1993, the following dates have been approved for the 1994 holidays:

New Year's	*Friday, December 31, 1993
Martin Luther King, Jr. Day	Monday, January 17, 1994
President's Day	Monday, February 21, 1994
Memorial Day	Monday, May 30, 1994
Independence Day	Monday, July 4, 1994
Labor Day	Monday, September 5, 1994
Columbus Day	Monday, October 10, 1994
Veterans Day	Friday, November 11, 1994
Thanksgiving	Thursday, November 24, 1994 Friday, November 25, 1994
Christmas	**Monday, December 26, 1994

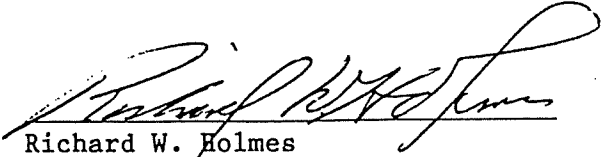
Observance of these holidays by a district court may be deferred whenever observance of the holiday would interfere with judicial proceedings in progress.

At the discretion of the administrative judge and with the approval of the Judicial Administrator, a district court may remain open on any of the above-designated holidays that the local county courthouse is open for business and observe as a substitute holiday a county-designated holiday not otherwise observed by the Judicial Branch.

*Whereas traditional observance of New Year's Day falls on Saturday, January 1, 1994 and whereas the State Executive Branch has designated Friday, December 31, 1993 as a holiday for this purpose, observance of this holiday shall be recognized on Friday, December 31, 1993.

**Whereas traditional observance of Christmas falls on Sunday, and whereas the State Executive Branch has designated the following Monday as the holiday for this purpose, observance of the Christmas holiday shall be recognized on Monday, December 26, 1994.

BY ORDER OF THE COURT this 14th day of July, 1993.


Richard W. Holmes
Chief Justice

cc: Administrative Judges
Court Administrators
Clerks of the District Court
Chief Court Services Officers
Court Offices, Judicial Center

Chapter 35.—HOLIDAYS AND DAYS OF COMMEMORATION

Cross References to Related Sections:

- Sabbath, see ch. 69.
- School observance, see 72-5308.
- Alcoholic liquor sale forbidden on certain days, see 41-712.
- Certain financial institutions, see 9-1122, 17-5502a.

Articles

- 35-1. LEGAL HOLIDAYS. 35-101 to 35-108.
- 35-2. DAYS OF COMMEMORATION. 35-201 to 35-205.

Article 1.—LEGAL HOLIDAYS

35-101.

History: L. 1886, ch. 125, § 1; R.S. 1923, 35-101; Repealed, L. 1969, ch. 218, § 3; Jan. 1, 1971.

35-102.

History: L. 1891, ch. 145, § 1; R.S. 1923, 35-102; Repealed, L. 1969, ch. 218, § 3; Jan. 1, 1971.

CASE ANNOTATIONS

1. County commissioners may legally act on Labor Day. *Canaday v. Scott County*, 104 K. 785, 181 P. 121.
2. Mentioned in holding county seat relocation election valid. *Wycoff v. Board of County Commissioners*, 191 K. 658, 659, 383 P.2d 520.

35-103.

History: L. 1895, ch. 161, § 1; R.S. 1923, 35-103; L. 1961, ch. 225, § 1; Repealed, L. 1969, ch. 218, § 3; Jan. 1, 1971.

35-104.

History: R.S. 1923, 35-104; L. 1961, ch. 225, § 2; Repealed, L. 1969, ch. 218, § 3; Jan. 1, 1971.

Source or prior law:

L. 1907, ch. 245, § 1.

35-105.

History: L. 1911, ch. 201, § 1; R.S. 1923, 35-105; Repealed, L. 1969, ch. 218, § 3; Jan. 1, 1971.

35-106.

History: L. 1925, ch. 180, § 1; L. 1955, ch. 234, § 1; L. 1961, ch. 225, § 3; Repealed, L. 1969, ch. 218, § 3; Jan. 1, 1971.

CASE ANNOTATIONS

1. Official or judicial acts done on Armistice Day valid. *Smith v. Robertson*, 155 K. 706, 711, 128 P.2d 260.

35-107. Legal public holidays designated. (a) On and after January 1, 1976, the following days are declared to be legal public holidays and are to be observed as such:

New Year's Day, January 1;
Lincoln's Birthday, the twelfth day in February;

Washington's Birthday, the third Monday in February;

Memorial Day, the last Monday in May;
Independence Day, July 4;

Labor Day, the first Monday in September;

Columbus Day, the second Monday in October;

Veterans' Day, the eleventh day in November;

Thanksgiving Day, the fourth Thursday in November;

Christmas Day, December 25.

(b) Any reference in the laws of this state concerning observance of legal holidays shall on and after January 1, 1976, be considered as a reference to the day or days prescribed in subsection (a) hereof for the observance of such legal holiday or holidays.

History: L. 1969, ch. 218, § 1; L. 1973, ch. 181, § 1; Jan. 1, 1976.

35-108. Commercial paper, agreements,



JUN 24 '93

Office of
Judicial Administration

OFFICE OF THE GOVERNOR

JOAN FINNEY, Governor
State Capitol, 2nd Floor
Topeka, KS 66612-1590

MEMORANDUM

913-296-3232
1-800-432-2487
TDD# 1-800-992-01
FAX# (913) 296-797

TO: All State Agencies
FROM: Governor Joan Finney *JF*
DATE: June 15, 1993
SUBJECT: Designated Holidays For 1994

The following are holidays for the state service in calendar year 1994.

*New Year's Day	(Friday, December 31, 1993)
Martin Luther King Day	Monday, January 17, 1994
Memorial Day	Monday, May 30, 1994
Independence Day	Monday, July 4, 1994
Labor Day	Monday, September 5, 1994
Veterans Day	Friday, November 11, 1994
Thanksgiving Day	Thursday, November 24, 1994
	Friday, November 25, 1994
*Christmas	Monday, December 26, 1994

It is the intention of the holiday regulation that all full-time employees who are entitled to holidays receive credit for a holiday, and that partial credit be given to part-time employees who are entitled to holidays, as the Director of Personnel Services has advised agency heads through Policy Statement No. 14, issued November 6, 1984.

In addition to the holidays discussed above, I am again authorizing a discretionary day for state employees, which is for observance of a holiday or other special day during calendar year 1994. The Secretary of Administration will advise agency heads of any changes in the original memorandum issued March 5, 1984.

* Personnel Regulation 1-9-2 lists certain holidays as legal holidays. When a legal holiday falls on a Sunday, the following Monday is the officially observed holiday. If the legal holiday falls on a Saturday, the preceding Friday is the officially observed holiday.

