

MINUTES OF THE SELECT COMMITTEE ON STATE EMPLOYEE PAY PLAN

The meeting was called to order by Chairman Pat George at 8:45 A.M. on March 5, 2007 in Room 423-S of the Capitol.

All members were present except:

Representative John Grange- excused

Committee staff present:

Alan Conroy, Kansas Legislative Research Department

J. G. Scott, Kansas Legislative Research Department

Cyndie Rexer, Committee Assistant

Conferees appearing before the committee:

Ken Gregoire, CEO, Valley Hope Association

John Leipold, COO, Valley Hope Association

Dan Tasset, CEO, Nueterra Health

Others attending:

See attached list.

The minutes of March 1, 2007 were distributed. Representative Joann Pottroff moved the minutes be approved. Representative Stan Frownfelter seconded the motion. The minutes were approved.

Ken Gregoire, CEO of Valley Hope Association, gave an introduction of their Association followed by John Leipold, COO, who gave testimony as to the details of their pay plan. (Attachment 1) Included in his testimony was the following:

- Pay plan philosophy
- Performance measurement
- Rewards based on job performance
- Evaluating job performance
- Training of supervisors
- What supervisors are not allowed to do
- How they assure accurate evaluations
- Role of fringe benefits

Dan Tasset, CEO of Nueterra Health, gave testimony regarding his company's pay plan. This company believes the greatest expense they have is non-productive, disengaged or partially disengaged employees. Therefore, they strive to have employees who have a passion for their work which makes them more productive. They believe there are three (3) components to having a productive, happy employee:

1. Passion for the work
2. Genetically disposed or a genetic disposition to do the job assigned using the Kolbe Index
3. Financial reward

Nueterra's annual process of evaluation includes:

1. Situational diagnosis
2. Restating purpose/passion
3. Drivers
4. Strategy
5. Supporting initiatives
6. How to measure (performance reviews)
7. Rewards matrix and targeted bonuses

Mr. Tasset supplied the committee with copies of their Performance Evaluation forms (Attachments 2 & 3)

Alan Conroy, Legislative Research, distributed information regarding Sick and Annual Leave Accrual (Attachment 4) and the statutes addressing the state pay plan. (Attachments 5, 6, and 7)

The meeting was adjourned at 10:10 A.M. The next meeting will be March 6, 2007 at 7:30 A.M. in Rm 519-S.





**Valley Hope Association**



**Presentation to**

**State of Kansas**

**Select Committee on State Employee Pay Plans**

**March 5, 2007**

Select Committee On  
State Employee Pay Plan  
3/5/07  
Attachment 1

### Introduction

The Valley Hope Association has provided alcoholism and drug addiction treatment services to the residents of Kansas for forty years. We have done this at costs that are substantially lower than competitors who also provide similar treatment in our segment of the healthcare industry. Our cost structure for services is one-half that of some competitors yet Valley Hope provides comparable if not better treatment services. Since personnel expense at Valley Hope is 71 percent of all budgeted expenses it is clear that Valley Hope's low cost structure is derived through employee productivity. Valley Hope Association employees are highly productive and the Valley Hope Association Wage & Salary Program is a primary tool that promotes this productivity.

### What is the employee pay plan philosophy at Valley Hope?

The Valley Hope Association Wage & Salary Program is based on the philosophy that employees have the following characteristics:

- Employees want to perform well.
- Employees are generally honest.
- Employees expect respectful treatment.
- Employees perform best when they trust their supervisors.

Pay plan philosophy is deeply rooted in the belief that organizational performance must continually improve. What was satisfactory performance in the past is no longer satisfactory today and what is satisfactory performance today will not be satisfactory in the future. At Valley Hope we apply a performance improvement model to our Wage & Salary Program.

Performance improvement is implemented on this basic foundation:

- Identify the problem or opportunity requiring improvement.
- Develop key measures and establish a baseline.
- Identify and implement interventions designed to generate improvement.
- Measure the effect of the interventions.
- Sustain improved performance.

### How do we measure performance at Valley Hope?

At Valley Hope we separate performance measures into the basic criteria for job competency given the job description and the goals/objectives identified for individual employee development.

- All employees in a job position are assessed using the same job competencies.
- Individualized goals are developed as needed that specifically address job performance issues for each specific employee.

All measurement is done using objective indicators. Supervisors are not permitted to formulate judgments or opinions about employee job performance unless the judgments or opinions are based on data. Job performance is measured, described objectively, and summarized within the scope of the objective information.

Measurement criteria are focused on results, not on the methods by which these results are achieved. Competency statements and individualized goals ask for specific outcomes.

### How do we reward employees based on job performance at Valley Hope?

Perhaps the most powerful reward employees earn at Valley Hope through good job performance is the freedom from the exercise of arbitrary supervisory authority. The implementation of the performance improvement model and the focus on objective data constrain supervisors to treat all employees the same. This virtually eliminates a supervisor's ability to abuse employees with whom the supervisor has personal conflicts. It makes it very difficult for supervisors to treat employees differently. It leaves subordinate employees with a sense of confidence and job security. Confidence and job security are powerful rewards for the organization because individual job security is tied to good job performance. Employees focus on getting their jobs done, not on supervisors they distrust or on other employees who are getting different treatment.

Non-management employees are moved through the Wage & Salary Program based on satisfactory performance. Supervisors don't make salary recommendations. Supervisors recommend that subordinate employees are moved to the next experience rating on the salary range in which the employee's salary is assigned. More often than not, there is a salary increase associated with the increased experience rating, but not always. Supervisors must use a comprehensive and progressive disciplinary process to stop an employee's movement through the salary range. Supervisors are not allowed to surprise employees. Indeed, the Wage & Salary Program creates an important structure in which supervisors must function. This structure requires productive job performance from employees and returns job security and appropriate remuneration.

### How do we evaluate employee job performance at Valley Hope?

The employee job performance appraisal is the focus of formal job performance evaluation. At Valley Hope the job performance appraisal is highly structured.

- Structure makes it easier to train supervisory staff to write and conduct effective performance appraisals.
- Structure makes performance appraisals predictable thus substantially reducing employee anxiety.

Job performance appraisals at Valley Hope are prepared using internally developed and proprietary software. The entire documentation process is electronic.

Here are the steps required to complete a job performance appraisal:

- Self-Appraisal: The supervisor reminds the employee that an appraisal is due and asks the employee to prepare a self-appraisal. The self-appraisal provides the employee an opportunity to participate in the process and data gathered by the employee is often helpful to the supervisor.
- Competency Data: The supervisor gathers the data that relate to the competencies at outlined for the job description under which the employee is working. The data are documented and presented in the Competency Data section of the appraisal. No judgments or opinions are given in this section.
- Competency Interpretation: The supervisor interprets the data in the Competency Interpretation section of the appraisal. An "interpretation" is an objective discussion of what the data mean. Value judgments are discouraged at this point in the appraisal. If opportunities for further employee development are identified then the supervisor will advise the employee in this section that the employee can expect to see an individualized goal in the new goals section of the appraisal relating to the opportunity.
- Assessment of Prior Goals: The supervisor then gathers data related to any prior assigned individualized goals and objectively assesses job performance based on the

requirements of these goals. Goals always ask for specific results and the essential criteria for a good goal is that the result is objectively/quantitatively measurable. These prior goals may or may not be repeated in the new goals section depending on documented results.

- Discussion Section: The supervisor then has the opportunity to write about job performance issues that are not adequately captured through the interpretation of competency data or through the assessment of individualized goals. Such discussion is also data-based. Supervisors are not permitted to make judgments without providing proper foundation. Supervisors are required to write and implement new individualized goals if this Discussion Section is used under the basic philosophy that if it is important enough to include in this section then it is important enough to generate individualized goals.
- New Goals: This is the most important section of the appraisal because appraisals are about the future, not about the past. The supervisor will have been working on the new goals section throughout the appraisal process. The supervisor will have derived all new goals based on opportunities identified by the data. All new goals require results and must include a measure that can objectively determine if the goal is met or not met.
- Summary: The supervisor writes a brief summary section. Such summaries are usually only a few sentences and provide a personal touch.
- New Competencies: The supervisor then retrieves the latest set of competency statements from the competency statement database and these new competency statements are integrated into the performance appraisal.
- Job Description: The supervisor then retrieves the current job description under which the employee is working from the job description database and this job description is then integrated into the performance appraisal.
- Approval: The supervisor seeks review and approval from his/her supervisor. All appraisals require this dual review and approval process. No supervisor can write and present an appraisal to an employee that is not reviewed by a higher ranking supervisor.
- Presentation: The supervisor presents the employee with the completed appraisal.
- Acknowledgement: The employee electronically acknowledges the appraisal. This is not an approval. The employee is merely indicating that the appraisal was presented and there is no explicit or implied message that the employee either agrees or disagrees with what is in the appraisal.
- Supervisor Authentication: The supervisor electronically authenticates the appraisal. This is an official statement that the supervisor stands by what is documented in the appraisal.
- HR Department Authentication: The Human Resources Department electronically authenticates the appraisal thus indicating the process is complete.

#### **At Valley Hope, how do we train supervisors to conduct effective job performance evaluations?**

Formal job performance appraisal training is provided on an as needed basis during management meetings either by teleconference or in person. However, such formal training is substantially minimized through the structure Valley Hope uses for performance appraisals. Most training is actually focused on how to gather data and how to objectively describe employee job performance results.

Valley Hope provides such training primarily through mentorship processes. Supervisors who are skilled with performance appraisal review and approve appraisals written by less skilled supervisors. This is feasible in the geographically disparate organization because appraisals are written in a networked, online environment. As supervisors work on an appraisal, the mentors can participate, review, and assist, no matter where they are located. Hence, most learning is done by doing, a highly productive training methodology.

**At Valley Hope, what don't we do?**

Supervisors at Valley Hope are constrained in several ways.

The use of rating scales is prohibited. Such scales, e.g., rating an employee on a 1 to 5 basis where 1 is poor performance and 5 is superior performance requires ambiguous judgments by supervisors that are almost always universally resented by employees. In the long run, the net effect of such rating scales is that everyone gets rated in the middle of the scale because supervisors cannot objectively explain to employees differential ratings. In addition, rating scales almost always substantially complicate any employment-related legal action.

Employees are not children so supervisors are required to avoid acting in a parental role within a job performance appraisal. Therefore, supervisors do not write about employee behavior or attitude problems. All appraisal narrative must focus on job performance. If behavior or attitude is a job performance problem then it is always possible to write about it in terms of the job performance problem. Anyone reading the appraisal will deduce the behavior or attitude problem. We accomplish this by simply refraining from using the words "behavior" or "attitude" in the appraisal. This has the effect of requiring an objective description to demonstrate the job performance issue.

**How do we know at Valley Hope that we are getting accurate job performance evaluations?**

The foundation on which job performance appraisal at Valley Hope is built requires objective description of job performance results. It starts by setting clear job performance expectations through the job competencies and individualized goals. These criteria are always measurable. If you can measure it, then you can demonstrate some degree of reliability and validity and, hence, accuracy. This foundation prohibits rating scales precisely because rating scales are ambiguous and, therefore, it is impossible to assess the accuracy of rating scales.

At Valley Hope we also know that we are producing accurate job performance evaluations because in addition to setting measurable performance criteria:

- Multiple supervisors compose, review, and approve all appraisals.
- Employees are invited to participate in the appraisal process and are encouraged to challenge factual inaccuracies.
- Employee productivity is high at Valley Hope.
- Employment-related legal actions are extremely rare at Valley Hope.

**What role do fringe benefits play in the pay plan at Valley Hope?**

Valley Hope uses its benefits package to encourage employment longevity. Access to the various benefits offered at Valley Hope increases with job tenure and level of benefits received also increases with job tenure. Benefits, therefore, contribute to the basic foundation on which Valley Hope builds employee productivity.





**Performance Evaluation**  
*Executive Leadership*

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Supervisor: \_\_\_\_\_

Department: \_\_\_\_\_

Performance Period: \_\_\_\_\_

The Performance Evaluation process includes:

1. An objectives/performance planning discussion to be held by January 31.
2. An interim performance discussion review (recommend quarterly but a minimum requirement of a mid-year by July 15).
3. An annual performance review with results discussion.

The **PURPOSE** of this performance evaluation process is to have candid, constructive feedback discussions that provide the employee with a thorough and comprehensive review, including specific feedback on strengths and opportunities for improvement.

The **AGENDA** is to include the following:

1. Discussion of the components of performance effectiveness.
2. Discussion of the individual development plan (*to be fully integrated in 2008*).
  - a. Total job requirements and this year's objectives
  - b. Demonstration of Nueterra's cultural and behavioral dimensions
3. Discussion of the performance rating.

**I. OBJECTIVES**

- With your supervisor identify 3-8 departmental team and/or individual objectives that will be of primary focus for the identified performance period.
- The objectives should be in alignment with your position and job requirements as well as the company's strategic direction. They should be achievable in the plan year, have measurable outcomes and contribute to items monitored on your department's scorecard.
- Objectives are to be written using **Specific, Measurable, Attainable, Relevant, and Timebound** criteria.
- Performance indicators will be discussed with your supervisor and identified during your mid-year evaluation sessions.
  - Blue:** Ahead of schedule - goals will be achieved in advance of identified timeline
  - Green:** On schedule - goals will be achieved in identified timeline
  - Yellow:** Potential issues/delays - goals and/or timeline are in jeopardy of being achieved
  - Red:** Goals and/or timeline will not be achieved
- If at the mid-year review the employee is facing delays or is at risk of meeting the objective (yellow or red indicator), the supervisor, along with the employee, is to develop and document an agreed upon action plan for meeting the objective by year end.

Select State Employee Pay Plan  
Attachment 2 3/5/07

Attachment 2  
3/5/07  
Select Committee On  
State Employee Pay Plan

		Mid-year Indicator	Year-end Rating
1	<b>Objective:</b> <b>Anticipated Outcomes:</b> <b>Completion Dates</b> Target Completion: _____ Actual completion: _____ <b>Mid-year Status</b> Employee Comments: _____ Supervisor Comments: _____ Action Plan (if applicable): _____ <b>Year-end Status</b> Employee Comments: _____ Supervisor Comments: _____	Blue Green Yellow Red  (Place an "X" by the appropriate indicator)	
2	<b>Objective:</b> <b>Anticipated Outcomes:</b> <b>Completion Dates</b> Target Completion: _____ Actual completion: _____ <b>Mid-year Status</b> Employee Comments: _____ Supervisor Comments: _____ Action Plan (if applicable): _____ <b>Year-end Status</b> Employee Comments: _____ Supervisor Comments: _____	Blue Green Yellow Red  (Place an "X" by the appropriate indicator)	
3	<b>Objective:</b> <b>Anticipated Outcomes:</b> <b>Completion Dates</b> Target Completion: _____ Actual completion: _____ <b>Mid-year Status</b> Employee Comments: _____ Supervisor Comments: _____ Action Plan (if applicable): _____ <b>Year-end Status</b> Employee Comments: _____ Supervisor Comments: _____	Blue Green Yellow Red  (Place an "X" by the appropriate indicator)	
4	<b>Objective:</b> <b>Anticipated Outcomes:</b>	Blue Green	

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	<b>Yellow</b> <b>Red</b>	
<b>Completion Dates</b> Target Completion: _____ Actual completion: _____ <b>Mid-year Status</b> Employee Comments: _____ Supervisor Comments: _____ Action Plan (if applicable): _____ <b>Year-end Status</b> Employee Comments: _____ Supervisor Comments: _____	(Place an "X" by the appropriate indicator)	
5 <b>Objective:</b> _____ <b>Anticipated Outcomes:</b> _____ <b>Completion Dates</b> Target Completion: _____ Actual completion: _____ <b>Mid-year Status</b> Employee Comments: _____ Supervisor Comments: _____ Action Plan (if applicable): _____ <b>Year-end Status</b> Employee Comments: _____ Supervisor Comments: _____	<b>Blue</b> <b>Green</b> <b>Yellow</b> <b>Red</b>	(Place an "X" by the appropriate indicator)
6 <b>Objective:</b> _____ <b>Anticipated Outcomes:</b> _____ <b>Completion Dates</b> Target Completion: _____ Actual completion: _____ <b>Mid-year Status</b> Employee Comments: _____ Supervisor Comments: _____ Action Plan (if applicable): _____ <b>Year-end Status</b> Employee Comments: _____ Supervisor Comments: _____	<b>Blue</b> <b>Green</b> <b>Yellow</b> <b>Red</b>	(Place an "X" by the appropriate indicator)
7 <b>Objective:</b> _____ <b>Anticipated Outcomes:</b> _____ <b>Completion Dates</b> Target Completion: _____ Actual completion: _____ <b>Mid-year Status</b> Employee Comments: _____	<b>Blue</b> <b>Green</b> <b>Yellow</b> <b>Red</b>	

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	Supervisor Comments: _____ Action Plan _____ (if applicable): _____ <b>Year-end Status</b> _____ Employee Comments: _____ Supervisor Comments: _____	(Place an "X" by the appropriate indicator)	
8	<b>Objective:</b> _____ <b>Anticipated Outcomes:</b> _____ <b>Completion Dates</b> _____ Target Completion: _____ Actual completion: _____ <b>Mid-year Status</b> _____ Employee Comments: _____ Supervisor Comments: _____ Action Plan _____ (if applicable): _____ <b>Year-end Status</b> _____ Employee Comments: _____ Supervisor Comments: _____	Blue Green Yellow Red  (Place an "X" by the appropriate indicator)	

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**JOB SKILLS**

Supervisor: During the mid-year and final performance review, provide evaluative feedback based on the employees overall job skills considering their specific job responsibilities and position.