JF:SMS:gfb

should be construed as allowing negotiability only within outer limits of direction to Secretary. National Broiler Council, Inc. v. Federal Labor Relations Council, D.C.Va.1974, 382 F.Supp. 322.

4. Lunch breaks

The clause in former section 29 of this title that the heads of the several execu-

tive departments should require "not less than seven hours of labor each day" was properly interpreted to mean that seven hours of service was to be rendered to the government, and did not permit of the allowance of half an hour for luncheon within the seven hours required. 1898, 22 Op.Atty.Gen. 62.

§ 6102. Repealed. Pub.L. 92-392, § 7(a), Aug. 19, 1972, 86 Stat. 573

Historical Note

Section, Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 515, provided for eight-hour day and 40-hour workweek for wage-board employees and is now covered by sections 5344(a) and 6101(a)(1) of this title.

Effective Date of Repeal. Section repealed effective first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub.L. 92-392, set out as a note under section 5341 of this title.

§ 6103. Holidays

(a) The following are legal public holidays:

New Year's Day, January 1.

Washington's Birthday, the third Monday in February.

Memorial Day, the last Monday in May.

Independence Day, July 4.

Labor Day, the first Monday in September.

Columbus Day, the second Monday in October.

Veterans Day, November 11.

Thanksgiving Day, the fourth Thursday in November.

Christmas Day, December 25.

(b) For the purpose of statutes relating to pay and leave of employees, with respect to a legal public holiday and any other day declared to be a holiday by Federal statute or Executive order, the following rules apply:

(1) Instead of a holiday that occurs on a Saturday, the Friday immediately before is a legal public holiday for—

(A) employees whose basic workweek is Monday through Friday; and

(B) the purpose of section 6309 of this title.

(2) Instead of a holiday that occurs on a regular weekly nonworkday of an employee whose basic workweek is other than Monday through Friday, except the regular weekly nonworkday administratively scheduled for the employee instead of Sunday, the workday immediately before that regular weekly nonworkday is a legal public holiday for the employee.

This subsection, except subparagraph (B) of paragraph (1), does not apply to an employee whose basic workweek is Monday through Saturday.

(c) January 20 of each fourth year after 1965, Inauguration Day, is a legal public holiday for the purpose of statutes relating to pay and leave of employees as defined by section 2105 of this title and individuals employed by the government of the District of Columbia employed in the District of Columbia, Montgomery and Prince Georges Counties in Maryland, Arlington and Fairfax Counties in Virginia, and the cities of Alexandria and Falls Church in Virginia. When January 20 of any fourth year after 1965 falls on Sunday, the next succeeding day selected for the public observance of the inauguration of the President is a legal public holiday for the purpose of this subsection.

Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 515; Pub.L. 90-363, § 1(a), June 28, 1968, 82 Stat. 250; Pub.L. 94-97, Sept. 18, 1975, 89 Stat. 479.

Historical and Revision Notes

Derivation:	United States Code	Revised Statutes and Statutes at Large
(a)	5 U.S.C. 87 5 U.S.C. 87a	June 28, 1894, ch. 118, 28 Stat. 96. May 13, 1938, ch. 210, 52 Stat. 351. June 1, 1954, ch. 250, 68 Stat. 168. Dec. 26, 1941, ch. 631, 55 Stat. 862.
(b)	5 U.S.C. 87b 5 U.S.C. 87c	Sept. 22, 1959, Pub.L. 86-302, §§ 1, 2, 73 Stat. 643, 644.
(c)	[Uncodified]	Jan. 11, 1957, Pub.L. 85-1, 71 Stat. 3.

Explanatory Notes

In subsection (a), former sections 87, 87a, and 87b are combined and restated for clarity. The names of all holidays are inserted for ready reference in a like manner to that used in former section 87c.

In subsection (c), the year "1965" is substituted for "1957".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

References in Text. Section 6309 of this title, referred to in subsec. (b)(1)(B), was repealed by Pub.L. 94-183, § 2(26), Dec. 31, 1975, 89 Stat. 1058.

1975 Amendment. Subsec. (a). Pub.L. 94-97 redesignated Veterans Day, substituting "November 11" for "the fourth Monday in October".

1968 Amendment. Subsec. (a). Pub.L. 90-363 added Columbus Day, the second Monday in October, to the enumerated legal public holidays, and substituted pro-

visions that Washington's Birthday, Memorial Day, and Veterans Day are to be celebrated on the third Monday in February, the last Monday in May, and the fourth Monday in October, respectively, for provisions that the above mentioned public holidays are to be celebrated on February 22, May 30, and November 11, respectively.

Effective Date of 1975 Amendment. Pub.L. 94-97 provided in part that the amendment of subsec. (a) shall be effective Jan. 1, 1978.

Effective Date of 1968 Amendment. Section 2 of Pub.L. 90-363 provided that: "The amendment made by subsection (a) of the first section of this Act [which amended subsec. (a) of this section] shall take effect on January 1, 1971."

References in Laws of United States to Observances of Legal Public Holidays. Section 1(b) of Pub.L. 90-363 provided that: "Any reference in a law of the United States (in effect on the effective date of the amendment made by subsec-

tion (a) of this section) [Jan. 1, 1971] to the observance of a legal public holiday on a day other than the day prescribed for the observance of such holiday by section 6103(a) of title 5, United States Code [subsec. (a) of this section], as amended by subsection (a), shall on and after such effective date be considered a

reference to the day for the observance of such holiday prescribed in such amended section 6103(a)."

Legislative History. For legislative history and purpose of Pub.L. 90-363, see 1968 U.S. Code Cong. and Adm. News, p. 2335. See, also, Pub.L. 94-97, 1975 U.S. Code Cong. and Adm. News, p. 910.

EXECUTIVE ORDER NO. 10358

Ex. Ord. No. 10358, June 9, 1952, 17 F.R. 1529, as amended by Ex. Ord. No. 11226, May 27, 1965, 30 F.R. 7213; Ex. Ord. No. 11272, Feb. 23, 1966, 31 F.R. 3111, formerly

set out as a note under this section, which related to the observance of holidays, was revoked by Ex. Ord. No. 11582, Feb. 11, 1971, 36 F.R. 2957, set out below.

EXECUTIVE ORDER NO. 11582

Feb. 11, 1971, 36 F.R. 2957

OBSERVANCE OF HOLIDAYS

By virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

Section 1. Except as provided in section 7, this order shall apply to all executive departments, independent agencies, and Government corporations, including their field services.