If at the mid-year review the employee does not meet expectations (3 or 4 rating), the supervisor is to identify specific areas of improvement and, along with the employee, develop and document an agreed upon action plan for improvement.

		Mid-year Indicator	Year-end Rating
1	<b>Leadership</b> Consider the individual's level of leadership skills exhibited. <b>Does the employee:</b> <ul style="list-style-type: none"> <li>• Grasp and understand department functions?</li> <li>• Manage staff to maximum efficiency and delegate responsibilities/tasks effectively?</li> <li>• Set an example as a team leader?</li> <li>• Focus on employee input and problem solving?</li> <li>• Respond to personnel challenges in a positive manner?</li> <li>• Groom others to grow professionally?</li> <li>• Empower others to grow professionally?</li> <li>• Understand the financial management of the department/center?</li> </ul> <b>Mid-year Review</b> Supervisor Comments: _____ Developmental Action Plan (if applicable): _____ <b>Year-end Review</b> Employee Comments: _____ Supervisor Comments: _____		
2	<b>Professional Skills</b> Consider the individual's ability to meet the basic skills defined in his/her job description. <b>Does the employee:</b> <ul style="list-style-type: none"> <li>• Consistently meet individual tasks?</li> <li>• Perform duties with ease and skillful execution?</li> <li>• Exhibit customer service oriented behavior?</li> <li>• Share "need to know" information with both internal and external customers?</li> </ul> <b>Mid-year Review</b> Supervisor Comments: _____ Developmental Action Plan (if applicable): _____ <b>Year-end Review</b> Employee Comments: _____ Supervisor Comments: _____		
3	<b>Product &amp; Industry Knowledge</b> Consider the individual's knowledge of industry and their job and how it relates to the industry/company. <b>Does the employee keep current with changes to:</b>		

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- His/her duties?
  - Trends and information affecting the business and organization?
- Does the employee understand, apply, and continually enhance:**
- Technical knowledge?
  - Professional knowledge?
  - Business knowledge?

**Mid-year Review**

Supervisor Comments: \_\_\_\_\_

Developmental Action \_\_\_\_\_

Plan (if applicable): \_\_\_\_\_

**Year-end Review**

Employee Comments: \_\_\_\_\_

Supervisor Comments: \_\_\_\_\_

**4 Planning, Execution & Quality**

Consider the individual's ability to exercise effective planning skills and execute tasks in a timely manner.

**Does the employee:**

- Plan ahead and establish priorities?
- Manage time well?
- Follow through and accomplish the job?

Consider the exactness and precision of work performed.

**Does the employee:**

- Attend to details with accuracy and thoroughness?
- Show commitment to quality and excellence?
- Look for improvements and take action to improve quality?

**Mid-year Review**

Supervisor Comments: \_\_\_\_\_

Developmental Action \_\_\_\_\_

Plan (if applicable): \_\_\_\_\_

**Year-end Review**

Employee Comments: \_\_\_\_\_

Supervisor Comments: \_\_\_\_\_

**5 Initiative, Dependability & Reliability**

Consider the individual's initiative to complete tasks, ability to perform consistently, and reliably to produce accurate work?

**Does the employee:**

- Meet commitments and complete assignments?
- Require little follow-up on assigned projects/tasks?
- Manage changes and issues?
- Generate innovative ideas, approaches and solutions?
- Seek new challenges and increased responsibility?
- Take independent action and is a self-starter?

**Mid-year Review**

Supervisor Comments: \_\_\_\_\_

Developmental Action \_\_\_\_\_

Plan (if applicable): \_\_\_\_\_

**Year-end Review**

Employee Comments:

Supervisor Comments:

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**III. CULTURAL AND BEHAVIORAL DIMENSIONS**

Supervisor: During the mid-year and final performance review, provide evaluative feedback based on the employees overall ability to demonstrate the behavioral dimensions.

If at the mid-year review the employee does not meet expectations (3 or 4 rating), the supervisor is to identify specific areas of improvement and, along with the employee, develop and document an agreed upon action plan for improvement.

		Mid-year Indicator	Year-end Rating
1	<p>The ability to utilize the <b>4-quadrant</b> development approach.</p> <ul style="list-style-type: none"> <li>• This capacity is demonstrated through solving problems.</li> <li>• This capacity is demonstrated in initiating sustainable change.</li> <li>• This capacity is demonstrated in managing people or working with others.</li> </ul> <p><b>Mid-year Review</b></p> <p>Supervisor Comments: _____</p> <p>Developmental Action Plan (if applicable): _____</p> <p><b>Year-end Review</b></p> <p>Employee Comments: _____</p> <p>Supervisor Comments: _____</p>		
2	<p>The ability to frame individual and organizational issues from a <b>systemic perspective</b>.</p> <ul style="list-style-type: none"> <li>• The capacity and demonstration of self-responsible behavior.</li> <li>• The capacity and demonstration of co-responsible behavior.</li> </ul> <p><b>Mid-year Review</b></p> <p>Supervisor Comments: _____</p> <p>Developmental Action Plan (if applicable): _____</p> <p><b>Year-end Review</b></p> <p>Employee Comments: _____</p> <p>Supervisor Comments: _____</p>		
3	<p>The consistent use of a <b>solution-focused approach</b> when addressing interpersonal and organizational issues.</p> <ul style="list-style-type: none"> <li>• The capacity to commit to goals and the ability to negotiate the methodological approaches to reach these goals.</li> </ul> <p><b>Mid-year Review</b></p> <p>Supervisor Comments: _____</p> <p>Developmental Action Plan (if applicable): _____</p> <p><b>Year-end Review</b></p> <p>Employee Comments: _____</p> <p>Supervisor Comments: _____</p>		
4	<p>The ability to <b>manage individual emotions</b> and the emotional components surrounding issues on both an intrapersonal and interpersonal levels.</p> <ul style="list-style-type: none"> <li>• The ability to employ an integral model for managing emotions.</li> </ul> <p><b>Mid-year Review</b></p> <p>Supervisor Comments: _____</p>		



	Developmental Action Plan (if applicable): <b>Year-end Review</b> Employee Comments: Supervisor Comments:		
5	To develop a general understanding of and the capacity to apply techniques related to <b>the will</b> in human motivation, behavior, and performance. <ul style="list-style-type: none"> <li>• The ability to take clear positions, make commitments, and follow through on them.</li> <li>• The ability to negotiate actions, not thoughts and feelings.</li> <li>• The ability to use synergistic approaches to creative problem solving.</li> </ul> <b>Mid-year Review</b> Supervisor Comments: Developmental Action Plan (if applicable): <b>Year-end Review</b> Employee Comments: Supervisor Comments:		
6	The ability to display <b>integral communication</b> . <ul style="list-style-type: none"> <li>• The capacity to utilize a communication pyramid as a model for effective communication.</li> <li>• The capacity for dyadic and triadic communication.</li> <li>• The avoidance of triangulation.</li> </ul> <b>Mid-year Review</b> Supervisor Comments: Developmental Action Plan (if applicable): <b>Year-end Review</b> Employee Comments: Supervisor Comments:		
7	The ability to consistently utilize a <b>conative based approach</b> to work efficiency and productivity. <ul style="list-style-type: none"> <li>• The ability to work synergistically with others based on conative differences.</li> <li>• The ability to communicate effectively based upon conative differences.</li> </ul> <b>Mid-year Review</b> Supervisor Comments: Developmental Action Plan (if applicable): <b>Year-end Review</b> Employee Comments: Supervisor Comments:		
8	The capacity to build <b>strong relationships</b> . <ul style="list-style-type: none"> <li>• The ability to utilize the RISC model for management and leadership purposes.</li> </ul> <b>Mid-year Review</b> Supervisor Comments: Developmental Action Plan (if applicable):		

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Employee Comments:

Supervisor Comments:

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**INDIVIDUAL DEVELOPMENT PLAN (IDP)**

- The IDP consists of both career development and current performance development goals and actions.
- Identify 1-3 career and/or development goals and specify what steps you will take and/or actions may be required to accomplish your goals.
- Be prepared to discuss and review the following topics with your manager:
  - Future career goals and their feasibility.
  - Preparation needed for career goals.
  - Current development goals.
  - Preparation needed for current development goals.
  - Milestones, progress and results.
  - Changes and adjustments.

1	<b>Development Goal:</b>
	<b>Agreed Upon Actions:</b>
	<b>Completion Dates</b>
	Target Completion:
	Actual completion:
	<b>Year-end Status</b>
2	<b>Development Goal:</b>
	<b>Agreed Upon Actions:</b>
	<b>Completion Dates</b>
	Target Completion:
	Actual completion:
	<b>Year-end Status</b>
3	<b>Development Goal:</b>
	<b>Agreed Upon Actions:</b>
	<b>Completion Dates</b>
	Target Completion:
	Actual completion:
	<b>Year-end Status</b>

**V. PERFORMANCE RATING**

Supervisor: During the mid-year and final performance review, use the following rating scale to assess the results achieved, skills exhibited, and behaviors demonstrated based on all performance documentation and discussions.

RATING SCALE AND DEFINITIONS		
1	Exceeded Expectations	Employee met and exceeded expectations as established in the performance plan and performed job responsibilities above the requirements of the job. Equivalent to "blue" performance indicator for mid-year valuation on objectives (section 1).
2	Met Expectations	Employee achieved major objectives as established in the performance plan and consistently performed responsibilities of the job. Equivalent to "green" performance indicator for mid-year valuation on objectives (section 1).
3	Below Expectations	Employee achieved some objectives in the performance plan and needs some refining of focus to meet performance objectives and job responsibilities. Equivalent to "yellow" performance indicator for mid-year valuation on objectives (section 1).
4	Unacceptable	Employees overall performance and results were not acceptable. Equivalent to "red" performance indicator for mid-year valuation on objectives (section).

PERFORMANCE VALUES	
50%	Performance Objectives
40%	Job Skills
10%	Cultural & Behavioral Dimensions

OVERALL PERFORMANCE SUMMARY	
Year-end Performance Rating	
Employee Comments (Optional):	
Supervisor Comments (Optional):	

SIGNATURES	
<b><u>Mid-year Review</u></b>	
Employee	_____
	_____ Date
Supervisor	_____
	_____ Date
<b><u>Year-end Review</u></b>	
Employee	_____
	_____ Date
Supervisor	_____
	_____ Date



**Performance Evaluation - Rating Appraisal**  
Executive Leadership

Name: 0  
 Title: 0  
 Supervisor: 0  
 Department: 0  
 Performance Period: 0

Performance Objective		Mid-year Rating	Year-end Rating
1.	0		
2.	0		
3.	0		
4.	0		
5.	0		
6.	0		
Subtotal		0	0
# of Performance Objectives (fill in # of objectives assigned)			
<b>Total Performance Rating</b>		<b>#DIV/0!</b>	<b>#DIV/0!</b>

Job Skills Dimensions		Mid-year Rating	Year-end Rating
1.	Leadership Skills		
2.	Professional Skills		
3.	Product & Industry Knowledge		
4.	Planning, Execution & Quality		
5.	Initiative, Dependability & Reliability		
Subtotal		0	0
# of Job Skill Dimensions		5	5
<b>Total Job Dimensions Rating</b>		<b>0.00</b>	<b>0.00</b>

Cultural & Behavioral Dimensions		Mid-year Rating	Year-end Rating
1.	4 Quadrant Approach		
2.	Systemic Thinking		
3.	Solution-Focused Approach		
4.	Managing Emotions		
5.	The Will		
6.	Integral Communication		
7.	Conative Based Approach (Kolbe)		
8.	Strong Relationships		
Subtotal		0	0
# of Cultural & Behavioral Objectives		8	8
<b>Total Behavioral Rating</b>		<b>0.00</b>	<b>0.00</b>

Appraisal - Mid-year Review		Rating	Value	Score
Performance Objectives		#DIV/0!	0.50	#DIV/0!
Job Skills Dimensions		0.00	0.40	0.00
Cultural & Behavioral Dimensions		0.00	0.10	0.00
Overall Appraisal Rating				#DIV/0!

Appraisal - Year-end Review		Rating	Value	Score
Performance Objectives		#DIV/0!	0.50	#DIV/0!
Job Skills Dimensions		0.00	0.40	0.00
Cultural & Behavioral Dimensions		0.00	0.10	0.00
Overall Appraisal Rating				#DIV/0!

Annual Performance Rating*	#DIV/0!
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Merit Increase	
Rating	Salary Increase Range
1	6%
2	4 - 5%
3	3 - 4%
4	2 - 3 %
Recommended Increase: _____	
Approved Increase: _____	

Salary Information	
Existing Salary:	_____
Merit Increase (\$):	\$0.00
New Salary:	\$0.00

Signatures	
CEO:	_____
Date:	_____

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## Classified Employee

### Sick and Annual Leave Accrual

#### Sick Leave

	<u>Time Earned Per Pay Period</u>	<u>Day Equivalent</u>
All full-time employees	3.7	12

- Sick leave may be accumulated without limitation.
- Unused sick leave at the time of termination is lost, except upon retirement.
- If the retiring employee has at least 100 days or more of accumulated sick leave they will be compensated as follows:

<u>Days of Sick Leave Accumulation</u>	<u>Years of Service</u>	<u>Compensation Upon Retirement</u>
At least 100, but less than 125 days	8 or more years	Not more than 30 days
At least 125, but less than 150 days	15 more years	Not more than 45 days
At least 150 days	25 or more years	Not more than 60 days

- Employees who were employed prior to 1993 may have these payments count toward KPERS final average salary.

#### Annual or Vacation Leave

<u>Years of Service</u>	<u>Time Earned Per Pay Period</u>	<u>Day Equivalent</u>
Less than 5 years	3.7	12
5 years, but less than 10 years	4.7	15
10 years, but less than 15 years	5.6	18
15 years and over	6.5	21

- Any unused annual or vacation leave at the time when an employee leaves state service is fully compensated for the leave time.



- The maximum annual or vacation leave that classified employees may accumulate is as follows:

<u>Years of Service</u>	<u>Maximum Vacation Accumulation</u>	<u>Day Equivalent</u>
Less than 5 years	144.0 hours	18
5 years, but less than 10 years	176.0 hours	22
10 years, but less than 15 years	208.0 hours	26
15 years and over	240.0 hours	30

- Any annual or leave time in excess of the maximum limits is lost at the end of the calendar year, although employees may transfer up to 40 hours of overage to sick leave.
- In addition, state employees receive generally ten paid holidays per year including one discretionary day.

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# KANSAS

OFFICE OF THE GOVERNOR

KATHLEEN SEBELIUS, GOVERNOR

## MEMORANDUM

**TO:** All State Agencies  
**FROM:** Governor Kathleen Sebelius  
**DATE:** June 21, 2006  
**SUBJECT:** Designated Holidays for 2007



The following are holidays for the state service in calendar year 2007.

New Year's Day	Monday, January 1, 2007
Martin Luther King Day	Monday, January 15, 2007
Memorial Day	Monday, May 28, 2007
Independence Day	Wednesday, July 4, 2007
Labor Day	Monday, September 3, 2007
Veterans Day	Monday, November 12, 2007
Thanksgiving Day	Thursday, November 22, 2007
	Friday, November 23, 2007
Christmas	Tuesday, December 25, 2007

Employees who are entitled to holidays should receive credit for these holidays in accordance with K.A.R. 1-9-2 and Division of Personnel Services Bulletin 05-03.

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 2007 (pay periods December 17, 2006 through December 29, 2007). This holiday should be approved in accordance with the general policy for the discretionary holiday outlined by the Secretary of Administration's Memorandum dated June 19, 2006.

KS:dp

Capitol, 300 SW 10th Ave., Ste. 212S, Topeka, KS 66612-1590

Voice 785-296-3232

Fax 785-296-7973

[www.ksgovernor.org](http://www.ksgovernor.org)

[governor@state.ks.us](mailto:governor@state.ks.us)

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incorrect and defective, such secretary shall correctly record said patent, as provided by K.S.A. 75-2805, and shall on the present defective or incorrect record thereof make a memorandum in red ink, referring to the book and page of such correct record. Such re-issue of patents and correction of records shall be without cost to the persons so presenting said patents.

**History:** R.S. 1923, 75-2814; L. 1974, ch. 364, § 24; Jan. 13, 1975.

**Source or prior law:**

L. 1899, ch. 243, § 1, 2, 3.

**CASE ANNOTATIONS**

1. Correction patent should not include lands not covered by original patent. *Pessemier v. Nichols*, 153 K. 267, 272, 109 P.2d 205.

**75-2815.**

**History:** L. 1867, ch. 135, § 3; G.S. 1868, ch. 100, § 3; R.S. 1923, 75-2815; Repealed, L. 1965, ch. 463, § 1; June 30.

**75-2816.**

**History:** L. 1867, ch. 135, § 1, 2, 4, 5; G.S. 1868, ch. 100, § 1, 2, 4, 5; R.S. 1923, 75-2816; Repealed, L. 1951, ch. 445, § 1; June 30.

**Article 29.—CIVIL SERVICE**

**Cross References to Related Sections:**

Division of personnel of state department of administration, see 75-3745a to 75-3747.

Position reductions based on state employee retirements, see 75-6801.

**Law Review and Bar Journal References:**

Right to review decisions of board hereunder provided by 60-2101, *Kenton C. Granger*, 14 K.L.R. 149 (1965).

**75-2901.**

**History:** L. 1915, ch. 156, § 2; L. 1921, ch. 274, § 1; R.S. 1923, 75-2901; Repealed, L. 1941, ch. 358, § 38; June 1.

**75-2902 to 75-2917.**

**History:** L. 1915, ch. 156, §§ 3 to 18; R.S. 1923, 75-2902 to 75-2917; Repealed, L. 1941, ch. 358, § 38; June 1.

**CASE ANNOTATIONS**

1. Compensation for wrongful removal of dairy inspector after reinstatement. *Bassler v. Gordon*, 122 K. 692, 253 P. 228.

**75-2918 to 75-2923.**

**History:** L. 1915, ch. 156, §§ 22 to 27; R.S. 1923, 75-2918 to 75-2923; Repealed, L. 1941, ch. 358, § 38; June 1.

**75-2924.**

**History:** R.S. 1923, 75-2924; Repealed, L. 1941, ch. 358, § 38; June 1.

**Source or prior law:**

L. 1915, ch. 156, § 28; Revised, 1923.

**Revisor's Notes:**

This act was enacted in 1941 after section 2 of article 15 of the Kansas constitution was amended in 1940 to permit establishment of a merit system in civil service.

**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 nonmerit factors. Personnel administration actions shall be based on merit principles 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; L. 1995, ch. 213, § 2; Dec. 17.

**Research and Practice Aids:**

Officers = 11.

C.J.S. Officers § 34.

**Attorney General's Opinions:**

Proper agency to promulgate rules and regulations concerning nepotism. 92-21.

**CASE ANNOTATIONS**

1. Cited; board's jurisdiction exclusive over disputes relating to dismissal of employee. *Gray v. Jenkins*, 183 K. 251, 258, 326 P.2d 319.

2. Applied in upholding dismissal under K.A.R. 1-11-2; right to appeal on demotion action. *Goertzen v. State Department of Social & Rehabilitation Services*, 218 K. 313, 316, 543 P.2d 996.

3. Cited; provisional employee not entitled to hearing before dismissal even if retained beyond maximum statutory period; would contravene purpose of act. *Whitmore v. State*, et al., 3 K.A.2d 101, 103, 104, 590 P.2d 106.

4. Case involving veterans' preference; discharged employees must first exhaust administrative remedies; district court had no jurisdiction to hear case. *Pecenka v. Alquest*, 232 K. 97, 99, 652 P.2d 679 (1982).

5. Legislature cannot constitutionally authorize deprivation of property interest in public employment under civil service



act without appropriate procedural safeguards. *Darling v. Kansas Water Office*, 245 K. 45, 774 P.2d 941 (1989).

6. Civil service board ruling as not res judicata against tort action brought under act against discrimination (44-1001 et seq.) examined. *Parker v. Kansas Neurological Institute*, 13 K.A.2d 685, 687, 778 P.2d 390 (1989).

7. Conduct constituting per se cause for discipline (75-2949f), requirements for "hearings of appeals" (75-2929b) examined. *Santra v. Kansas Highway Patrol*, 15 K.A.2d 148, 149, 804 P.2d 1007 (1991).

8. Whether PEERA (75-4321 et seq.) agreements covering conditions of employment take precedence over conflicting civil service regulations examined. *State Dept. of Administration v. Public Employees Relations Bd.*, 257 K. 275, 292, 894 P.2d 777 (1995).

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

(a) "Board" means the state civil service board.

(b) "Director" means the director of personnel services.

(c) "Eligible" includes a person who is in an employment pool and qualified for appointment, promotion or reemployment under this act.

(d) "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.

(e) "Joint recruiting authority" means that both an agency and the division of personnel services may officially recruit candidates for classified positions.

(f) "Merit principles" mean relative knowledge, skill and ability.

(g) "Nonmerit reason" means any reason specifically based on: (1) Race, national origin or ancestry, religion or political affiliation; (2) sex or age where sex or age does not constitute a bona fide occupational qualification necessary to proper and efficient administration; or (3) disabilities which are qualified disabilities under the Americans with Disabilities Act of 1990, Pub.L. 101-36, and amendments thereto, and which do not prevent the individual from performing the position's essential functions, with or without reasonable accommodation.

**History:** L. 1941, ch. 358, § 2; L. 1953, ch. 375, § 50; L. 1972, ch. 332, § 56; L. 1978, ch. 332, § 2; L. 1995, ch. 213, § 3; Dec. 17.

**Cross References to Related Sections:**

Division of personnel, see 75-3745c et seq.

**75-2927.**

**History:** L. 1941, ch. 358, § 3; Repealed, L. 1953, ch. 375, § 95; July 1.

**75-2928.**

**History:** L. 1941, ch. 358, § 4; Repealed, L. 1972, ch. 332, § 97; July 1.

**75-2928a, 75-2928b.**

**History:** L. 1972, ch. 332, §§ 11, 12; Repealed, L. 1978, ch. 332, § 57; July 1.

**75-2928c.**

**History:** L. 1972, ch. 332, § 13; L. 1974, ch. 348, § 90; Repealed, L. 1978, ch. 332, § 57; July 1.

**75-2928d.**

**History:** L. 1972, ch. 332, § 14; Repealed, L. 1978, ch. 332, § 57; July 1.

**75-2929.**

**History:** L. 1941, ch. 358, § 5; L. 1953, ch. 375, § 51; L. 1972, ch. 332, § 57; Repealed, L. 1978, ch. 332, § 57; July 1.

**CASE ANNOTATIONS**

1. Aggrieved dismissed employee must exhaust remedies under act before resort to courts. *Gray v. Jenkins*, 183 K. 251, 253, 326 P.2d 319.

2. Cited; exhaustion of administrative remedies following employment termination before pursuing independent civil action (44-1009). *Mattox v. Department of Transportation*, 12 K.A.2d 403, 404, 747 P.2d 174 (1987).

**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. Except as provided by K.S.A. 46-2601, no person appointed to the board shall exercise any power, duty or function as a member of the board until confirmed by the senate.

(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 member of the board may hold any other public office or public employment, except military office or the office of notary public. Subject to the provisions of K.S.A. 75-4315c, and amendments thereto, one member shall be appointed from each congressional district and the remainder shall represent the state at large. Subsequent redistricting of con-



gressional districts shall not disqualify any member of the board who is serving at the time of redistricting from being reappointed as a member of the board.

(c) Except as provided by subsection (d), upon the expiration of the term of any member, a successor shall be appointed as provided in subsection (a), and shall hold office for a term of four years and until a successor is appointed and confirmed. All vacancies in the board shall be filled by appointment for the unexpired term in the case of vacancies occurring before the end of a term.

(d) The terms of members who are serving on the board on the effective date of this act shall expire on March 15, of the year in which such member's term would have expired under the provisions of this section prior to amendment by this act. Thereafter, members shall be appointed for terms of four years and until their successors are appointed and confirmed.

**History:** L. 1978, ch. 332, § 3; L. 1982, ch. 347, § 54; L. 1985, ch. 275, § 1; L. 1992, ch. 262, § 16; L. 1995, ch. 241, § 21; July 1.

**Cross References to Related Sections:**

Appeal to state civil service board of disciplinary action taken against employee for certain communications, see 75-2973.

**75-2929b. State civil service board; part of department of administration; management functions; organization and meetings; hearings by members; compensation and expenses of members.** (a) The board shall be attached to the department of administration and shall be within the department as a part thereof. All budgeting, purchasing and related management functions of the board shall be administered under the direction and supervision of the secretary of administration. All vouchers for expenditures and all payrolls of the board shall be approved by the chairperson of the board or a person or persons designated by such chairperson and the secretary of administration or a person or persons designated by such secretary.

(b) The board shall organize annually by electing one of its members as chairperson and one as vice-chairperson. The board shall meet regularly at least once each calendar quarter and special meetings may be called by the chairperson or by a majority of the board. A quorum of the board shall consist of three members. No action may be taken by the board without the affirmative vote of at least three members. In the holding of hearings of appeals by employees or appointing authorities

pursuant to the Kansas civil service act, the board may delegate to one or more of its members the authority to serve as a hearing examiner for such a hearing, but action upon any such appeal shall require the concurrence of at least three members of the board.

(c) Meetings of the board shall be open to the public and no meeting or hearing of the board shall be held unless at least three members of the board are present. The director of personnel services shall act as secretary of the board or may designate a person to serve as the secretary of the board. The board shall keep records and minutes of its business and official actions, and such records and minutes shall be public records open to public inspection, subject to rules and regulations specifying the hours and conditions of inspection.

(d) Each member of the state civil service board attending meetings of such board, attending a subcommittee meeting thereof authorized by such board, or serving as hearing examiner at a hearing under the Kansas civil service act shall be paid per diem compensation of \$70 and shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto. In addition, each member, who resides more than 100 miles from the location of an authorized meeting or hearing, shall receive per diem compensation of \$35 for each day in travel to or from such meeting or hearing if such travel is on a day other than the day or days of such meeting or hearing.

**History:** L. 1978, ch. 332, § 4; L. 1985, ch. 275, § 2; L. 1992, ch. 191, § 1; July 1.

**Law Review and Bar Journal References:**

"Open Meetings Profile: The Prosecutor's View," Bradley J. Smoot and Louis M. Clothier, 20 W.L.J. 241, 242 (1981).

**CASE ANNOTATIONS**

1. Court may order Department of Administration to pay transcript preparation costs for court review. *Everett v. Topeka Correctional Facility*, 16 K.A.2d 739, 828 P.2d 949 (1992).

**75-2929c. Same; transfer of powers, duties and functions; preservation of orders.** (a) On and after the effective date of this act, all of the powers, duties and functions of the state civil service commission existing immediately prior to the effective date of this act are hereby transferred to and conferred and imposed upon the state civil service board created by this act, except as herein otherwise provided.

(b) On and after the effective date of this act, the state civil service board created by this act shall be the successor in every way to the powers,



duties and functions of the state civil service commission in which the same were vested prior to the effective date of this act, except as herein otherwise provided. Every act performed under the authority of the state civil service board created by this act shall be deemed to have the same force and effect as if performed by the state civil service commission in which such functions were vested prior to the effective date of this act.

(c) On and after the effective date of this act, whenever the state civil service commission, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the state civil service board created by this act.

(d) On and after the effective date of this act, all orders of the state civil service commission in effect on the effective date of this act shall continue to be effective and shall be deemed to be the duly issued orders of the state civil service board created by this act, until revised, amended, revoked or nullified pursuant to law.

**History:** L. 1978, ch. 332, § 5; July 1.

**75-2929d. Same; hearing of appeals; witnesses; production of papers.** (a) The state civil service board shall hear appeals taken to it pursuant to: (1) K.S.A. 75-2940, 75-2949 and 75-3747 and amendments thereto concerning demotion, dismissal or suspension of a permanent employee in the classified service, or concerning refusal to examine an applicant or to certify a person as eligible for a job class, and (2) K.S.A. 75-2973 and amendments thereto concerning disciplinary action in violation of that statute.

(b) When an appeal is taken to the board, the board shall establish a time and a place for the hearing which shall be held within 45 days after receipt of request for the appeal. The board shall notify the person bringing the appeal and the appointing authority or other person whose action is being reviewed of the time and the place of the hearing at least 14 days prior to such hearing. Each party at the hearing shall have the right to be represented by a person of the party's own choice. Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act. For purposes of the administrative procedure act, the state civil service board shall be deemed the agency head.

(c) The board, or the director of personnel services when authorized by majority vote of the board, may take deposition of witnesses. Either

party to a hearing may depose witnesses in accordance with the Kansas administrative procedure act. If books and papers are required to be produced in advance of a hearing date, the person or agency producing the books and papers shall be entitled to receive reasonable compensation to recover all costs of such production from the person or agency for which they are produced. The board, any presiding officer or the director may examine such public records as may be required in relation to any matter which the board has authority to investigate.

(d) Each person not in the classified or unclassified service who appears before the board or the director by order shall receive for such person's attendance the fees and mileage provided for witnesses in civil actions in the district court, which fees and mileage shall be audited and paid by the state upon presentation of proper vouchers. Each witness subpoenaed at the request of parties other than the board or the director shall be entitled to compensation from the state for attendance or travel only if the board certifies that the testimony of such witness was relevant and material to the matter investigated or, if such witness is not called to testify, the board determines and certifies that such compensation should be paid.

**History:** L. 1978, ch. 332, § 21; L. 1981, ch. 334, § 1; L. 1985, ch. 276, § 1; L. 1988, ch. 356, § 300; L. 1989, ch. 283, § 20; July 1.

**Cross References to Related Sections:**

Appeal to state civil service board of disciplinary action taken against employee for certain communications, see 75-2973.

**Law Review and Bar Journal References:**

"Rethinking Kansas Administrative Procedure," Marilyn V. Ainsworth and Sidney A. Shapiro, 28 K.L.R. 419, 435 (1980).

**CASE ANNOTATIONS**

1. Act provides complete procedure for administrative review; administrative remedy must be exhausted before resort to courts. *Pecenka v. Alquest*, 232 K. 97, 99, 652 P.2d 679 (1982).

2. Tort claims act (75-6101 et seq.) applicable where permanent state employee denied due process hearing following 1971 demotion. *Kansas Dept. of SRS v. Goertzen*, 245 K. 767, 780, 783 P.2d 1300 (1989).

3. Res judicata precluded assertion of retaliatory discharge claim by former state employee where claim had been subject of full hearing by civil service board and state court appellate process. *Morales v. Kansas State University*, 727 F.Supp. 1389 (1989).

**75-2929e, 75-2929f.**

**History:** L. 1978, ch. 332, §§ 22, 23; Repealed, L. 1988, ch. 356, § 361; July 1, 1989.

*See K.S.A. Supp.*



## CASE ANNOTATIONS

1. Act provides complete procedure for administrative review; administrative remedy must be exhausted before resort to courts. *Pecenka v. Alquest*, 232 K. 97, 99, 652 P.2d 679 (1982).

**75-2929g. Same; rules and regulations adopted by secretary of administration.** The secretary of administration, upon recommendation of the director of personnel services and the board, may adopt rules and regulations as provided in K.S.A. 75-3706 and amendments thereto to carry out the provisions of K.S.A. 75-2929d to 75-2929g, inclusive, and 75-2949d to 75-2949f, inclusive, and amendments thereto.

**History:** L. 1978, ch. 332, § 24; L. 1985, ch. 276, § 2; July 1.

**75-2929h. Same; appeals from orders of board.** Subject to the provisions of this section, the act for judicial review and civil enforcement of agency actions shall be applicable to appeals from orders of the civil service board. In any such appeal, the civil service board shall not be a named party to the proceedings. Parties to such appeals shall be: (a) The aggrieved employee, former employee or applicant; (b) the state agency that took the action that was appealed to the civil service board; and (c) any party the district court permits to intervene in the district court action. An order of the civil service board may be affirmed, reversed or modified by the district court on appeal. Applications for a stay or other temporary remedies shall be to the state agency that took the action that was appealed to the civil service board.

**History:** L. 1984, ch. 338, § 28; July 1.

## CASE ANNOTATIONS

1. Res judicata precluded assertion of retaliatory discharge claim by former state employee where claim had been subject of full hearing by civil service board and state court appellate process. *Morales v. Kansas State University*, 727 F.Supp. 1389 (1989).