Sec. 2. As used in this order:

(a) **Holiday** means the first day of January, the third Monday of February, the last Monday of May, the fourth day of July, the first Monday of September, the second Monday of October, the fourth Monday of October, the fourth Thursday of November, the twenty-fifth day of December, or any other calendar day designated as a holiday by Federal statute or Executive order.

(b) **Workday** means those hours which comprise in sequence the employee's regular daily tour of duty within any 24-hour period, whether falling entirely within one calendar day or not.

Sec. 3. (a) Any employee whose basic workweek does not include Sunday and who would ordinarily be excused from work on a holiday falling within his basic workweek shall be excused from work on the next workday of his basic workweek whenever a holiday falls on Sunday.

(b) Any employee whose basic workweek includes Sunday and who would ordinarily be excused from work on a holiday falling within his basic workweek shall be excused from work on the next workday of his basic workweek whenever a holiday falls on a day that has been administratively scheduled as his regular weekly nonworkday in lieu of Sunday.

Sec. 4. The holiday for a full-time employee for whom the head of a department has established the first 40 hours of duty performed within a period of not more than six days of the administrative workweek as his basic workweek because of the impracticability of prescribing a regular schedule of definite hours of duty for each workday, shall be determined as follows:

(a) If a holiday occurs on Sunday, the head of the department shall designate in advance either Sunday or Monday as the employee's holiday and the employee's basic 40-hour tour of duty shall be deemed to include eight hours on the day designated as the employee's holiday.

(b) If a holiday occurs on Saturday, the head of the department shall designate in advance either the Saturday or the preceding Friday as the employee's holiday and the employee's basic 40-hour tour of duty shall be deemed to include eight hours on the day designated as the employee's holiday.

(c) If a holiday occurs on any other day of the week, that day shall be the employee's holiday, and the employee's basic 40-hour tour of duty shall be deemed to include eight hours on that day.

(d) When a holiday is less than a full day, proportionate credit will be given under paragraph (a), (b), or (c) of this section.

Sec. 5. Any employee whose workday covers portions of two calendar days and who would, except for this section, ordinarily be excused from work scheduled for the hours of any calendar day on which a holiday falls, shall instead be excused from work on his entire workday

which commences on any such calendar day.

Sec. 6. In administering the provisions of law relating to pay and leave of absence, the workdays referred to in sections 3, 4, and 5 shall be treated as holidays in lieu of the corresponding calendar holidays.

Sec. 7. The provisions of this order shall apply to officers and employees of the Post Office Department and the United States Postal Service (except that sections 3, 4, 5, and 6 shall not apply to the Postal Field Service) until changed by

the Postal Service in accordance with the Postal Reorganization Act [see Short Title note under section 101 of Title 39, Postal Service].

Sec. 8. Executive Order No. 10358 of June 9, 1952, entitled **Observance of Holidays by Government Agencies**, and amendatory Executive Orders No. 11226 of May 27, 1965, and No. 11272 of February 23, 1966, are revoked.

Sec. 9. This order is effective as of January 1, 1971.

RICHARD NIXON

Library References

Holidays ☞ 1.
United States ☞ 41.

C.J.S. Holidays §§ 1, 2.
C.J.S. United States § 41.

Notes of Decisions

Construction with Federal Rules of Civil Procedure 1

Entities and persons subject to section 2

1. Construction with Federal Rules of Civil Procedure

Although Congress had designated certain days to be legal public holidays and recognized others as existent, there is nothing in such enactment to indicate an intent to create a statutory limitation upon the term "legal holiday" within rule 6, Federal Rules of Civil Procedure, Title 28, relating to computation of time. *Prudential Oil & Minerals Co. v. Hamlin*, C.A. Utah 1958, 261 F.2d 626.

2. Entities and persons subject to section

This section, enumerating legal public holidays including Memorial Day, designated as the last Monday in May, discloses an intent of Congress to make provisions only with respect to organization of government of the United States and its civilian officers and employees, and its language negates any intent to extend its provisions to state or to designate holidays to be observed by the states, their employees, or public generally. *Consolidated Marketing, Inc. v. Busi*, La. App. 1972, 256 So.2d 695.

§ 6104. Holidays; daily, hourly, and piece-work basis employees

When a regular employee as defined by section 2105 of this title or an individual employed regularly by the government of the District of Columbia, whose pay is fixed at a daily or hourly rate, or on a piece-work basis, is relieved or prevented from working on a day—

(1) on which agencies are closed by Executive order, or, for individuals employed by the government of the District of Columbia, by order of the Mayor;

(2) by administrative order under regulations issued by the President, or, for individuals employed by the government of the District of Columbia, by the Council of the District of Columbia; or

(3) solely because of the occurrence of a legal public holiday under section 6103 of this title, or a day declared a holiday by

CROSS REFERENCES

Superseding of certain provisions for District of Columbia government employees, see D.C. Code 1981, § 1-633.2.

NOTES OF DECISIONS

Administrative work week 5

2. Discretion of agency

National Weather Service (NWS) could not reschedule its employees from premium pay shifts solely because of occurrence of holidays where NWS had not issued determination that holiday sensitive scheduling was necessary to reduce substantial costs or preserve agency's mission. *Gahagan v. U.S.*, 1989, 19 Cl.Ct. 168.

§ 6103. Holidays

(a) The following are legal public holidays:

New Year's Day, January 1.

Birthday of Martin Luther King, Jr., the third Monday in January.

[See main volume for text of (b) and (c)]

(As amended Pub.L. 98-144, § 1, Nov. 2, 1983, 97 Stat. 917.)

HISTORICAL AND STATUTORY NOTES

1983 Amendment

Pub.L. 98-144 added item relating to the birthday of Martin Luther King, Jr., the third Monday in January.

Effective Date of 1983 Amendment

Section 2 of Pub.L. 98-144 provided that: "The amendment made by the first section of this Act

5. Administrative work week

The 7-2, 7-2, 7-3 work schedule of security guards at Army's arsenal, under which they had work shifts of seven consecutive days, did not violate statute stating that agency heads shall require that hours of work within administrative workweek be performed within a period of not more than six of any seven consecutive days, since the hours of work within each administrative workweek were limited to no more than six consecutive days. *Sanford v. Weinberger*, C.A.Fed. 1985, 752 F.2d 636.

[amending this section] shall take effect on the first January 1 that occurs after the two-year period following the date of the enactment of this Act [Nov. 2, 1983]."

CROSS REFERENCES

Superseding of certain provisions for District of Columbia government employees, see D.C. Code 1981, § 1-633.2.

FEDERAL PRACTICE AND PROCEDURE

District courts' and clerks' functions, see Wright & Miller: Civil § 3081 et seq.