2. Order of state civil service board regarding dismissal for conduct constituting per se cause for discipline examined. *Sanstra v. Kansas Highway Patrol*, 15 K.A.2d 148, 149, 804 P.2d 1007 (1991).

**75-2930, 75-2931.**

**History:** L. 1941, ch. 358, §§ 6, 7; Repealed, L. 1953, ch. 375, § 95; July 1.

**Revisor's Note:**

Later act, see 75-3746, 75-3747.

**75-2932.**

**History:** L. 1941, ch. 358, § 8; Repealed, L. 1978, ch. 332, § 57; July 1.

## CASE ANNOTATIONS

1. Cited; aggrieved dismissed employee must exhaust remedies under act before resort to courts. *Gray v. Jenkins*, 183 K. 251, 256, 326 P.2d 319.

2. State civil service board exercises quasi-judicial functions and its orders are appealable to district court. *Thompson v. Amis*, 208 K. 658, 663, 493 P.2d 1259.

**75-2933.**

**History:** L. 1941, ch. 358, § 9; L. 1951, ch. 451, § 1; Repealed, L. 1953, ch. 375, § 95; July 1.

**Revisor's Note:**

Later act, see 75-3702, 75-3704.

**75-2934.**

**History:** L. 1941, ch. 358, § 10; L. 1943, ch. 273, § 1; L. 1951, ch. 451, § 2; L. 1975, ch. 462, § 116; L. 1978, ch. 332, § 6; Repealed, L. 1981, ch. 335, § 7; July 1.

**75-2934a, 75-2934b.**

**History:** L. 1951, ch. 451, §§ 7, 8; Repealed, L. 1953, ch. 375, § 95; July 1.

**Revisor's Note:**

Later act, see 75-3747.

**75-2935. Classified and unclassified services.** The civil service of the state of Kansas is hereby divided into the unclassified and the classified services.

(1) The unclassified service comprises positions held by state officers or employees who are:

(a) Chosen by election or appointment to fill an elective office;

(b) members of boards and commissions, heads of departments required by law to be appointed by the governor or by other elective officers, and the executive or administrative heads of offices, departments, divisions and institutions specifically established by law;

(c) except as otherwise provided under this section, one personal secretary to each elective officer of this state, and in addition thereto, 10 deputies, clerks or employees designated by such elective officer;

(d) all employees in the office of the governor;

(e) officers and employees of the senate and house of representatives of the legislature and of the legislative coordinating council and all officers and employees of the office of revisor of statutes, of the legislative research department, of the division of legislative administrative services, of the division of post audit and the legislative counsel;

(f) chancellor, president, deans, administrative officers, student health service physicians, pharmacists, teaching and research personnel,



health care employees and student employees in the institutions under the state board of regents, the executive officer of the board of regents and the executive officer's employees other than clerical employees, and, at the discretion of the state board of regents, directors or administrative officers of departments and divisions of the institution and county extension agents, except that this subsection (1)(f) shall not be construed to include the custodial, clerical or maintenance employees, or any employees performing duties in connection with the business operations of any such institution, except administrative officers and directors; as used in this subsection (1)(f), "health care employees" means employees of the university of Kansas medical center who provide health care services at the university of Kansas medical center and who are medical technicians or technologists or respiratory therapists, who are licensed professional nurses or licensed practical nurses, or who are in job classes which are designated for this purpose by the chancellor of the university of Kansas upon a finding by the chancellor that such designation is required for the university of Kansas medical center to recruit or retain personnel for positions in the designated job classes; and employees of any institution under the state board of regents who are medical technologists;

(g) operations, maintenance and security personnel employed to implement agreements entered into by the adjutant general and the federal national guard bureau, and officers and enlisted persons in the national guard and the naval militia;

(h) persons engaged in public work for the state but employed by contractors when the performance of such contract is authorized by the legislature or other competent authority;

(i) persons temporarily employed or designated by the legislature or by a legislative committee or commission or other competent authority to make or conduct a special inquiry, investigation, examination or installation;

(j) officers and employees in the office of the attorney general and special counsel to state departments appointed by the attorney general, except that officers and employees of the division of the Kansas bureau of investigation shall be in the classified or unclassified service as provided in K.S.A. 75-711 and amendments thereto;

(k) all employees of courts;

(l) client, patient and inmate help in any state facility or institution;

(m) all attorneys for boards, commissions and departments;

(n) the secretary and assistant secretary of the Kansas state historical society;

(o) physician specialists, dentists, dental hygienists, pharmacists, medical technologists and long term care workers employed by the department of social and rehabilitation services;

(p) physician specialists, dentists and medical technologists employed by any board, commission or department or by any institution under the jurisdiction thereof;

(q) student employees enrolled in public institutions of higher learning;

(r) administrative officers, directors and teaching personnel of the state board of education and the state department of education and of any institution under the supervision and control of the state board of education, except that this subsection (1)(r) shall not be construed to include the custodial, clerical or maintenance employees, or any employees performing duties in connection with the business operations of any such institution, except administrative officers and directors;

(s) all officers and employees in the office of the secretary of state;

(t) one personal secretary and one special assistant to the following: The secretary of administration, the secretary of aging, the secretary of agriculture, the secretary of commerce and housing, the secretary of corrections, the secretary of health and environment, the superintendent of the Kansas highway patrol, the secretary of human resources, the secretary of revenue, the secretary of social and rehabilitation services, the secretary of transportation and the secretary of wildlife and parks;

(u) one personal secretary and one special assistant to the chancellor and presidents of institutions under the state board of regents;

(v) one personal secretary and one special assistant to the executive vice chancellor of the university of Kansas medical center;

(w) one public information officer and one chief attorney for the following: The department of administration, the department on aging, the department of agriculture, the department of commerce and housing, the department of corrections, the department of health and environment, the department of human resources, the department of revenue, the department of social and rehabilitation services, the department of



transportation and the Kansas department of wildlife and parks;

(x) civil service examination monitors;  
(y) one executive director, one general counsel and one director of public affairs and consumer protection in the office of the state corporation commission;

(z) specifically designated by law as being in the unclassified service; and

(aa) all officers and employees of Kansas, Inc. and the Kansas technology enterprise corporation.

(2) The classified service comprises all positions now existing or hereafter created which are not included in the unclassified service. Appointments in the classified service shall be made according to merit and fitness from eligible pools which so far as practicable shall be competitive. No person shall be appointed, promoted, reduced or discharged as an officer, clerk, employee or laborer in the classified service in any manner or by any means other than those prescribed in the Kansas civil service act and the rules adopted in accordance therewith.

(3) For positions involving unskilled, or semiskilled duties, the secretary of administration, as provided by law, shall establish rules and regulations concerning certifications, appointments, layoffs and reemployment which may be different from the rules and regulations established concerning these processes for other positions in the classified service.

(4) Officers authorized by law to make appointments to positions in the unclassified service, and appointing officers of departments or institutions whose employees are exempt from the provisions of the Kansas civil service act because of the constitutional status of such departments or institutions shall be permitted to make appointments from appropriate pools of eligibles maintained by the division of personnel services.

**History:** L. 1941, ch. 358, § 11; L. 1957, ch. 445, § 1; L. 1963, ch. 424, § 1; L. 1963, ch. 400, § 3; L. 1965, ch. 464, § 1; L. 1969, ch. 399, § 1; L. 1971, ch. 272, § 1; L. 1972, ch. 318, § 1; L. 1974, ch. 383, § 1; L. 1976, ch. 377, § 1; L. 1976, ch. 378, § 1; L. 1978, ch. 332, § 7; L. 1982, ch. 225, § 5; L. 1985, ch. 256, § 15; L. 1987, ch. 347, § 1; L. 1989, ch. 266, § 2; L. 1989, ch. 233, § 2; L. 1990, ch. 305, § 1; L. 1992, ch. 293, § 1; L. 1994, ch. 293, § 28; L. 1995, ch. 236, § 15; L. 1995, ch. 255, § 12; L. 1997, ch. 156, § 88; July 1.

#### Revisor's Note:

Section was amended twice in 1989 session, see also 75-2935d.

This section was also amended in the 1995 session, see 75-2935e; section was also amended by L. 1995, ch. 156, § 15, but this amended version was repealed by L. 1995, ch. 236, § 17.

#### Cross References to Related Sections:

Nursing positions at university of Kansas medical center, continuance of classified service rights and benefits, see 76-396.

#### Research and Practice Aids:

Officers = 11.2.

C.J.S. Officers § 34.

#### Attorney General's Opinions:

Kansas state school for the deaf and Kansas state school for the visually handicapped; employees. 85-12.

Public employer-employee relations act; application to judiciary and legislature. 87-181.

State board of education member election; disqualification; state employees. 89-65.

State educational institutions; management and operation; appointment of employees; teaching personnel; concurrent service in the legislature. 92-31.

Kansas turnpike authority board members; state officers or employees defined; unclassified civil service. 93-135.

#### CASE ANNOTATIONS

1. Cited; provisional employee not entitled to hearing before dismissal even if retained beyond maximum statutory period; would contravene purpose of act. *Whitmore v. State*, et al., 3 K.A.2d 101, 103, 104, 590 P.2d 106.

2. Teaching and research personnel in institutions of higher learning in unclassified civil service; not protected hereunder. *Kansas Bd. of Regents v. Pittsburg State Univ. Chap. of K-NEA*, 243 K. 801, 827, 667 P.2d 306 (1983).

3. Eligibility of state employee in unclassified service to serve on state board of education presented; case held moot. *State ex rel. Stephan v. Johnson*, 248 K. 286, 807 P.2d 664 (1991).

**75-2935a. Classified exempt service abolished; disposition of positions.** (a) Except as provided in subsection (b), positions in the classified exempt service shall become unclassified July 1, 1978. The classified exempt service shall be abolished as of this date and no further appointments shall be made in the classified exempt service. Except as provided in subsection (b), whenever the classified exempt service of the Kansas civil service act, or words of like effect, is referred to by a statute, contract or other document, such reference shall be deemed to apply to the unclassified service of the Kansas civil service act.

(b) All positions in the classified exempt service in the Kansas veterans' commission, the state library (except the position of state librarian), the Kansas bureau of investigation (except the position of narcotics violation investigator) and the



state historical society (except the position of secretary of the state historical society) shall become classified July 1, 1978. Except as provided in subsection (c), a person employed in a classified exempt position in the Kansas veterans' commission, the state library, the Kansas bureau of investigation (except the position of narcotics violation investigator) or the state historical society (except the position of secretary of the state historical society) immediately prior to July 1, 1978, shall continue in such position, when the position becomes a classified position on July 1, 1978, shall obtain permanent status in such position without examination and without a probationary period and shall retain all retirement benefits which such person had prior to July 1, 1978, and such person's service shall be deemed to have been continuous. The position of secretary of the state historical society, the position of state librarian and the position of undercover narcotics investigator of the Kansas bureau of investigation shall become unclassified July 1, 1978.

(c) A person employed in a classified position in the state historical society (except the position of assistant secretary) immediately prior to the effective date of this act shall continue in such position on and after such date. The position of assistant secretary of the state historical society shall become unclassified on the effective date of this act.

**History:** L. 1949, ch. 423, § 1; L. 1972, ch. 332, § 58; L. 1978, ch. 332, § 8; L. 1989, ch. 266, § 3; March 16.

**75-2935b. Unclassified service; approval of compensation; exceptions.** Salaries and other compensation of all persons who are within the unclassified service of the Kansas civil service act, and which salaries and other compensation are not fixed by statute, shall be subject to the approval of the governor and such salaries or other compensation shall not be paid until approved by the governor. The provisions of this section shall not apply to the salaries and other compensation of any officer or employee when such salary or other compensation is specifically prescribed by law, nor to officers and employees of elected state officials, officers and employees under the jurisdiction of the state board of regents, the executive secretary and other employees of the Kansas public employees retirement system that are in the unclassified service as specified under K.S.A. 74-4908 and amendments thereto, of-

ficers and employees of Kansas, Inc. and the Kansas technology enterprise corporation, officers and employees under the jurisdiction of the supreme court, legislative officers and employees or officers and employees of any agency performing functions and duties primarily for the legislative branch.

**History:** L. 1963, ch. 434, § 1; L. 1972, ch. 332, § 59; L. 1978, ch. 332, § 9; L. 1982, ch. 319, § 15; L. 1995, ch. 255, § 13; L. 1997, ch. 156, § 89; July 1.

**Cross References to Related Sections:**

Kansas public employees retirement system, salaries of unclassified employees established by the board of trustees, see 74-4908.

**Research and Practice Aids:**

States = 57.

C.J.S. States §§ 89 to 99.

**75-2935c. Same; salary plan, physicians at SRS institutions.** Subject to available appropriations, the governor is hereby authorized and directed to approve a salary plan for physicians at institutions under the secretary of social and rehabilitation services, as defined by subsection (b) of K.S.A. 76-12a01. Such salary plan for physicians shall be effective on the first day of the first payroll period chargeable to the fiscal year ending on June 30, 1982, and shall be subject to modification and approval by the governor and to any enactments of the legislature applicable thereto.

**History:** L. 1981, ch. 30, § 2; May 22.

**75-2935d.**

**History:** L. 1941, ch. 358, § 11; L. 1957, ch. 445, § 1; L. 1963, ch. 424, § 1; L. 1963, ch. 400, § 3; L. 1965, ch. 464, § 1; L. 1969, ch. 399, § 1; L. 1971, ch. 272, § 1; L. 1972, ch. 318, § 1; L. 1974, ch. 383, § 1; L. 1976, ch. 377, § 1; L. 1976, ch. 378, § 1; L. 1978, ch. 332, § 7; L. 1982, ch. 225, § 5; L. 1985, ch. 256, § 15; L. 1987, ch. 347, § 1; L. 1989, ch. 265, § 1; Repealed, L. 1990, ch. 305, § 3; March 22.

**75-2935e.**

**History:** L. 1941, ch. 358, § 11; L. 1957, ch. 445, § 1; L. 1963, ch. 424, § 1; L. 1963, ch. 400, § 3; L. 1965, ch. 464, § 1; L. 1969, ch. 399, § 1; L. 1971, ch. 272, § 1; L. 1972, ch. 318, § 1; L. 1974, ch. 383, § 1; L. 1976, ch. 377, § 1; L. 1976, ch. 378, § 1; L. 1978, ch. 332, § 7; L. 1982, ch. 225, § 5; L. 1985, ch. 256, § 15; L. 1987, ch. 347, § 1; L. 1989, ch. 266, § 2; L. 1989, ch. 233, § 2; L. 1990, ch. 305, § 1; L. 1992, ch. 293, § 1; L.



1994, ch. 293, § 28; L. 1995, ch. 234, § 22; Repealed, L. 1996, ch. 243, § 1; July 1.

**75-2936, 75-2937.**

**History:** L. 1941, ch. 358, §§ 12, 13; Repealed, L. 1972, ch. 332, § 97; July 1.

**75-2938. Classified service; assignment of positions to classes; titles and descriptions for classes; assignment of classes to ranges; pay plan; wage and salary surveys; delegation of assignment of positions; schedule of salary and wage ranges and steps; approval of governor.** (a) Except as otherwise provided in the Kansas civil service act, the director of personnel services, after consultation with the heads of state agencies or persons designated by them, shall assign each position in the classified service to a class according to the duties and responsibilities thereof. Titles shall be specified by the director for each such class for use in certifying the names of persons for appointment under this act. A description of the duties and responsibilities with suitable qualifications required for satisfactory performance in each class shall be specified by the director. The classes and titles so specified and described shall be used for: (1) Original appointments; (2) promotions; (3) payrolls; and (4) all other records affecting the status of persons in the classified service. Each class when approved or modified and approved as modified by the governor shall take effect on a date or dates specified by the governor. After consultation with the director of the budget and the heads of state agencies or persons designated by them, the director shall recommend changes in classes from time to time, and such changes, when approved or modified and approved as modified by the governor, shall take effect on a date or dates specified by the governor.

(b) The director of personnel services shall recommend to the governor the assignment, and from time to time the reassignment, of each class to a specified range approved or modified and approved as modified by the governor, the same shall become effective on a date or dates specified by the governor. In adopting or revising any plans, the governor shall give consideration to pertinent rates in other public and private employment in the appropriate labor markets, and for this purpose the director shall have made periodic wage and salary surveys with one survey to be conducted each year. The results of such survey and recommendations for revisions in the pay plan are

to be forwarded to the governor, the secretary of administration, the director of the budget and the legislature. The recommendations shall give consideration and weight to survey results, to changes in the cost-of-living and to proper internal alignment of the various job classes. The director may use the results of other appropriate surveys conducted by public or private agencies in lieu of or in addition to surveys authorized to be conducted under this subsection.