Mechanics of computing time, see Wright & Miller: Civil § 1162.

LAW REVIEW COMMENTARIES

Nurturing American public theology. L. Martin Nussbaum, 16 *Cumb.L.Rev.* 53 (1985-86).

NOTES OF DECISIONS

2. Entities and persons subject to section

Employees stationed in City of Fairfax, Virginia could properly be allowed holiday premium pay, since they were entitled to Presidential inaugural holiday authorized by subsec. (c) of this section. 1985, 64 *Op.Comp.Gen.* 679.

Although part-time employees are not subject to subsec. (b) of this section, agencies nevertheless have discretion to grant such employees administrative leave, in accordance with rules delineated thereunder. 1984, 63 *Op.Comp.Gen.* 306.

§ 6104. Holidays; daily, hourly, and piece-work basis employees

HISTORICAL AND STATUTORY NOTES

Legislative History

For legislative history and purpose of Pub.L. 94, see 1979 U.S. Code Cong. and Adm. News, p. 931.

CROSS REFERENCES

Superseding of section for District of Columbia government employees, see D.C. Code 1981, § 1-633.2.

§ 6106. Time clocks; restrictions

A recording clock may not be used to record time of an employee of an Executive department in the District of Columbia, except that the Bureau of Engraving and Printing may use such recording clocks.

(As amended Pub.L. 97-221, § 6(a), July 23, 1982, 96 Stat. 234.)

HISTORICAL AND STATUTORY NOTES

1982 Amendment

Pub.L. 97-221 substituted "District of Columbia, except that the Bureau of Engraving and Printing may use such recording clocks" for "District of Columbia".

Effective Date of 1982 Amendment

Section 6(b) of Pub.L. 97-221 provided that: "The amendment made by this section [amending this section] shall take effect October 1, 1982.

Section 5 of this Act [set out in the Termination Date of 1982 Amendment note under section 6101 of this title] shall not apply to the amendment made by this section."

Legislative History

For legislative history and purpose of Pub.L. 97-221, see 1982 U.S. Code Cong. and Adm. News, p. 565.

SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK SCHEDULES

HISTORICAL AND STATUTORY NOTES

1982 Amendment

Pub.L. 97-221, § 2(a)(2), July 23, 1982, 96 Stat. 227, added subchapter II heading as part of the enactment of sections 6120 to 6133 of this title. Section 5 of Pub.L. 97-221, as amended by 99-69, July 22, 1985, 99 Stat. 167; Pub.L.

99-109, Sept. 30, 1985, 99 Stat. 482; Pub.L. 99-140, Oct. 31, 1985, 99 Stat. 563, which provided that amendments by Pub.L. 97-221 shall not be in effect after Dec. 31, 1985 was repealed by Pub.L. 99-190, § 140, Dec. 19, 1985, 99 Stat. 1324.

§ 6120. Purpose

The Congress finds that the use of flexible and compressed work schedules has the potential to improve productivity in the Federal Government and provide greater service to the public.

(Added Pub.L. 97-221, § 2(a)(2), July 23, 1982, 96 Stat. 227.)

HISTORICAL AND STATUTORY NOTES

Termination Date

Section 5 of Pub.L. 97-221, as amended, which provided that this section was not to be in effect after Dec. 31, 1985, was repealed by Pub.L. 99-190, § 140, Dec. 19, 1985, 99 Stat. 1324.

Legislative History

For legislative history and purpose of Pub.L. 97-221, see 1982 U.S. Code Cong. and Adm. News, p. 565.

§ 6121. Definitions

For purposes of this subchapter—

(1) "agency" means any Executive agency, any military department, the Government Printing Office, and the Library of Congress;

(2) "employee" has the meaning given it by section 2105 of this title;

(3) "basic work requirement" means the number of hours, excluding overtime hours, which an employee is required to work or is required to account for by leave or otherwise;

(4) "credit hours" means any hours, within a flexible schedule established under section 6122 of this title, which are in excess of an employee's basic work requirement and which the employee elected to work so as to vary the length of a workweek or a workday;

(5) "compressed schedule" means—

(A) in the case of a full-time employee, an 80-hour biweekly basic work requirement which is scheduled for less than 10 workdays, and

CASE ANNOTATIONS

13. Cited by dissent on question of timely appeal from school board decision not to renew teacher contract. *Atkinson v. U.S.D. No. 383*, 9 K.A.2d 175, 180, 675 P.2d 917 (1984).

14. Section does not apply to service under 20-1204 (contempt). *Pork Motel, Corp. v. Kansas Dept. of Health & Environment*, 234 K. 374, 389, 390, 673 P.2d 1126 (1983).

15. Service only on department of revenue sufficient on appeal of driver's license suspension (8-259). *In re Gantz*, 10 K.A.2d 299, 302, 698 P.2d 385 (1985).

16. Subsection (e) does not include leaving papers with judge's spouse, secretary or bailiff or in car, home or office. *Tobin Constr. Co. v. Kemp*, 239 K. 430, 437, 721 P.2d 278 (1986).

17. No abuse of discretion in denying intervention in open meetings case (75-4317 et seq.) when attorney general did not follow statutory procedure. *Memorial Hospital Ass'n, Inc. v. Knutson*, 239 K. 663, 666, 722 P.2d 1093 (1986).

18. Cited in holding that 60-225 does not authorize *ex parte* motions for substitutions. *Army Nat'l Bank v. Equity Developers, Inc.*, 245 K. 3, 9, 774 P.2d 919 (1989).

19. Chapter 59 as containing no procedures for notice of contested guardian ad litem fees noted; rules in civil cases apply. *In re Guardianship of K.M.W.*, 13 K.A.2d 640, 645, 777 P.2d 1274 (1989).

20. Defendant's constitutional right to procedural due process as subject to forfeiture for failure to answer timely examined. *Bazine State Bank v. Pawnee Prod. Serv., Inc.*, 245 K. 490, 496, 781 P.2d 1077 (1989).

21. Whether city attorney and municipal court actually receive notice of appeal as immaterial in perfection of appeal determined. *City of Dodge City v. Rabe*, 14 K.A.2d 468, 474, 794 P.2d 301 (1990).

60-206. Time, computation and extension. The following provisions shall govern the computation and extension of time:

(a) *Computation; legal holiday defined.* In computing any period of time prescribed or allowed by this chapter, by the local rules of any district court, by order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday. "Legal holiday" includes any day designated as a holiday by the congress of the United States, or by the legislature of this state. When an act is to be performed within any prescribed time under any law of this state, or any rule or regulation lawfully promulgated thereunder, and

the method for computing such time is not otherwise specifically provided, the method prescribed herein shall apply.