(c) The secretary of administration may delegate the authority to assign positions in the classified service to a class according to the duties and responsibilities thereof to the appointing authority. Such delegation shall specify the particular classes, ranges, and schedules authorized. Appointing authorities delegated such assigning authority shall make monthly reports of assigning transactions to the director of personnel services. Any delegation of such authority is subject to review by the secretary of administration who may modify any delegation made in order to ensure consistency with the state classification plan and may withdraw the delegated authority from the appointing authority upon evidence of improper use of such authority by the appointing authority. The decision of the secretary of administration in regard to the withdrawal of such delegated authority shall be final.

(d) After consultation with the director of the budget and the secretary of administration, the director of personnel services shall prepare a pay plan which shall contain a schedule of salary and wage ranges and steps, and from time to time changes therein. When such pay plan or any change therein is approved or modified and approved as modified by the governor, the same shall become effective on a date or dates specified by the governor and any such modification, change of date shall be in accordance with any enactments of the legislature applicable thereto.

(e) The classes and pay plan for the classified service as approved by the governor shall be used by the director of the budget in preparation of the budget.

(f) Whenever any appropriation or other act specifies any pay plan or any change, limitation or condition upon the pay plan, personnel or policies of the state or any state agency, such appropriation act or other act shall control the provisions of this section to the extent of their application thereto.

**History:** L. 1941, ch. 358, § 14; L. 1953, ch. 375, § 52; L. 1972, ch. 332, § 60; L. 1975, ch. 438,



**75-2938a** STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES

§ 1; L. 1978, ch. 332, § 10; L. 1995, ch. 213, § 4; Dec. 17.

**Cross References to Related Sections:**

Finance council, see 75-3708 to 75-3713b.

Longevity pay, see 75-5541.

Payroll accounting system, see 75-5501 et seq.

Mandatory overtime compensation rule and regulation provisions, see 75-5537.

Rules and regulations, compensation, hours and other conditions of employment, see 75-3746, 75-3747.

**Law Review and Bar Journal References:**

"The Kansas Public Employer-Employee Relations Law," Raymond Goetz, 28 K.L.R. 243, 286 (1980).

**CASE ANNOTATIONS**

1. Statute not only provides for modification of existing classifications, new classifications may be established. *Mulford v. Kansas Dept. of Human Resources*, 14 K.A.2d 386, 389, 390, 790 P.2d 957 (1990).

2. Whether employees monthly salaries under state pay plan compensated all nonovertime hours worked examined. *Schmitt v. State of Kan.*, 864 F.Supp. 1051, 1065 (1994).

**75-2938a. Anniversary date of persons in positions subject to job classification or compensation revisions, no change for compensation step increases.** No revision of the job classification or the compensation of any classified position in any job class, which takes effect in any payroll period which commences after January 1, 1995, shall change the current anniversary date of any person in any such classified position for purposes of any increase in compensation from step movement on the pay plan for the classified service under the Kansas civil service act.

**History:** L. 1994, ch. 352, § 2; May 19.

**75-2939. State employment; notice of vacancies; criteria for certifying persons to the pool of eligible candidates; assessment of skills, knowledge and abilities; agency selection programs.** (a) To the extent required by rules and regulations of the secretary of administration, public notice shall be given of all vacancies to be filled. Each person who registers for state employment and applies for the vacancy shall be considered for certification to the pool of eligible candidates if the person meets reasonable minimum standards or requirements fixed by the director with regard to experience, character, age, education, physical condition, and such other factors which directly relate to the knowledge, skills and ability of the candidates to perform with reasonable efficiency the duties of the position. No standards or requirements shall be fixed with reference to education, age or physical condition ex-

cept such as relate directly to the duties of the office or employment to be filled.

(b) Qualified persons with disabilities shall be reasonably accommodated in the selection process.

(c) The director may require candidates in filing their applications to submit certificates of general or special qualifications as the good of the service may require.

(d) All criteria used as the basis for certifying candidates as eligible for a vacancy from among persons meeting minimum qualifications shall relate to those matters which fairly represent the capacity and fitness of the candidates to efficiently discharge the duties of the position and shall be subject to review and approval of the director.

(e) In order to determine whether candidates meet the requirements for a position as established under subsection (a), (c) or (d), candidates may be required to undergo assessments of skills, knowledge and abilities as necessary to determine the fitness of the candidates to perform the duties of the position. Such assessments may be developed and administered by the director or shall be subject to the review and approval by the director. Such assessments shall be held at such times and places as most nearly meet the convenience of candidates, practicability of administration, and the needs of the service. Specific agreements between the agency and the division of personnel services will be established regarding the security and processing of assessment instruments.

(f) Agency selection programs will be subject to periodic audit by the division of personnel services with a report to be made to the secretary of administration.

**History:** L. 1941, ch. 358, § 15; L. 1943, ch. 273, § 2; L. 1959, ch. 335, § 1; L. 1969, ch. 400, § 1; L. 1976, ch. 379, § 1; L. 1978, ch. 332, § 11; L. 1995, ch. 213, § 5; Dec. 17.

**Research and Practice Aids:**

Officers = 11.3.

C.J.S. Officers § 34.

**75-2940. Powers of director; exclusion of disqualified candidates; appeal.** (a) The director may refuse to certify a candidate as eligible, or may remove from consideration a candidate who previously has registered for employment with the state when the candidate:

(1) Is found to lack any of the preliminary requirements established for the position for which the candidate applies;



(2) is, due to a qualifying disability, unable to perform the essential functions of the position with reasonable accommodation;

(3) uses illegal narcotics or other drugs which may affect job performance or whose use of alcohol will adversely affect job performance or conduct to the extent that the candidate is not unaffiliated;

(4) has been convicted of, granted deferred prosecution for, or pleaded nolo contendere to any violations which relate to fitness to perform required duties or any crime involving moral turpitude;

(5) has been dismissed from the public service for delinquency or misconduct;

(6) has made a false statement of any material act;

(7) gives, renders or pays directly or indirectly any money, service or other valuable thing to any person for, or on account of, or in connection with the application, selection or appointment process;

(8) has practiced, or attempted to practice, any deception or fraud in the application, selection or appointment process; or

(9) is affiliated with a political movement advocating overthrow of government by force or violence.

(b) Whenever the director refuses to certify a candidate as eligible, or removes from consideration a candidate who has registered for employment with the state, as provided in this section, the director shall furnish to the candidate a statement of the reasons for such refusal to certify, or removal from consideration as the case may be. In the case of any such refusal or removal an appeal may be taken to the board in accordance with rules and regulations adopted as provided in K.S.A. 75-3706, and amendments thereto.

**History:** L. 1941, ch. 358, § 16; L. 1967, ch. 434, § 60; L. 1971, ch. 273, § 1; L. 1978, ch. 332, § 12; L. 1985, ch. 276, § 3; L. 1995, ch. 213, § 6; Dec. 17.

**75-2941. Discrimination forbidden.** No discrimination shall be exercised, threatened, or promised, by any person in the civil service against or in favor of any applicant, eligible, or employee in the civil service because of political or religious opinions or affiliations, except that no person affiliated with a political movement advocating overthrow of government by force or violence shall be eligible to any appointment or employment under this act.

**History:** L. 1941, ch. 358, § 17; June 1.

**75-2942. Appointments and promotions; statewide list of requisitions to fill vacant positions; emergencies.** (a) Appointments and promotions to all positions in the classified service under the provisions of this act, and rules and regulations adopted as provided in K.S.A. 75-3706 and amendments thereto, shall be made from among those certified to the appointing officer.

(b) A statewide list of requisitions to fill vacant positions shall be maintained by the division of personnel services.

(c) No person shall be appointed or employed under any class not appropriate to the duties performed, and no person shall be transferred to, nor assigned to perform the duties of, any position in the classified service, unless such person is qualified therefor under the provisions of this act.

(d) During the period of a national emergency, so proclaimed by the president of the United States, the director of personnel services, with the approval of the secretary of administration, may certify persons not so previously qualified to temporarily fill positions in the classified service in any agency, but no such temporary appointment shall continue after a qualified person is eligible for certification or after such national emergency ends, whichever period of time is the shorter.

**History:** L. 1941, ch. 358, § 18; L. 1943, ch. 273, § 3; L. 1945, ch. 321, § 1; L. 1951, ch. 451, § 3; L. 1967, ch. 448, § 1; L. 1972, ch. 332, § 61; L. 1978, ch. 332, § 13; L. 1985, ch. 276, § 4; L. 1995, ch. 213, § 7; Dec. 17.

#### Research and Practice Aids:

Officers = 11.4.

C.J.S. Officers § 34.

#### CASE ANNOTATIONS

1. State civil service board exercises quasi-judicial functions and its orders are appealable to district court. *Thompson v. Amis*, 208 K. 658, 659, 493 P.2d 1259.

**75-2943. Notice of new positions and vacancies; certification of names; probationary appointments; performance ratings; public inspection; rules and regulations.** (a) Appointing authorities shall give notice to the director of personnel services of their intention to establish new positions and of the existence of any vacancy to be filled in any office or employment in the classified service in the manner provided by the director.



(b) The secretary of administration, upon recommendation of the director of personnel services, shall establish procedures and standards for the certification of names of eligible persons for vacant positions.

(c) The appointing authority shall appoint on probation, with sole reference to merit and fitness, one of the candidates whose name is certified in the manner provided by subsection (b) to fill such vacancy. The provisions of this section shall not apply when the office or employment is among those which are described in K.S.A. 75-2945 and amendments thereto.

(d) After consultation with appointing authorities and other supervising officials, the director shall establish, and from time to time amend, a system of performance ratings which shall provide for general categories of performance levels and such other criteria as the director may prescribe for each class of positions in the classified service or for groups of classes. In accordance with K.S.A. 75-3706 and amendments thereto, the secretary of administration shall adopt rules and regulations in respect to such performance ratings, and such performance ratings shall be considered in determining the advisability of transfers, the promotion of an employee to a higher class, questions of reduction or dismissal of any employee, increases and decreases in salary of an employee within the salary range established under this act, and in all other decisions relating to the status of employees. In accordance with K.S.A. 75-3706 and amendments thereto, the secretary of administration shall adopt rules and regulations prescribing the extent to which such ratings and the reports upon which they are based shall be open to public inspection by the public and by the affected employees.

**History:** L. 1941, ch. 358, § 19; L. 1951, ch. 451, § 4; L. 1971, ch. 274, § 1; L. 1972, ch. 332, § 62; L. 1978, ch. 332, § 14; L. 1985, ch. 277, § 1; L. 1994, ch. 185, § 1; L. 1995, ch. 213, § 8; Dec. 17.

**75-2944. Vacancies filled by promotions or transfers; probationary promotions, right of demotion to prior job class in certain cases.**

(a) Vacancies in positions shall be filled, so far as practicable, by promotions or transfers of persons holding positions in the classified service and in accordance with K.S.A. 75-2942, and amendments thereto. Promotions shall be based upon merit principles which shall include as factors the

employee's efficiency, character, conduct and length of service. Subject to the approval of the secretary of administration, the director of personnel services may provide, in specific areas, for competitive promotional assessments.

(b) An employee in the classified service with permanent status who is promoted with probationary status to a higher position, who is dismissed or could be dismissed for cause other than misconduct or delinquency on the employee's part from the position to which the employee was promoted, either during the probationary period or at the conclusion thereof by reason of the failure of the appointing authority to file a request for the employee's continuance in the position, shall be demoted with permanent status to a position in the class from which the employee was promoted, or to a position in another class in the same salary range as the class from which the employee was promoted, or in a class in the next lower salary range. If the employee was promoted from one agency to another agency, the demotion shall be to a position in the agency to which the employee was promoted, unless the agency from which the employee was promoted agrees to the demotion of the employee in that agency. If the employee was dismissed for misconduct or delinquency from the position to which the employee was promoted, and for that reason is not entitled to be demoted to a lower position, the employee shall have a right to appeal the dismissal to the state civil service board. If an employee who is dismissed and who is entitled to demotion pursuant to this subsection, is not given the opportunity to be demoted, the employee shall have a right to appeal the dismissal to the state civil service board. The secretary of administration may prescribe by rules and regulations conditions under which a break in service between separation from one agency and promotion to a position in that agency or another agency renders inapplicable the right of demotion to a lower position as provided in this subsection.

**History:** L. 1941, ch. 358, § 20; L. 1951, ch. 451, § 5; L. 1967, ch. 448, § 2; L. 1972, ch. 332, § 63; L. 1978, ch. 345, § 9; L. 1981, ch. 335, § 3; L. 1995, ch. 213, § 9; Dec. 17.

**Cross References to Related Sections:**

Appointment as acting state official does not affect status, see 75-118.

**Research and Practice Aids:**

Officers — 11.1.

C.J.S. Officers § 34.



**75-2945. Filling positions without using certified pool of eligible candidates, when.** Subject to limitations imposed by rules and regulations adopted pursuant to K.S.A. 75-3706 and amendments thereto, positions in the classified service may be filled without utilizing certified pool of eligible candidates only as follows:

(a) Where the services to be performed will require less than 1,000 hours of work within a twelve-month period, the director may authorize an agency to make a temporary appointment of a person who meets the qualifications for the position. The director may establish procedures for making temporary appointments. A person may have more than one temporary appointment in an agency within a twelve-month period, if the person works on such appointments for less than 1,000 hours within the twelve-month period. The period of temporary service shall not be counted as a part of the probationary period in case of subsequent appointment to a regular position.

(b) Appointments may be made without using a certified pool of eligible candidates to trainee or training positions approved by the director for job classes designed to provide job experience to persons pursuing a related degree, certificate or similar credential or job classes for which the state provides formal training programs in the work to be performed.

**History:** L. 1941, ch. 358, § 21; L. 1967, ch. 448, § 3; L. 1972, ch. 332, § 64; L. 1978, ch. 332, § 15; L. 1981, ch. 335, § 4; L. 1985, ch. 276, § 5; L. 1995, ch. 213, § 10; Dec. 17.

#### CASE ANNOTATIONS

1. Provisional employee not entitled to hearing under 75-2949 before dismissal even if retained beyond maximum period authorized in subsection (1). *Whitmore v. State, et al.*, 3 K.A.2d 101, 102, 104, 590 P.2d 106.

**75-2946. Appointment to classified position for probationary period.** Except as otherwise provided in the Kansas civil service act or by rules and regulations adopted thereunder, all appointments within the classified service shall be for a probationary period, the length of which for the several classes in the classified service shall be determined by rules and regulations, but dismissals, suspensions or demotions may be made at any time during such period. At or before the end of the probationary period the appointing authority shall notify the director in writing whether or not the probationer is a satisfactory employee and should receive the status of a permanent employee.

**History:** L. 1941, ch. 358, § 22; L. 1981, ch. 335, § 5; July 1.

#### Research and Practice Aids:

Officers — 11.5.  
C.J.S. Officers § 34.

#### CASE ANNOTATIONS

1. Teaching and research personnel in institutions of higher learning in unclassified civil service; not protected hereunder. *Kansas Bd. of Regents v. Pittsburg State Univ. Chap. of K-NEA*, 233 K. 801, 827, 667 P.2d 306 (1983).

**75-2947. Transfers; leaves of absence; reinstatements.** (a) In a manner consistent with rules and regulations adopted by the secretary of administration, transfers in the classified service may be made from a position in one class to a position in another class when the duties and compensation are similar.

(b) Any person holding a regular position in the classified service of this state may be granted a leave of absence on the grounds of sickness, disability or other good or sufficient reason. No leave shall exceed one year, except as necessary to comply with other laws and as approved by the secretary of administration.

(c) Leave of absence may be granted to an officer or employee holding a regular position in the classified service to enable such person to take an appointive position in the state unclassified service.

**History:** L. 1941, ch. 358, § 23; L. 1995, ch. 213, § 11; Dec. 17.

#### Cross References to Related Sections:

Appointment as acting state official does not affect status, see 75-118.

**75-2948. Layoff procedures; notice to director and affected employees; reemployment preference, when.** (a) In accordance with rules and regulations adopted therefor, an appointing authority, with the approval of the secretary of administration, may lay off an employee in the classified service whenever the appointing authority deems it necessary by reason of shortage of work or funds, the return of an employee from authorized leave, or the abolition of a position or other material change in duties or organization.

The type of appointment, length of service and performance evaluations of employees shall be considered, in such manner as the rules and regulations shall provide, among the factors in determining the order of layoffs.

(b) The appointing authority shall give written notice to the director with a copy to the affected employee or employees of every proposed layoff



and the reason therefor at least 30 calendar days before the effective date thereof, and the director shall make such orders relating thereto as the director considers necessary to secure compliance with the rules and regulations. Every permanent employee so laid off shall be placed in the appropriate reemployment pool, and the secretary of administration shall adopt rules and regulations pursuant to K.S.A. 75-3706 and amendments thereto detailing what preference is to be given persons in the reemployment pool, including assistance relating to job search and placement, skill identification and employment counselling.