(b) *Enlargement.* When by this chapter or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the judge for cause shown may at any time in the judge's discretion (1) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action under subsection (c) of K.S.A. 60-250, subsection (b) of K.S.A. 60-252, subsections (b), (e) and (f) of K.S.A. 60-259 and subsection (b) of K.S.A. 60-260, and amendments thereto, except to the extent and under the conditions stated in them.

(c) *Unaffected by expiration of term.* The period of time provided for the doing of any act or the taking of any proceeding is not affected or limited by the continued existence or expiration of a term of court. The continued existence or expiration of a term of court in no way affects the power of a court to do any act or take any proceeding in any civil action pending before it.

(d) *For motions affidavits.* A written motion, other than one which may be heard *ex parte*, and notice of the hearing thereof shall be served not later than five days before the time specified for the hearing, unless a different period is fixed by these rules or by order of the judge. Such an order may for cause shown be made on *ex parte* application. When a motion is supported by affidavit, the affidavit shall be served with the motion; and except as otherwise provided in subsection (d) of K.S.A. 60-259, and amendments thereto, opposing affidavits may be served not later than one day before the hearing, unless the court permits them to be served at the time of hearing.

(e) *Additional time after service by mail.* Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon such party and the notice or paper is served upon such party by mail, three days shall be added to the prescribed period.

KANSAS STATE EMPLOYEE HOLIDAYS

Bobbi MARIANI
Attach. 2
SESA 9/15/93

Current Provisions

Kansas Statute Annotated (K.S.A.) 35-107 establishes "legal public holidays." The statute states: "On and after January 1, 1976, the following days are declared to be legal public holidays and are to be observed as such: New Year's Day, January 1; Lincoln's Birthday, the twelfth day in February; Washington's Birthday, the third Monday in February; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the first Monday in September; Columbus Day, the second Monday in October; Veterans' Day, the eleventh day in November; Thanksgiving Day, the fourth Thursday in November; Christmas Day, December 25."

Kansas Administrative Regulations are administrative law. State regulations concerning civil service are laws that govern state employees. Kansas Administrative Regulation (K.A.R.) 1-9-2 lists the "legal holidays for the state service," which are: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, and Christmas Day. The regulation also states that the "governor may designate...additional days on which state offices are to be closed in observance of a holiday or a holiday season."

Historical Background

On July 13, 1942, the Civil Service Rules adopted by the State Civil Service Board to supplement the operation of the Civil Service Law became effective. Section 10.9 of these rules established that "employees in the state service shall be expected to report for work on legal holidays with the exception of the following: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, Christmas, and such other days as may be designated by the Governor as days on which state offices will be closed." Often the designated days were used when a holiday fell on a weekend. Currently K.A.R. 1-9-2 clarifies that when a legal holiday falls on a Sunday, the following Monday is the officially observed holiday. And, if the legal holiday falls on a Saturday, the preceding Friday is the officially observed holiday.

Prior to 1977, Governors had issued memorandums before each holiday to notify state employees if they were to receive a day off. We were unable to locate historical documents related to separate holiday notification. The current State Director of Personnel, who has been with the state for over 40 years, recalls that generally employees were also given Good Friday afternoon off. In addition, before the legislature started meeting annually, employees were given Washington's Birthday off during the years the legislature was not in session.

Governor Bennett established in 1977 that state employees would receive annual notification of holiday days off, and in addition, would receive a discretionary holiday for calendar year 1978. The first memorandum giving annual notification of holiday days off

Attachment 2

State Employee Holiday History
Page two

was dated December 1, 1977 and was issued by W. Keith Weltmer, Secretary of Administration, revealing the following days that Governor Robert F. Bennett had designated as holidays for state employees: New Year's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day and the day after, Christmas Day, and a Discretionary Day. The Discretionary Day was to provide "...for a special occasion or to accommodate those who desire to observe a religious day of their choice..."

During Governor John Carlin's administration state employee holidays remained consistent with previous policy with one exception. That exception was the addition of Martin Luther King, Jr. Day.

Cabinet meeting notes dated November 2, 1983 showed the desire for the administration to recognize Martin Luther King, Jr. Day before the federal government made the change. The State began recognizing Martin Luther King, Jr. Day for state employees on January 21, 1985, a full year ahead of the official federal holiday and continues to recognize this by closing state offices. However, Martin Luther King, Jr. Day is not listed among the legal holidays for state service in the Kansas Administrative Regulations.

There have been no other significant changes to the number of holidays for state employees.

KANSAS CIVIL SERVICE ACT

75-2925. Purpose of act. The general purpose of this act is to establish a system of personnel administration that meets the social, economic and program needs of the people of the state of Kansas as these needs now or in the future may be established. This system shall provide means to recruit, select, develop and maintain an effective and responsible work force and shall include policies and procedures for employee hiring and advancement, training and career development, job classification, salary administration, retirement, fringe benefits, discipline, discharge and other related activities. All personnel administration actions regarding employees in the state classified service shall be made without regard to race, national origin or ancestry, religion, political affiliation, or other non-merit factors, and shall not be based on sex, age or physical disability except where sex, age or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration. Personnel administration actions shall be based on merit and fitness to perform the work required and shall provide fair and equal opportunity for public service.

History: L. 1941, ch. 358, § 1; L. 1978, ch. 332, § 1; July 1.

75-2926. Definitions. As used in the Kansas civil service act, unless the context otherwise indicates:

- (1) "Board" means the state civil service board.
- (2) "Director" means the director of personnel services.
- (3) "Eligible" includes a person who is on an employment list and qualified for appointment, promotion, reinstatement or reemployment under this act.
- (4) "Employees of courts" includes all officers and employees appointed by or pursuant to the recommendation of a court, or any members thereof, and all officers and employees appointed or employed by any such appointee.
- (5) "Joint recruiting authority" means that both an agency and the division of personnel services may officially recruit candidates for classified positions.
- (6) "Status eligible" means a person having a right to employment based on service in a permanent classified position within the previous year.
- (7) "Non-merit reason" means any reason specifically based on race, national origin or ancestry, religion or political affiliation; or on sex, age or physical disability where sex, age or physical disability does not constitute a bona fide occupational qualification necessary to proper and efficient administration.

History: L. 1941, ch. 358, § 2; L. 1953, ch. 375, § 50; L. 1972, ch. 332, § 56; L. 1978, ch. 332; § 2; July 1.

75-2929a. State civil service board; appointment, qualifications and terms of members; confirmation by senate. (a) There is hereby created the state civil service board. The board shall consist of five members appointed by the governor, subject to confirmation by the senate as provided by K.S.A. 75-4315b and amendments thereto.

(b) Members shall be in sympathy with the application of merit principles to public employment. Not more than three members of the board shall be of the same political party. Except as otherwise provided in this section, no

75-3746. Director of personnel services; powers and duties. The director of personnel services shall:

(a) Require the development of effective personnel administration within all agencies in the state and make available the facilities of the division of personnel services to this end.

(b) Keep in the office of the division of personnel services an official roster of the state civil service showing the employment history of each and every person who has been appointed to, employed, promoted, reduced, or reinstated in any position in such service. The director of personnel services shall have access to all public records and papers, the examination of which will aid in the discharge of the director's duty in connection with this roster.

(c) Prepare, in accordance with the provisions of the Kansas civil service act and rules and regulations adopted thereunder as provided in K.S.A. 75-3706 and amendments thereto, examinations, eligible lists, and ratings of candidates for appointment.

(d) Make certification for appointment within the classified service, in accordance with the provisions of the Kansas civil service act.

(e) Make investigations concerning all matters touching the enforcement and effect of the provisions of the Kansas civil service act and rules and regulations adopted thereunder as provided in K.S.A. 75-3706 and amendments thereto.

(f) Make an annual report to the secretary of administration, the legislature and the governor regarding the activities of the division.

(g) Attend or designate a representative to attend all meetings of the state civil service board.

(h) Prepare and recommend to the secretary of administration rules and regulations suitable for adoption as provided in K.S.A. 75-3706 and amendments thereto for the purpose of carrying out the provisions of the Kansas civil service act. Such rules and regulations shall provide, among other things, for current records of efficiency for methods of regular distribution of communication materials; the manner of completing appointments and promotions; the rejection of eligible candidates; competitive examinations; creation of eligible lists with successful candidates ranked according to their rating in the examinations; leave of absence with and without pay; transfers, reinstatements, layoffs, vacations, and public notice of examinations; procedure for changes in rates of pay; hours of work and other conditions of employment; the establishment of programs, including trainee programs, designed to attract and utilize persons with limited qualifications, but with potential for development, in order to provide career development opportunities; establishment of a plan for resolving employee grievances and complaints; development and operation of programs to improve work effectiveness, including orientation, on-the-job training, supervisory training, managerial development, safety, fringe benefit counseling, and employee relations; and the establishment of policies regarding manpower allocation and control.

(i) Conduct regular planned assistance visits from the division of personnel services to review personnel practices of agencies and identify agency needs.

(j) Administer the Kansas civil service act.

History: L. 1953, ch. 375, § 46; L. 1972, ch. 332, § 82; L. 1978, ch. 345, § 14; L. 1985, ch. 276, § 9; July 1.

ARTICLE 9

Hours; Leaves; Employee-Management Relations

1-9-1. Hours of work. (a) Unless specifically approved by the secretary of administration, no state agency shall operate on less than a 40 hour workweek, except as provided in other sections of these regulations which authorize specific holidays and other activities within the workweek. The standard workday for each full-time employee shall be eight hours, and the standard workweek shall be 40 hours during a given seven day period, except as provided in subsection (b).

(b) Any agency head may designate a deviation from the standard workday and workweek in subsection (a) for particular classes of employees. A written statement regarding such deviations shall be submitted to the director. Any such deviation shall be subject to modification by the secretary upon recommendation of the director.

(c) It shall be a condition of employment with the state that each employee is required to work the number of hours per day and the number of days per week or month specified for his or her position.

(d) The appointing authority may require employees to work overtime when necessary for the efficient conduct of the business of the state. (Authorized by and implementing K.S.A. 75-3747, as amended by 1985 HB 2125; effective May 1, 1979; amended, T-86-17, June 17, 1985; amended May 1, 1986.)

1-9-2. Holidays. (a) The following days shall be legal holidays for the state service: New Year's day, Memorial day, Independence day, Labor day, Veterans day, Thanksgiving day, and Christmas day. When one of these legal holidays falls on a Saturday, the preceding Friday shall be the officially observed holiday for state employees. When one of these legal holidays falls on a Sunday, the following Monday shall be the officially observed holiday for state employees.

(b) The governor may designate, in a particular year, additional days on which state offices are to be closed in observance of a holiday or a holiday season. For the purpose of this regulation, such a day is termed a legal holiday.

(c) Each full-time employee, regardless of the employee's work schedule, shall receive a maximum of eight hours of holiday credit for each holiday and shall receive the same number of holidays in a calendar year as employees whose regular workweek is Monday through Friday.

(d) Any appointing authority may require some or all employees to work on a legal holiday, an officially observed holiday, or both. Each fulltime employee who is required to work on a legal holiday or on an officially observed holiday shall receive holiday compensation in addition to the employee's regular salary for the pay period. Holiday compensation is either pay or compensatory time credits at a time and a half rate for those hours worked on a holiday. The appointing authority shall determine whether the compensation for such holiday work will be in the form of pay or compensatory time credits.

ARTICLE 9

Hours; Leaves; Employee-Management Relations

(e) If a legal holiday is preceded or followed by an officially observed holiday, an employee shall receive credit for the holiday for only one of the two days. Each full-time employee who is required to work on both the legal holiday and the officially observed holiday shall receive holiday compensation for only one of the two days. If the number of hours worked on the two days are not the same, the employee shall receive holiday compensation for the day on which the employee worked the greater number of hours.

(f) Each employee who works less than full-time on a regular schedule shall receive, for each holiday that falls on a day included in the employee's regular work schedule, whatever pay he or she would receive for that day if it were not a holiday. If the employee works on the holiday, the employee shall receive, in addition, holiday compensation for the hours worked on the holiday.

(g) A less than full time employee who works an irregular schedule shall not receive holiday credit but shall be paid at the time and a half rate for those hours worked on the holiday.

(h) Employees on emergency appointments shall not receive credit for holidays. If an emergency employee works on a holiday, that employee shall not receive holiday compensation but shall be paid at the employee's regular rate of pay for the hours worked.

(i) An employee who is on leave without pay either on the last working day before a holiday or the first working day following a holiday, shall not receive holiday credit, unless the appointing authority granted an authorized leave without pay for a portion of either or both of the working days and approved the holiday credit for the employee.

(j) The provisions of this regulation shall apply to classified and unclassified employees of all agencies, other than unclassified employees in agencies and institutions under the Board of Regents, unless the director authorizes an agency to establish its own policies pertaining to holidays for unclassified employees in that agency.