**History:** L. 1941, ch. 358, § 24; L. 1945, ch. 321, § 2; L. 1971, ch. 273, § 2; L. 1978, ch. 332, § 16; L. 1981, ch. 335, § 6; L. 1995, ch. 213, § 12; Dec. 17.

**Cross References to Related Sections:**

Reemployment preference, laid-off employees of certain closed institutions, see 75-4370.

**CASE ANNOTATIONS**

1. Teaching and research personnel in institutions of higher learning in unclassified civil service; not protected hereunder. *Kansas Bd. of Regents v. Pittsburg State Univ. Chap. of K-NEA*, 233 K. 801, 827, 667 P.2d 306 (1983).

**75-2949. Dismissals, demotions and suspensions; basis; procedure; hearings; status after demotion; employee relieved of duties pending investigation.** (a) An appointing authority may dismiss or demote any permanent employee in the classified service when the appointing authority considers that the good of the service will be served thereby and for disciplinary purposes may suspend without pay a permanent classified employee for a period not to exceed 30 calendar days, but no permanent employee in the classified service shall be dismissed, demoted or suspended for political, religious, racial or other nonmerit reasons.

(b) Prior to dismissal, demotion or suspension of a permanent employee in the classified service, the appointing authority shall furnish the employee by certified mail to the employee's last known address, return receipt requested, or by personal delivery, a statement in writing specifically setting forth the reasons and factual basis therefor. A copy of such statement shall be furnished immediately to the director. This statement shall contain notice of the proposed dismissal, demotion or suspension and shall specify the proposed effective date thereof. Except as otherwise provided in the Kansas civil service act, a proposed suspension, demotion or dismissal

shall become effective no less than three calendar days nor more than 14 calendar days following the date the notice of such proposed suspension, demotion or dismissal is personally delivered to the employee or deposited with the post office as certified mail. If in the opinion of the appointing authority conditions warrant, the appointing authority may relieve the employee of duties or change the duties of the employee during such period. If the employee is relieved from duty during such period, the employee may be continued in pay status, or placed on leave of absence without pay by the appointing authority. In the statement proposing suspension, demotion or dismissal, the appointing authority shall offer the employee who is proposed to be suspended, demoted or dismissed an opportunity to reply in writing, or appear in person, or both, before the appointing authority or a designated representative of the appointing authority, on the issue of the proposed suspension, demotion or dismissal prior to the time such suspension, demotion or dismissal is specified by the notice to become effective. The statement shall specify the date, time and place by, or at which, the employee may reply in writing or appear, or both. If the employee chooses to appear in person on the issue of the proposed action, the employee may be represented by a person of the employee's choice.

(c) Upon request by the employee, or upon the initiative of the appointing authority, the appointing authority may extend the time for reply or appearance, or both, if the circumstances warrant. Notice of any such extension shall be furnished to the employee and to the director of personnel services. The proposed suspension, demotion or dismissal shall not become effective until after the extended period has expired.

(d) Following the employee's response to the opportunity to reply to the proposed action, or upon expiration of the time for such reply, if no reply is made, the appointing authority, or the designee of the appointing authority, shall notify the employee of the final decision on the proposed action. Such notice shall be in writing and shall be sent by certified mail to the employee's last known address or personally delivered to the employee on or before the effective date of the proposed action. A copy of the notice shall be furnished immediately to the director of personnel services. This final notice of decision by the appointing authority or the designee of the appointing authority, to suspend, demote or dismiss the



employee shall inform the employee of the employee's right to appeal the decision to the state civil service board within 30 calendar days after the effective date of the action.

(e) At any time prior to the effective date of the proposed suspension, demotion or dismissal or, if an appeal is taken to the state civil service board, at any time prior to the final decision of the board, the appointing authority, or the designee of the appointing authority, may withdraw or modify the action proposed to be taken or taken against the employee. Notice of any such withdrawal or modification shall be given in writing to the employee by certified mail to the employee's last known address or by personal delivery. A copy of the notice shall be furnished immediately to the director of personnel services.

(f) Any permanent employee finally dismissed, demoted or suspended, may request a hearing from the state civil service board to determine the reasonableness of such action. Each such request for a hearing shall be in writing and shall be submitted to the director of personnel services within 30 calendar days after the effective date of the dismissal, demotion or suspension. The board shall grant the employee a hearing in accordance with the provisions of the Kansas administrative procedure act within 45 calendar days after receipt of such request. At the hearing the burden of proof shall be upon the employee to establish that the appointing authority did not act reasonably in taking such action.

(g) No employee shall be disciplined or discriminated against in any way because of the employee's proper use of the appeal procedure.

(h) A permanent employee who is demoted pursuant to this section need not meet the qualifications for the class of positions to which demoted if the appointing authority determines that the employee can reasonably be expected to perform satisfactorily the duties of the position to which the employee is demoted. A permanent employee who is demoted pursuant to this section shall have permanent status in the class to which demotion is made, effective on the date of the demotion.

(i) In case of a situation in which the possibility of proposing dismissal, suspension or demotion of a permanent employee is indicated, but where the appointing authority needs time to conduct an investigation before proposing such action, or in a situation where immediate removal of an employee from such employee's job is

needed to avoid disruption of work, or for the protection of persons or property, or for a similar reason, the appointing authority may relieve the employee of duties or change the duties of the employee for a limited period and keep the employee in pay status. The secretary of administration shall provide by rules and regulations, adopted pursuant to K.S.A. 75-3706 and amendments thereto, procedures to be followed in such cases.

**History:** L. 1941, ch. 358, § 25; L. 1971, ch. 273, § 3; L. 1972, ch. 332, § 65; L. 1977, ch. 293, § 1; L. 1978, ch. 332, § 17; L. 1981, ch. 334, § 2; L. 1985, ch. 276, § 6; L. 1988, ch. 356, § 301; July 1, 1989.

**Cross References to Related Sections:**

Appeal to state civil service board of disciplinary action taken against employee for certain communications, see 75-2973.

**Research and Practice Aids:**

Officers and Public Employees — 72.10 et seq.

C.J.S. Officers and Public Employees §§ 91, 111, 147.

**Law Review and Bar Journal References:**

"The Kansas Public Employer-Employee Relations Law," Raymond Goetz, 28 K.L.R. 243, 286 (1980).

"Rethinking Kansas Administrative Procedure," Marilyn V. Ainsworth and Sidney A. Shapiro, 28 K.L.R. 419, 441 (1980).

"Rights of Kansas Non-Union Employees Against Unjust Termination—Where Are We Now?" William C. Nulton, 54 J.K.B.A. 237, 238 (1985).

**Attorney General's Opinions:**

Commission on civil rights; personnel rules limiting private practice of law. 81-7.

Secretary, state board of agriculture; leave of absence. 90-73.

**CASE ANNOTATIONS**

1. Aggrieved dismissed employee must exhaust remedies under act before resort to courts. *Gray v. Jenkins*, 183 K. 251, 252, 253, 258, 326 P.2d 319.

2. State civil service board exercises quasi-judicial functions and its orders are appealable to district court. *Thompson v. Amis*, 208 K. 658, 663, 493 P.2d 1259.

3. Section does not conflict with K.A.R. 1-11-2; separate methods for severance of employment; dismissal under regulation upheld; right to appeal on demotion action. *Goertzen v. State Department of Social & Rehabilitation Services*, 218 K. 313, 317, 318, 320, 543 P.2d 996.

4. Dismissal of a permanent classified employee "for the good of the service," construed to require dismissal for legal cause. *Swezey v. State Department of Social & Rehabilitation Services*, 1 K.A.2d 94, 96, 97, 98, 100, 101, 102, 562 P.2d 117.

5. Provisional employee not entitled to hearing hereunder before dismissal even if retained beyond maximum period authorized under 75-2945 (1). *Whitmore v. State, et al.*, 3 K.A.2d 101, 103, 590 P.2d 106.

6. Act provides complete procedure for administrative review; administrative remedy must be exhausted before resort to courts. *Pecenka v. Alquest*, 232 K. 97, 99, 652 P.2d 679 (1982).



7. Teaching and research personnel in institutions of higher learning in unclassified civil service; not protected hereunder. *Kansas Bd. of Regents v. Pittsburg State Univ. Chap. of K-NEA*, 233 K. 801, 827, 667 P.2d 306 (1983).

8. Cited; exhaustion of administrative remedies following employment termination before pursuing independent civil action (44-1009). *Mattox v. Department of Transportation*, 12 K.A.2d 403, 404, 747 P.2d 174 (1987).

9. Cited; absence of employer's duty to third party for tortious acts of off-duty employee examined. *Meyers v. Crumbaugh*, 242 K. 716, 717, 750 P.2d 1031 (1988).

10. Legislature cannot constitutionally authorize deprivation of property interest in public employment under civil service act without appropriate procedural safeguards. *Darling v. Kansas Water Office*, 245 K. 45, 48, 774 P.2d 941 (1989).

11. Civil service board ruling as not res judicata against tort action brought under act against discrimination (44-1001 et seq.) examined. *Parker v. Kansas Neurological Institute*, 13 K.A.2d 685, 687, 778 P.2d 390 (1989).

12. Time period and amount of award for failing to provide permanent state employee due process hearing on demotion examined. *Kansas Dept. of SRS v. Coertzen*, 245 K. 767, 777, 783 P.2d 1300 (1989).

13. Res judicata precluded assertion of retaliatory discharge claim by former state employee where claim had been subject of full hearing by civil service board and state court appellate process. *Morales v. Kansas State University*, 727 F.Supp. 1389 (1989).

14. General provisions herein distinguished from 75-2949f constituting per se causes of discipline. *Santra v. Kansas Highway Patrol*, 15 K.A.2d 148, 150, 804 P.2d 1007 (1991).

15. Whether state employee was demoted or reallocated for due process hearing purposes examined. *Harton v. Sperry*, 19 K.A.2d 259, 262, 869 P.2d 752 (1994).

16. Whether declassified, terminated state employee's reinstatement claim is based on statutory liability or written contract for limitations purposes examined. *Wright v. Kansas Water Office*, 255 K. 990, 992, 997, 881 P.2d 567 (1994).

17. Noted as statutory authority for corrections official to dismiss plaintiff employee in case arising from termination. *Brinkman v. State, Dept. of Corrections*, 863 F.Supp. 1479, 1483 (1994).

18. Kansas civil service board had sufficient competent evidence to find employee was terminated due to unsatisfactory job performance. *Newell v. Kansas Dept. of SRS*, 22 K.A.2d 514, 516, 917 P.2d 1357 (1996).

**75-2949a to 75-2949c.**

**History:** L. 1978, ch. 332, §§ 18 to 20; Repealed, L. 1981, ch. 334, § 6; July 1.

**75-2949d. Dismissal, demotion or suspension of permanent employee in classified service; grounds and procedure, generally.**

(a) A permanent employee in the classified service under the Kansas civil service act may be dismissed, demoted or suspended because of deficiencies in work performance as provided in K.S.A. 75-2949e or because of personal conduct detrimental to the state service as provided in K.S.A. 75-2949f or because of both such reasons.

In all such cases, the provisions of K.S.A. 75-2949, and amendments thereto, shall apply.

(b) This section and K.S.A. 75-2949e and 75-2949f shall be part of and supplemental to the Kansas civil service act.

**History:** L. 1981, ch. 334, § 3; July 1.

**CASE ANNOTATIONS**

1. Civil service board ruling as not res judicata against tort action brought under act against discrimination (44-1001 et seq.) examined. *Parker v. Kansas Neurological Institute*, 13 K.A.2d 685, 687 (1989).

2. Conduct constituting per se cause of discipline (75-2949f) distinguished from general provisions of 75-2949. *Santra v. Kansas Highway Patrol*, 15 K.A.2d 148, 150, 804 P.2d 1007 (1991).

3. Cited; whether state employee was demoted or reallocated for due process hearing purposes examined. *Harton v. Sperry*, 19 K.A.2d 259, 262, 869 P.2d 752 (1994).

**75-2949e. Dismissal, demotion or suspension of permanent employees in classified service; evaluation requirement, exceptions; counseling.** (a) Grounds for dismissal, demotion or suspension of a permanent employee for deficiencies in work performance include, but are not limited to, the following:

(1) Inefficiency or incompetency in the performance of duties, or inability to perform the duties;

(2) negligence in the performance of duties;

(3) careless, negligent or improper use of state property;

(4) failure to maintain satisfactory and harmonious relationships with the public and fellow employees;

(5) habitual or flagrantly improper use of leave privileges;

(6) a habitual pattern of failure to report for duty at the assigned time and place or to remain on duty; and

(7) failure to obtain or maintain a current license or certificate or other authorization required to practice a trade, conduct a business or practice a profession.

(b) Unless the appointing authority determines that the good of the service will best be served by proceeding directly to the procedure prescribed in K.S.A. 75-2949 and amendments thereto, the appointing authority may propose dismissal, demotion or suspension of a permanent employee for deficiencies in work performance only after the employee has received two performance evaluations in the 180 calendar days immediately preceding the effective date of the proposed dismissal, demotion or suspension. These



performance evaluations shall be spaced at least 30 calendar days apart.

(c) If the appointing authority proposes to dismiss, demote or suspend a permanent employee for deficiencies in work performance without the two evaluations described by subsection (b) and if the employee appeals the action to the state civil service board, the board shall require the appointing authority to show that the employee was adequately counseled concerning the nature of the deficiencies in work performance and concerning what was expected of the employee in correcting the deficiencies.

(d) The provisions of subsections (b) and (c) shall not apply to demotions, suspensions or dismissals for the reasons described in subsection (a)(7).

**History:** L. 1981, ch. 334, § 4; L. 1985, ch. 277, § 2; May 16.

**Source or prior law:**

75-2949a, 75-2949b and 75-2949c.

**Research and Practice Aids:**

Officers and Public Employees ⇐ 69.7.

C.J.S. Officers and Public Employees §§ 106, 132 to 136.

**CASE ANNOTATIONS**

1. Cited; whether state employee was demoted or reallocated for due process hearing purposes examined. *Harton v. Sperry*, 19 K.A.2d 259, 262, 869 P.2d 752 (1994).

2. Whether plaintiff is compensated on a salary basis for fair labor standards act purposes examined. *Ackley v. Dept. of Corr. of State of Kan.*, 844 F.Supp. 680, 686 (1994).

3. Whether declassified, terminated state employee's reinstatement claim is based on statutory liability or written contract for limitations purposes examined. *Wright v. Kansas Water Office*, 255 K. 990, 998, 881 P.2d 567 (1994).

4. Kansas civil service board had sufficient competent evidence to find employee was terminated due to unsatisfactory job performance. *Newell v. Kansas Dept. of SRS*, 22 K.A.2d 514, 516, 917 P.2d 1357 (1996).

**75-2949f. Same; personal conduct detrimental to state service.** Grounds for dismissal, demotion or suspension of a permanent employee for personal conduct detrimental to the state service include, but are not limited to, the following:

(a) Gross misconduct or conduct grossly unbecoming a state officer or employee;

(b) conviction of a criminal act;

(c) immoral conduct;

(d) willful abuse or misappropriation of state funds, materials, property or equipment;

(e) making a false statement of material fact in the employee's application for employment or position description;

(f) participation in any action that would in any way seriously disrupt or disturb the normal

operation of the agency, institution, department or any other segment of state government;

(g) trespassing on the property of any state official or employee for the purpose of harassing or forcing dialogue or discussion from the occupants or owners of such property;

(h) willful damage to or destruction of state property;

(i) willful endangerment of the lives or property of others, or both;

(j) possession of unauthorized firearms or other lethal weapons while on the job;

(k) performing duties in a brutal manner, or mistreating, neglecting or abusing a patient or resident or other person in the employee's care;

(l) refusal to accept a reasonable and proper assignment from an authorized supervisor (insubordination);

(m) being under the influence of alcohol or drugs while on the job;

(n) knowingly releasing confidential information from official records;

(o) use of the employee's state position, use of the employee's time on the state job or use of state property or facilities by the employee in connection with a political campaign;

(p) exhibiting other personal conduct detrimental to state service which could cause undue disruption of work or endanger the safety of persons or property of others, as may be determined by the appointing authority;

(q) gross carelessness or gross negligence;

(r) grossly improper use of state property; and

(s) sexual harassment arising out of or in connection with employment.

**History:** L. 1981, ch. 334, § 5; L. 1985, ch. 276, § 7; July 1.

**Source or prior law:**

75-2949a, 75-2949b and 75-2949c.

**Research and Practice Aids:**

Officers and Public Employees ⇐ 69.7.

C.J.S. Officers and Public Employees §§ 106, 132 to 136.

**CASE ANNOTATIONS**

1. Conduct constituting per se cause of discipline distinguished from general provisions of 75-2949. *Sanstra v. Kansas Highway Patrol*, 15 K.A.2d 148, 150, 804 P.2d 1007 (1991).