(k) Any employee who separates from the service and whose next day at work, following his or her last day at work, would have been a holiday, shall not receive pay for the holiday. (Authorized by K.S.A. 75-3747; effective May 1, 1979; amended May 1, 1985.)

1-9-3. Request and approval of leave; authorized leave; unauthorized leave. (a) Requests for leave shall be made to the appointing authority in such form and at such time as prescribed by the appointing authority. Leave that is requested as above, and approved, shall be termed authorized leave. Leave that is not requested as above, or not approved, shall be termed unauthorized leave, unless the employee furnishes the appointing authority evidence satisfactory to the appointing authority that circumstances made it impossible to request leave in the form at such time as prescribed by the appointing authority.

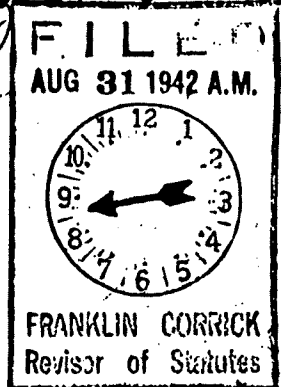
STATE OF KANSAS
DEPARTMENT OF CIVIL SERVICE
801 HARRISON STREET
TOPEKA, KANSAS

CIVIL SERVICE BOARD
ERNST F. PIHLBLAD, CHAIRMAN
FRED C. ALLVINE
TOM WILSON

DIRECTOR
CHAS. B. NEWELL

August 29, 1942

Rec Aug 31-8:30 AM



Mr. Franklin Corrick
Revisor of Statutes
State House
Topeka, Kansas

Dear Mr. Corrick:

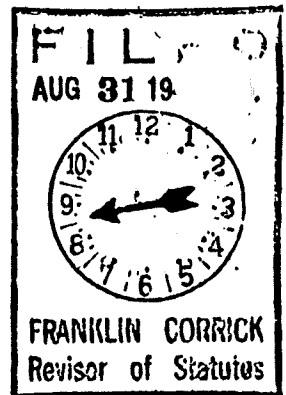
We are enclosing herewith two copies of the Civil Service Rules adopted by the State Civil Service Board to supplement the operation of the Civil Service Law. These Rules became effective with a few exceptions, as of July 13, 1942.

Yours very truly,

Chas B Newell
CHAS. B. NEWELL, Director
Department of Civil Service

CBN:jrt
Encls.

*Supervised by
Rules filed
12/27/44*



P R E F A C E

It has been thought wise to incorporate into these Rules certain portions of the Civil Service Law itself. Direct verbatim quotations from the law are indicated by the use of quotation marks and a "citation" to the law (as, Cit: Sec. 20). In some instances, the substance of the law has been paraphrased for the sake of clarity. Quotation marks are not used in these cases, but the citations are listed as for direct quotations.

Where the Rules represent a development and clarification of the provisions of the law, the section of the law to which a particular Rule is related, is indicated by a "reference" (as, Ref: Sec. 30).

All citations and references are to sections of Chapter 358 of the Session Laws of 1941. Where neither a reference nor a citation is listed, the authority of the Board to make the Rule must be traced to Sections 6 and 7 of the Act, which contain the general grants of power to the Director and the Board.

For convenience, there is a complete reprint of the law following the Rules.

Unless otherwise specified, all Rules are effective as of July 13, 1942.

*All these rules reworked
by printed rules filed
10/5/44*

purpose of allowing a permanent employee to engage in an officially directed task not ordinarily a part of a given position, where physical absence from a position is involved.

10.9 Legal Holidays. As a condition of employment, employees in the state service shall be expected to report for work on legal holidays with the exception of the following: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, Christmas, and such other days as may be designated by the Governor as days on which state offices will be closed. When one of the legal holidays indicated in this Rule falls on Sunday, the following business day shall be considered as a holiday for employees in the classified service. Any appointing authority who finds it necessary to do so, after notifying the Director, may request some or all employees to report for work on any of these legal holidays. In such case, he shall arrange for employees who are required to work on such holidays to receive equivalent time off.

10.10 Transition Period. After January 1, 1943, and prior to the completion of examinations for all positions in the classified service, the provisions of Rules 10.3 and 10.4 shall apply to all employees holding regular positions in the classified service, except that employees with incumbent status and employees appointed under Section 13 of the Act shall be eligible for vacations after six months' service rather than after a regular probationary period as defined in these Rules.

Vacation and sick leave earned prior to January 1, 1943, shall be based upon the policies in existence before that time, of the several state agencies, and may be granted in accordance with such policies.

Vacation and sick leave earned prior to January 1, 1943, by employees certified and appointed in accordance with these Rules shall be based on Rules 10.3 and 10.4.

New section 10.11 added 9/28/44

10.11 Probationary Period. Employees in the classified service shall be on probation for a period of six months from the date of their appointment. During this period, they shall be subject to removal at any time for cause. If an employee is removed during this period, he shall not be eligible for reappointment to the same position. If an employee is removed after the probationary period, he shall be eligible for reappointment to the same position.

10.12 Removal. Any employee in the classified service who is removed from his position for cause shall be eligible for reinstatement to his position if he is found to be qualified for the position and if the removal was not for cause involving moral turpitude. If an employee is removed for cause involving moral turpitude, he shall not be eligible for reinstatement to his position.

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no. 1



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OFFICE OF THE SECRETARY

Telephone 298-3011

Statehouse

Topeka, Kansas 66612

M E M O R A N D U M

DATE: December 1, 1977
TO: ALL STATE AGENCIES
FROM: W. Keith Weltmer, Secretary
Department of Administration
SUBJECT: HOLIDAYS

Governor Robert F. Bennett has designated the following days during the year 1978 to be holidays for state employees. Please preserve this memo so that you may be advised of the designated days throughout the year.

The holidays are as follows:

NEW YEAR'S DAY	Monday, JANUARY 2, 1978
MEMORIAL DAY	Monday, MAY 29, 1978
INDEPENDENCE DAY	Tuesday, JULY 4, 1978
LABOR DAY	Monday, SEPTEMBER 4, 1978
VETERAN'S DAY	Friday, NOVEMBER 10, 1978
THANKSGIVING DAY	Thursday, NOVEMBER 23, and Friday, NOVEMBER 24, 1978
CHRISTMAS DAY	Monday, December 25, 1978

*DISCRETIONARY DAY

*In addition to the above holidays, Governor Bennett has provided that each State employee is authorized one additional holiday with pay during calendar year 1978. This optional day is provided for a special occasion or to accommodate those who desire to observe a religious day of their choice and the Governor recommends that the day be used for this purpose.