2. Whether declassified, terminated state employee's reinstatement claim is based on statutory liability or written contract for limitations purposes examined. *Wright v. Kansas Water Office*, 255 K. 990, 998, 881 P.2d 567 (1994).

**75-2950. Reports of actions affecting employment and compensation.** The head of each state agency or a person designated by the



head of each state agency shall report to the division of personnel services all actions affecting the employment and compensation status of all officers and employees of such agency in such manner as may be prescribed by the director of personnel services and rules and regulations adopted as provided in K.S.A. 75-3706.

**History:** L. 1941, ch. 358, § 26; L. 1972, ch. 332, § 66; L. 1978, ch. 345, § 10; July 1.

**75-2951.**

**History:** L. 1941, ch. 358, § 27; L. 1953, ch. 375, § 53; L. 1978, ch. 345, § 11; Repealed, L. 1985, ch. 276, § 11; July 1.

**75-2952. Officers and employees shall comply with law.** All officers and employees of this state shall conform to, comply with, and aid in all proper ways in carrying into effect the provisions of this act and the rules prescribed thereunder.

**History:** L. 1941, ch. 358, § 28; June 1.

**75-2953. Use of authority or official influence to compel state officer or employee to apply for or become member of organization, pay or promise to pay assessment or contribution or take part in political activity; penalty for violation; officer or employee in classified service to resign prior to taking oath for state elective office.** (a) No officer, agent, clerk or employee of this state shall directly or indirectly use their authority or official influence to compel any officer or employee in the unclassified and the classified services to apply for membership in or become a member of any organization, or to pay or promise to pay any assessment, subscription or contribution, or to take part in any political activity. Any person who violates any provisions of this section shall be guilty of a class C misdemeanor, and, upon conviction, shall be punished accordingly. If any officer or employee in the classified service is found guilty of violating any provision of this section, such officer or employee shall be automatically separated from the service.

(b) Any officer or employee in the state classified service shall resign from the service prior to taking the oath of office for a state elective office.

**History:** L. 1941, ch. 358, § 29; L. 1969, ch. 401, § 1; L. 1975, ch. 439, § 1; L. 1978, ch. 346, § 1; L. 1984, ch. 315, § 1; L. 1986, ch. 319, § 1; L. 1991, ch. 150, § 41; L. 1996, ch. 197, § 1; May 16.

**Cross References to Related Sections:**

Campaign contributions by state employees; solicitation of and disciplinary action for prohibited; providing employee mailing lists, see 75-2974.

**Attorney General's Opinions:**

Resignation from civil service on filing for public office. 83-27.

Employment security law; administration of act; political activities prohibited; penalties. 90-109.

Kansas racing commission; political activities. 90-111.

Resignation of classified state employee to run for county attorney not required. 91-79.

**75-2954. Local officers to furnish aid and space for examination.** The officers having control of public buildings in political subdivisions of the state and school districts shall, upon request of the director, furnish convenient space for examinations and necessary furniture, heat, and light for accommodation of the local examiners and for the holding of examinations. The director may request state or local officers or employees to aid in carrying out the provisions of this act, and it shall be the duty of such officers and employees, insofar as it may be consistent with their other duties, to give such aid upon written request of the director.

**History:** L. 1941, ch. 358, § 30; June 1.

**75-2955. Veterans' preference.** (a) In establishing certified pools of eligible candidates under this act, veterans' preference shall be given to:

(1) Any person who entered the armed services before October 15, 1976, and separated from the armed services under honorable conditions, if such person served: (A) On active duty during any war (the official dates for war service are April 6, 1917 through July 2, 1921, and December 7, 1941 through April 28, 1952); (B) during the period April 28, 1952 through July 1, 1955; (C) in any campaign or expedition for which a campaign badge or service medal has been authorized; or (D) for more than 180 consecutive days since January 31, 1955, excluding an initial period of active duty for training under the "six-month" reserve or national guard program;

(2) any person who entered the armed services on or after October 15, 1976, and separated from the armed services under honorable conditions, if such person was awarded a service medal or campaign badge;

(3) any person who separated from the armed services under honorable conditions and has a disability certified by the United States department of veterans affairs as being service connected, has



been issued the purple heart by the United States government or has been released from active service with a service-connected disability; and

(4) any person who has voluntarily retired with 20 or more years of active service.

(b) To qualify for the veterans' preference, a person described in subsection (a) also shall meet the requirements of the vacant position. However, under no circumstances shall veterans be accorded any less preference than existed prior to July 1, 1995. The secretary of administration shall adopt rules and regulations necessary to implement the provisions of this section.

**History:** L. 1941, ch. 358, § 31; L. 1945, ch. 301, § 10; L. 1951, ch. 429, § 9; L. 1957, ch. 446, § 1; L. 1959, ch. 335, § 2; L. 1969, ch. 400, § 2; L. 1978, ch. 332, § 25; L. 1988, ch. 339, § 1; L. 1993, ch. 72, § 1; L. 1995, ch. 213, § 13; Dec. 17.

**Cross References to Related Sections:**

Applicable to certain Red Cross nurse corps members, see 73-220.

**Research and Practice Aids:**

Officers ⇐ 10.

C.J.S. Officers § 35.

**75-2956.**

**History:** L. 1941, ch. 358, § 32; Repealed, L. 1953, ch. 375, § 95; July 1.

**75-2956a. Reciprocal agreements between secretary of administration and public agency or body; cooperation with other governmental agencies.** The secretary of administration is authorized and empowered to enter into reciprocal agreements, upon such terms as may be agreed upon, for the use of equipment, materials, facilities, and services with any public agency or body for purposes deemed of benefit to the public personnel system.

The director of personnel services, acting in behalf of the secretary of administration, may cooperate with other governmental agencies charged with public personnel administration in conducting areawide wage and salary surveys, recruiting and examining efforts, using common eligible lists, providing cooperative training efforts and interchanging personnel.

**History:** L. 1978, ch. 332, § 26; July 1.

**75-2956b.**

**History:** L. 1978, ch. 332, § 27; L. 1981, ch. 336, § 1; Repealed, L. 1986, ch. 320, § 6; July 1.

**75-2957. Penalties for violations.** Any person who willfully violates any provisions of this

act or of the rules shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine of not to exceed five hundred dollars, or by imprisonment for a term not exceeding six months, or by both such fine and such imprisonment.

**History:** L. 1941, ch. 358, § 33; June 1.

**75-2958. Conviction of misdemeanor.**

Any person who is convicted of a misdemeanor under this act shall, for a period of five years, be ineligible for appointment to or employment in a position in the state service, and if he or she is an officer or employee of the state, shall forfeit office or position.

**History:** L. 1941, ch. 358, § 34; June 1.

**Research and Practice Aids:**

Officers and Public Employees ⇐ 31.

C.J.S. Officers and Public Employees § 22.

**75-2959. Severability of provisions.** If any provision of this act, or the application thereof, to any person or circumstance, is held invalid, the remainder of this act and the application of such provision to other persons or circumstances shall not be affected thereby, and the decision of the court respecting such provision or provisions shall not affect the validity of any other provision, which can be given effect without such invalid provisions. It is hereby declared to be the legislative intent that this act would have been enacted by the legislature had such invalid provisions not been included herein.

**History:** L. 1941, ch. 358, § 35; June 1.

**75-2960. Appropriations.** Adequate appropriations shall be made to carry out the purpose and provisions of this act.

**History:** L. 1941, ch. 358, § 36; June 1.

**75-2961. Citation of act.** K.S.A. 75-2925, 75-2926, 75-2929a to 75-2929h, inclusive, 75-2935 to 75-2935c, inclusive, 75-2938 to 75-2949, inclusive, 75-2949d to 75-2950, inclusive, 75-2952 to 75-2955, inclusive, and 75-2956a to 75-2961a, inclusive, 75-2971, 75-2972 and 75-2973, and acts amendatory thereof, shall be known and may be cited as the Kansas civil service act.

**History:** L. 1941, ch. 358, § 37; L. 1978, ch. 332, § 28; L. 1985, ch. 276, § 8; July 1.

**75-2961a. State provided housing, food service or other employee maintenance; approval by finance council; rates and value; rules and regulations.** In connection with any



position in the classified or unclassified service of the Kansas civil service act, any state agency may furnish housing, food service and other employee maintenance or any one or combination thereof. Whenever a state employee is to receive housing, food service or other employee maintenance furnished by any state agency, the terms upon which the same is to be furnished shall be approved by the state finance council. In accordance with rules and regulations adopted under this section, the state finance council may approve the furnishing of housing, food service and other employee maintenance or any one or combination thereof by a state agency with full, partial or no adjustment to wage or salary of the position involved. Housing, food service and other employee maintenance shall not be provided at rates greater than cost. Whenever housing, food service or other employee maintenance is furnished by any state agency, the documents authorizing the same shall specify the types of employee maintenance to be provided and the dollar value thereof that is to be regarded as compensation, and the balance of value in each case shall be regarded as the expense of the state benefit from the arrangement. The secretary of administration shall adopt rules and regulations as provided in K.S.A. 75-3706 for determination of cost, for the manner of determining and reporting the value of such approved housing, food service, or other employee maintenance to comply with the provisions contained in K.S.A. 40-2301 *et seq.*, K.S.A. 74-4901 *et seq.*, federal revenue act as defined by K.S.A. 75-3038, Kansas income tax act and the employment security law and acts amendatory of the foregoing or supplemental thereto and for the administration of this act.

**History:** L. 1973, ch. 349, § 1; July 1.

**Attorney General's Opinions:**

State provided housing, food service or other employee maintenance. 87-36.

**CASE ANNOTATIONS**

1. Cited; duty of finance council hereunder not constitutionally permissible; violative of inherent constitutional doctrine of separation of powers; such duty devolves upon governor. *State, ex rel., v. Bennett*, 219 K. 285, 294, 547 P.2d 786.

**75-2962 to 75-2965.**

**History:** L. 1963, ch. 433, §§ 1 to 4; Repealed, L. 1978, ch. 332, § 57; July 1.

**75-2966.**

**History:** L. 1963, ch. 433, § 5; L. 1972, ch. 332, § 93; L. 1978, ch. 345, § 12; Repealed, L. 1980, ch. 265, § 1; July 1.

**75-2967, 75-2968.**

**History:** L. 1963, ch. 433, §§ 6, 7; Repealed, L. 1978, ch. 332, § 57; July 1.

**75-2969.**

**History:** L. 1963, ch. 433, § 8; Repealed, L. 1980, ch. 265, § 1; July 1.

**75-2970.**

**History:** L. 1979, ch. 285, § 3; Repealed, L. 1980, ch. 266, § 7; April 19.

**75-2971. Trainee or training positions; procedures; regulations.** (a) To facilitate the operation of trainee or training programs, the secretary of administration may adopt rules and regulations pursuant to K.S.A. 75-3706 concerning certifications, appointments, salaries, promotions, layoffs, terminations, appeals and other personnel processes for trainee or training positions, which may be different from the rules and regulations concerning these processes for other positions in the classified service.

(b) This section shall be part of and supplemental to the Kansas civil service act.

**History:** L. 1981, ch. 335, § 1; July 1.

**75-2972. Positions placed in classified service, status of incumbent; prior service credit "CETA" employees in unclassified service.** (a) When a position in the unclassified service is brought into the classified service, or when a position that is not in the state service is brought into the classified service, and if this is not accomplished by a law or by action of the governor making the following determinations, the director of personnel services shall determine: (1) Whether an incumbent in the position shall be brought into the classified service with or without competition, (2) whether an examination shall be required, (3) whether the incumbent shall be given probationary, permanent or other status, and (4) the salary to be paid the incumbent person in the position being placed in the classified service.

(b) When a position that is filled and that is not in the state service is brought into the state service, the appointing authority shall determine, subject to the approval of the director of personnel services, whether any of the incumbent's employment before the position was brought into the state service shall be counted as employment with the state for any purpose where length of service is a factor in determining eligibility for salary increases or benefits provided under the Kansas



civil service act or the rules and regulations adopted pursuant thereto.

(c) Individuals who are declared eligible for, and who are receiving, state employment or training as participants under the federal comprehensive employment and training act of 1973, and amendments thereto, shall be in the unclassified service.

(d) This section shall be part of and supplemental to the Kansas civil service act.

**History:** L. 1981, ch. 335, § 2; July 1.

**75-2973. Communications by state employees with legislators, legislative committees and others; prohibiting certain acts by supervisors and appointing authorities; appeal to state civil service board; posting copy of act; disciplinary action defined; officers and employees in unclassified service may bring civil action for relief.** (a) No supervisor or appointing authority of any state agency shall prohibit any employee of the agency from discussing the operations of the agency, either specifically or generally, with any member of the legislature.

(b) No supervisor or appointing authority of any state agency shall:

(1) Prohibit any employee of the agency from reporting any violation of state or federal law or rules and regulations to any person, agency or organization; or

(2) require any such employee to give notice to the supervisor or appointing authority prior to making any such report.

(c) This section shall not be construed as:

(1) Prohibiting a supervisor or appointing authority from requiring that an employee inform the supervisor or appointing authority as to legislative requests for information to the agency or the substance of testimony made, or to be made, by the employee to legislators on behalf of the agency;

(2) permitting an employee to leave the employee's assigned work areas during normal work hours without following applicable rules and regulations and policies pertaining to leaves, unless the employee is requested by a legislator or legislative committee to appear before a legislative committee;

(3) authorizing an employee to represent the employee's personal opinions as the opinions of a state agency; or

(4) prohibiting disciplinary action of an employee who discloses information which: (A) The employee knows to be false or which the employee discloses with reckless disregard for its truth or falsity, (B) the employee knows to be exempt from required disclosure under the open records act or (C) is confidential under any other provision of law.

(d) Any officer or employee who is in the classified service and has permanent status under the Kansas civil service act may appeal to the state civil service board whenever the officer or employee alleges that disciplinary action was taken against the officer or employee in violation of this act or in any court of law or administrative hearing. The appeal shall be filed within 30 days of the alleged disciplinary action. Procedures governing the appeal shall be in accordance with subsections (f) and (g) of K.S.A. 75-2949 and amendments thereto and K.S.A. 75-2929d through 75-2929g and amendments thereto. If the board finds that disciplinary action taken was unreasonable, the board shall modify or reverse the agency's action and order such relief for the employee as the board considers appropriate. If the board finds a violation of this act, it may require as a penalty that the violator be suspended on leave without pay for not more than 30 days or, in cases of willful or repeated violations, may require that the violator forfeit the violator's position as a state officer or employee and disqualify the violator for appointment to or employment as a state officer or employee for a period of not more than two years. The decision of the board in such cases may be appealed by any party pursuant to law.

(e) Each state agency shall prominently post a copy of this act in locations where it can reasonably be expected to come to the attention of all employees of the agency.

(f) As used in this section "disciplinary action" means any dismissal, demotion, transfer, reassignment, suspension, reprimand, warning of possible dismissal or withholding of work.

(g) Any officer or employee who is in the unclassified service who alleges that disciplinary action has been taken against such officer or employee in violation of this section may bring a civil action for appropriate injunctive relief, or actual damages, or both within 90 days after the occurrence of the alleged violation. A court, in rendering a judgment in an action brought pursuant to this act, shall order, as the court considers appropriate, reinstatement of the officer or employee,



the payment of back wages, full reinstatement of fringe benefits and seniority rights, actual damages, or any combination of these remedies. A court may also award such officer or employee all or a portion of the costs of litigation, including reasonable attorney fees and witness fees.

**History:** L. 1984, ch. 306, § 1; L. 1990, ch. 306, § 23; May 31.

**Law Review and Bar Journal References:**

"Ethical Dilemmas for the Kansas Government Lawyer," Brian J. Moline, 5 Kan. J.L. & Pub. Pol'y, No. 1, 105, 110, 113 (1995).

**CASE ANNOTATIONS**

1. Cited; discharge of probationary employee in retaliation for reporting employer's illegal practices as actionable tort examined. *Palmer v. Brown*, 242 K. 893, 896, 752 P.2d 685 (1988).

2. Agency attorney not protected by first amendment when making disclosures with reckless disregard of truth. *Crandon v. State*, 257 K. 727, 736, 742, 897 P.2d 92 (1995).

**75-2974. Campaign contributions by classified state employees; solicitation by supervisors; provision of employee mailing lists for political purposes; prohibiting disciplinary action for voluntary contributions; enforcement; civil penalties.** (a) No supervising official shall solicit any contribution to or on behalf of any state officer or candidate for state office from any state employee under the supervision of such supervising official.

(b) The director of the division of personnel services is prohibited from giving any list of names and residence addresses of state employees to any person knowing that such list will be used for the purpose of soliciting contributions from, or mailing political campaign literature or advertising to, such state employees.