A handwritten signature in dark ink, appearing to read 'W. Keith Weltmer', written over a horizontal line.

W. KEITH WELTMER
Secretary of Administration

WKW:ba

Attachment # 3
SFSA 9/15/93

	FEDERAL §	STATE §	+ GOVERNOR	JUDICIAL
NEW YEAR'S DAY	01/01/94	01/01/94	12/31/93 (F)*	12/31/93 (F)
MARTIN LUTHER KING	3rd Mon. in Jan.	-----	01/17/94 (M)	01/17/94 (M)
LINCOLN'S BIRTHDAY	-----	02/12/94	-----	-----
WASHINGTON'S BIRTHDAY	3rd Mon. in Feb.	3rd Mon. in Feb.	-----	-----
PRESIDENT'S DAY	-----	-----	-----	02/21/94 (M)
MEMORIAL DAY	last Mon. in May	last Mon. in May	05/30/94 (M)	05/30/94 (M)
INDEPENDENCE DAY	07/04/94	07/04/94	07/04/94 (M)	07/04/94 (M)
LABOR DAY	1st Mon. in Sept.	1st Mon. in Sept.	09/05/94 (M)	09/05/94 (M)
COLUMBUS DAY	2nd Mon. in Oct.	2nd Mon. in Oct.	-----	10/10/94 (M)
VETERANS' DAY	11/11/94	11/11/94	11/11/94 (F)	11/11/94 (F)
THANKSGIVING	4th Thurs. in Nov.	4th Thurs. in Nov.	11/24/94 (Th) 11/25/94 (F)	11/24/94 (Th) 11/25/94 (F)
CHRISTMAS	12/25/94	12/25/94	12/26/94 (M)*	12/26/94 (M)

(1) Discretionary (1) Discretionary
* Personnel Reg. 1-9-92

Attachment 3

AL. S BROWN, Chairperson
TO:
CORBIN R. BENHAM, Vice-Chairperson
MULVANE
FRANCIS ACRE
DODGE CITY
ROBERT WESLEY
INDEPENDENCE
PHILLIP E. DeLaTORRE
LAWRENCE
WILLIAM G. MALONE
WICHITA
ROBERT W. MIKESIC
LAWRENCE

JOAN FINNEY, GOVERNOR
STATE OF KANSAS



KANSAS HUMAN RIGHTS COMMISSION

LONDON STATE OFFICE BLDG.—8TH FLOOR
900 S.W. JACKSON ST.—SUITE 851 S.
TOPEKA, KANSAS 66612-1258
(913) 296-3206

ATTACH. #4
Copy - Mr. T.
FSA
9/15/93
MICHAEL J. BRUNG.
EXECUTIVE DIRECTOR
ROBERT G. LAY
ASSISTANT DIRECTOR
BRANDON L. MYERS
CHIEF LEGAL COUNSEL
JUDY FOWLER
SENIOR STAFF ATTORNEY
PATRICIA SCALIA JONES
STAFF ATTORNEY
ARTHUR R. BRUCE
SUPERVISOR OF COMPLIANCE
WILLIAM V. MINNER
FIELD SUPERVISOR
LINDA L. AUWARTER
OFFICE MANAGER
TDD# (913) 296-0245
FAX# (913) 296-0589

Memorandum

To: Senator Lana Oleen, Chairperson
Federal and State Affairs Committee, and honorable
Committee Members
From: Michael J. Brungardt, Executive Director *MB*
Date: September 15, 1993
Subject: Kansas Human Rights Commission, Status of Backlog

The purpose of this correspondence is to provide you with an update on the issue of the Commission's current backlog of open cases and the budgetary and staffing needs of the agency.

The Kansas Human Rights Commission currently faces perhaps the most critical point in its long history. The Commission, formerly known as the Kansas Commission on Civil Rights, was established in 1953 by the enactment of the Kansas Act Against Discrimination (KAAD), and was the twelfth state in the United States to have a law prohibiting discrimination. The KAAD has been amended a number of times over the years in response to citizen demands for stronger enforcement power, broader scope of protection of their rights, and the need to keep pace with constantly evolving Federal legislation. Kansas has always been a nationally recognized leader in the field of Civil/Human Rights, first as one of the earliest states to have an anti-discrimination law, the landmark *Brown vs. Board of Education* case, to the most recent 1991 and 1992 amendments. These amendments made our housing law **one of the first states** to become substantially equivalent to the Federal Housing law, and also enacted substantially equivalent provisions of the Federal Americans with Disabilities Act (ADA), **a full year earlier** than the effective date of the Federal ADA.

While these legislative actions are indeed remarkable and we continue to enjoy a national reputation, we cannot long maintain this status and protect the rights of the citizens of Kansas unless we have significant additional resources. Additional expenses are incurred due to the vast increase in the number of complaints being filed. For example, in FY 92 we received 1,457 complaints which was a 33% increase over FY 91 when we received 1,098. Yet in FY 92, we received no additional staff or operating expenses.

Attachment 4

Having just completed FY 93, our records show we received a record 1,776 complaints, which is an average of 148 complaints per month and a 22% increase over FY 92. Already in FY 94, in two months, we have **received an average of 188 complaints per month**. As of the end of August we have 1,987 open cases in our backlog. One year ago, at the end of August, 1992, we had 1,521 - a difference of 466 complaints.

In FY 93 we satisfactorily closed 1,418 cases which is also a record number of closures. With 19 Investigators on staff, this amounts to an average closure rate of 6.2 cases per month, per Investigator. This shows that despite the increased workload and stress, our Investigators continue to excel, since they are only required to complete an average of (5) case credits per month to obtain a satisfactory evaluation.

In the current fiscal year (FY 94) we have 22 Investigators on staff having recently filled the three positions that were added by the Governor and the 1993 legislature. With this number of staff we expect to close an average of 132 cases per month. This, however, will not be adequate staff since we predict we will receive an average of 166 complaints per month in FY 94, which would leave an average of 34 cases per month going into backlog. If these predictions hold true, by the end of the current fiscal year, we will have at least 2,296 cases in our backlog.

With our current staff of 22 Investigators and current backlog, it would take approximately 15 months to completely eliminate this backlog. This, of course, means that a citizen who files a complaint this month, if the complaint isn't settled by the Preliminary Investigation Conference (PIC) Unit, must wait until approximately January or February of 1995 before we can begin an investigation. I am sure that the members of this committee, as well as the staff and Commissioners of the Kansas Human Rights Commission, find this situation unacceptable. It is the desire and hope of the Commission that the Governor and the 1994 legislature will see fit to provide adequate staff and operating expenses to effectively enforce the statutes which are our responsibility.

MJB/laf