(c) No state employee who lawfully, willingly and voluntarily makes a contribution to or on behalf of any state officer or candidate for state office shall be dismissed, demoted, suspended or subjected to any other disciplinary action because of the making of such contribution.

(d) Violations of this section shall be enforced by the attorney general or a county or district attorney in the county in which the violation took place. Violations of this section shall be punishable by a civil penalty of up to \$2,500 per violation.

(e) As used in this section:

(1) "State employee" means any person holding a position in the classified service under the Kansas civil service act; and

(2) "contribution" has the meaning ascribed thereto in the campaign finance act.

**History:** L. 1988, ch. 331, § 4; July 1.

**Cross References to Related Sections:**

Unlawful use of authority, influencing political activity of state classified personnel, see 75-2953.

**Attorney General's Opinions:**

Employment security law; administration of act; political activities prohibited; penalties. 90-109.

Kansas racing commission; political activities. 90-111.

**75-2975. Academic degree requirements for employment or promotion; acceptability; conditions; applicability of act.** When the state requires as a qualification for employment or promotion to any state office or employment, that the person seeking such office or employment or promotion have a certain academic degree, it shall be sufficient if such person has such an academic degree from an institution that is located in a state that recognizes such institution as being authorized to confer academic degrees and as being either approved or accredited. To comply with this act an applicant is required to present to the state agency the applicant's academic transcript that shows the school seal, the registrar's signature, the degree was conferred and the date and the title of the degree. This act shall apply to classified and unclassified employees of the executive branch of state government, except the unclassified employees of the state board of regents institutions.

**History:** L. 1994, ch. 170, § 1; July 1.

**Article 30.—GENERAL PROVISIONS**

**POLITICAL AND FISCAL YEARS**

**75-3001. Beginning of political year; commencement of terms of state officers.** The political year of the state of Kansas shall begin on the second Monday of January in each year; and the terms of office of all state officers, except where otherwise specially provided, shall commence with the political year next after their election.

**History:** L. 1879, ch. 166, § 124; March 20; R.S. 1923, 75-3001.

**75-3002. Fiscal year.** The fiscal year in this state shall commence on the first day of July in each year, and close on the thirtieth day of June next succeeding.

**History:** L. 1879, ch. 166, § 125; March 20; R.S. 1923, 75-3002.



(4) methods proposed to network and gain the help of community organizations to contact Kansas veterans of World War II and gain such veterans' participation.

(c) More than one applicant may be awarded a grant to perform different tasks to achieve the purposes prescribed in this section if deemed appropriate by the executive director of the state historical society.

**History:** L. 2005, ch. 184, § 1; July 1.

**75-2731. Conveyance of property located in Wabaunsee county to Audubon of Kansas.** (a) Subject to the provisions of this section, the state historical society is hereby authorized to convey, without consideration, to Audubon of Kansas all of the rights, title and interest in the following described real estate, and any improvements thereon, located in Wabaunsee county, Kansas: Approximately 30 acres of real estate starting at a point on the South section boundary line and running East 120 rods to the East boundary line, then North 80 rods along East boundary line, then West 40 rods, then West by Southwest in a straight line to point of beginning, in Section 28. Township 10 South, Range 10 East of the 6th Principal Meridian.

(b) Conveyance of such rights, title and interest in such real estate, and any improvements thereon, shall be executed in the name of the historical society by the executive director of the historical society. The deed for such conveyance shall be by quitclaim deed.

(c) No exchange and conveyance of real estate and improvements thereon as authorized by this section shall be made by the executive director of the historical society until the deeds and conveyances have been reviewed and approved by the attorney general. The deed for the conveyance shall provide that on July 1, 2026, in the event that any portion of the above-described real estate is not being used for public recreation purposes, by Audubon of Kansas or if Audubon of Kansas ceases to exist, then all rights, title and interest in such portion of such real estate shall revert to the state historical society. The transfer of all rights, title and interest in the real estate conveyed by this section to Audubon of Kansas shall not include any right for Audubon of Kansas to convey any portion of the above described real estate.

(d) All costs related to the conveyance shall be paid by the Audubon of Kansas. The convey-

ance shall not be subject to the provisions of K.S.A. 75-3043a, and amendments thereto.

**History:** L. 2006, ch. 150, § 1; April 27.

**75-2732 to 75-2740 Reserved.**

## Article 29.—CIVIL SERVICE

### 75-2925.

#### CASE ANNOTATIONS

9. Trial court reversed in dismissing action under Kansas Civil Service Act as record is not sufficiently developed to warrant dismissal. *Prager v. Kansas Dept. of Revenue*, 271 K. 1, 20 P.3d 39 (2001).

**75-2929d. State civil service board; hearing of appeals; witnesses; production of papers.** (a) The state civil service board shall hear appeals taken to it pursuant to: (1) K.S.A. 75-2940, 75-2949 and 75-3747, and amendments thereto, concerning demotion, dismissal or suspension of a permanent employee in the classified service, or concerning refusal to examine an applicant or to certify a person as eligible for a job class, and (2) K.S.A. 75-2973, and amendments thereto, concerning disciplinary action in violation of that statute.

(b) When an appeal is taken to the board, the board shall establish a time and a place for the hearing which shall be held within 45 days after receipt of request for the appeal. The board shall notify the person bringing the appeal and the appointing authority or other person whose action is being reviewed of the time and the place of the hearing at least 14 days prior to such hearing. Each party at the hearing shall have the right to be represented by a person of the party's own choice. Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act. For purposes of the administrative procedure act, the state civil service board shall be deemed the agency head. The board may affirm, modify or reverse an agency action and order any other action it deems appropriate.

(c) The board, or the director of personnel services when authorized by majority vote of the board, may depose witnesses. Either party to a hearing may depose witnesses in accordance with the Kansas administrative procedure act. If books and papers are required to be produced in advance of a hearing date, the person or agency producing the books and papers shall be entitled to receive reasonable compensation to recover all costs of such production from the person or



agency for which they are produced. The board, any presiding officer or the director may examine such public records as may be required in relation to any matter which the board has authority to investigate.

(d) Each person not in the classified or unclassified service who appears before the board or the director by order shall receive for such person's attendance the fees and mileage provided for witnesses in civil actions in the district court. Such fees and mileage shall be audited and paid by the state upon presentation of proper vouchers. Each witness subpoenaed at the request of parties other than the board or the director shall be entitled to compensation from the state for attendance or travel only if the board certifies that the testimony of such witness was relevant and material to the matter investigated or, if such witness is not called to testify, the board determines and certifies that such compensation should be paid.

**History:** L. 1978, ch. 332, § 21; L. 1981, ch. 334, § 1; L. 1985, ch. 276, § 1; L. 1988, ch. 356, § 300; L. 1989, ch. 283, § 20; L. 2000, ch. 152, § 26; July 1.

**CASE ANNOTATIONS**

4. Civil service board may affirm, modify, reverse or order any other action the board deems appropriate in personnel appeal. *Kansas Dept. of Transportation v. Humphreys*, 266 K. 179, 182, 967 P.2d 759 (1998).

**75-2935. Classified and unclassified services.** The civil service of the state of Kansas is hereby divided into the unclassified and the classified services.

(1) The unclassified service comprises positions held by state officers or employees who are:

(a) Chosen by election or appointment to fill an elective office;

(b) members of boards and commissions, heads of departments required by law to be appointed by the governor or by other elective officers, and the executive or administrative heads of offices, departments, divisions and institutions specifically established by law;

(c) except as otherwise provided under this section, one personal secretary to each elective officer of this state, and in addition thereto, 10 deputies, clerks or employees designated by such elective officer;

(d) all employees in the office of the governor;

(e) officers and employees of the senate and house of representatives of the legislature and of the legislative coordinating council and all officers and employees of the office of revisor of statutes,

of the legislative research department, of the division of legislative administrative services, of the division of post audit and the legislative counsel;

(f) chancellor, president, deans, administrative officers, student health service physicians, pharmacists, teaching and research personnel, health care employees and student employees in the institutions under the state board of regents, the executive officer of the board of regents and the executive officer's employees other than clerical employees, and, at the discretion of the state board of regents, directors or administrative officers of departments and divisions of the institution and county extension agents, except that this subsection (1)(f) shall not be construed to include the custodial, clerical or maintenance employees, or any employees performing duties in connection with the business operations of any such institution, except administrative officers and directors; as used in this subsection (1)(f), "health care employees" means employees of the university of Kansas medical center who provide health care services at the university of Kansas medical center and who are medical technicians or technologists or respiratory therapists, who are licensed professional nurses or licensed practical nurses, or who are in job classes which are designated for this purpose by the chancellor of the university of Kansas upon a finding by the chancellor that such designation is required for the university of Kansas medical center to recruit or retain personnel for positions in the designated job classes; and employees of any institution under the state board of regents who are medical technologists;

(g) operations, maintenance and security personnel employed to implement agreements entered into by the adjutant general and the federal national guard bureau, and officers and enlisted persons in the national guard and the naval militia;

(h) persons engaged in public work for the state but employed by contractors when the performance of such contract is authorized by the legislature or other competent authority;

(i) persons temporarily employed or designated by the legislature or by a legislative committee or commission or other competent authority to make or conduct a special inquiry, investigation, examination or installation;

(j) officers and employees in the office of the attorney general and special counsel to state departments appointed by the attorney general, except that officers and employees of the division of the Kansas bureau of investigation shall be in the



classified or unclassified service as provided in K.S.A. 75-711, and amendments thereto;

- (k) all employees of courts;
- (l) client, patient and inmate help in any state facility or institution;
- (m) all attorneys for boards, commissions and departments;
- (n) the secretary and assistant secretary of the Kansas state historical society;
- (o) physician specialists, dentists, dental hygienists, pharmacists, medical technologists and long term care workers employed by the department of social and rehabilitation services;
- (p) physician specialists, dentists and medical technologists employed by any board, commission or department or by any institution under the jurisdiction thereof;
- (q) student employees enrolled in public institutions of higher learning;
- (r) administrative officers, directors and teaching personnel of the state board of education and the state department of education and of any institution under the supervision and control of the state board of education, except that this subsection (1)(r) shall not be construed to include the custodial, clerical or maintenance employees, or any employees performing duties in connection with the business operations of any such institution, except administrative officers and directors;
- (s) all officers and employees in the office of the secretary of state;
- (t) one personal secretary and one special assistant to the following: The secretary of administration, the secretary of aging, the secretary of agriculture, the secretary of commerce, the secretary of corrections, the secretary of health and environment, the superintendent of the Kansas highway patrol, the secretary of labor, the secretary of revenue, the secretary of social and rehabilitation services, the secretary of transportation, the secretary of wildlife and parks and the commissioner of juvenile justice;
- (u) one personal secretary and one special assistant to the chancellor and presidents of institutions under the state board of regents;
- (v) one personal secretary and one special assistant to the executive vice chancellor of the university of Kansas medical center;
- (w) one public information officer and one chief attorney for the following: The department of administration, the department on aging, the department of agriculture, the department of commerce, the department of corrections, the de-

partment of health and environment, the department of labor, the department of revenue, the department of social and rehabilitation services, the department of transportation, the Kansas department of wildlife and parks and the commissioner of juvenile justice;

- (x) civil service examination monitors;
- (y) one executive director, one general counsel and one director of public affairs and consumer protection in the office of the state corporation commission;
- (z) specifically designated by law as being in the unclassified service;
- (aa) all officers and employees of Kansas, Inc. and the Kansas technology enterprise corporation;
- (bb) any position that is classified as a position in the information resource manager job class series, that is the chief position responsible for all information resources management for a state agency, and that becomes vacant on or after the effective date of this act. Nothing in this section shall affect the classified status of any employee in the classified service who is employed on the date immediately preceding the effective date of this act in any position that is a classified position in the information resource manager job class series and the unclassified status as prescribed by this subsection shall apply only to a person appointed to any such position on or after the effective date of this act that is the chief position responsible for all information resources management for a state agency; and
- (cc) positions at state institutions of higher education that have been converted to unclassified positions pursuant to K.S.A. 2006 Supp. 76-715a and amendments thereto.

(2) The classified service comprises all positions now existing or hereafter created which are not included in the unclassified service. Appointments in the classified service shall be made according to merit and fitness from eligible pools which so far as practicable shall be competitive. No person shall be appointed, promoted, reduced or discharged as an officer, clerk, employee or laborer in the classified service in any manner or by any means other than those prescribed in the Kansas civil service act and the rules adopted in accordance therewith.

(3) For positions involving unskilled, or semiskilled duties, the secretary of administration, as provided by law, shall establish rules and regulations concerning certifications, appointments, layoffs and reemployment which may be different



**75-2935a** STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES

from the rules and regulations established concerning these processes for other positions in the classified service.

(4) Officers authorized by law to make appointments to positions in the unclassified service, and appointing officers of departments or institutions whose employees are exempt from the provisions of the Kansas civil service act because of the constitutional status of such departments or institutions shall be permitted to make appointments from appropriate pools of eligibles maintained by the division of personnel services.

**History:** L. 1941, ch. 358, § 11; L. 1957, ch. 445, § 1; L. 1963, ch. 424, § 1; L. 1963, ch. 400, § 3; L. 1965, ch. 464, § 1; L. 1969, ch. 399, § 1; L. 1971, ch. 272, § 1; L. 1972, ch. 318, § 1; L. 1974, ch. 383, § 1; L. 1976, ch. 377, § 1; L. 1976, ch. 378, § 1; L. 1978, ch. 332, § 7; L. 1982, ch. 225, § 5; L. 1985, ch. 256, § 15; L. 1987, ch. 347, § 1; L. 1989, ch. 266, § 2; L. 1989, ch. 233, § 2; L. 1990, ch. 305, § 1; L. 1992, ch. 293, § 1; L. 1994, ch. 293, § 28; L. 1995, ch. 236, § 15; L. 1995, ch. 255, § 12; L. 1997, ch. 156, § 88; L. 1998, ch. 187, § 14; L. 1999, ch. 149, § 10; L. 2003, ch. 154, § 90; L. 2004, ch. 179, § 116; L. 2005, ch. 94, § 3; July 1.

**Revisor's Note:**

Section was amended twice in the 1998 session, see also 75-2935f.

**Attorney General's Opinions:**

Kansas, Inc. and KTEC are state agencies subject to state governmental ethics laws. 97-59.

**75-2935a.**

**Governmental Ethics Commission Opinions:**

Acceptance of unsolicited gift by state employee; prohibitions against. 1999-43.

Acceptance by state employees at conference of items received in registration packet and handed out by vendors. 2000-14.

**75-2935b.**

**Governmental Ethics Commission Opinions:**

Charity sponsoring conference; ability of state officials and employees to accept travel, lodging and meals (modified by 2000-33). 2000-01.

State agency sponsoring conference may offer free registration to governor, governor's cabinet and legislators. 2000-06.

Ability of state employees to attend conference at expense of sponsor. 2000-10.

**Attorney General's Opinions:**

Incompatibility of offices; chair of pooled money investment board and director of investments. 97-63.

**75-2935f.**

**History:** L. 1941, ch. 358, § 11; L. 1957, ch. 445, § 1; L. 1963, ch. 424, § 1; L. 1963, ch. 400, § 3; L. 1965, ch. 464, § 1; L. 1969, ch. 399, § 1; L. 1971, ch. 272, § 1; L. 1972, ch. 318, § 1; L. 1974, ch. 383, § 1; L. 1976, ch. 377, § 1; L. 1976, ch. 378, § 1; L. 1978, ch. 332, § 7; L. 1982, ch. 225, § 5; L. 1985, ch. 256, § 15; L. 1987, ch. 347, § 1; L. 1989, ch. 266, § 2; L. 1989, ch. 233, § 2; L. 1990, ch. 305, § 1; L. 1992, ch. 293, § 1; L. 1994, ch. 293, § 28; L. 1995, ch. 236, § 15; L. 1995, ch. 255, § 12; L. 1997, ch. 156, § 88; L. 1998, ch. 182, § 20; Repealed, L. 1999, ch. 149, § 14; July 1.

**75-2938.**

**Attorney General's Opinions:**

State personnel services; certification of names eligible for appointment to vacancies; authority of secretary of administration. 97-54.

**75-2939.**

**Attorney General's Opinions:**

State personnel services; certification of names eligible for appointment to vacancies; authority of secretary of administration. 97-54.

**75-2940.**

**Attorney General's Opinions:**

State personnel services; certification of names eligible for appointment to vacancies; authority of secretary of administration. 97-54.

**75-2942.**

**Attorney General's Opinions:**

State personnel services; certification of names eligible for appointment to vacancies; authority of secretary of administration. 97-54.

**75-2943.**

**Attorney General's Opinions:**

State personnel services; certification of names eligible for appointment to vacancies; authority of secretary of administration. 97-54.

**75-2945.**

**Attorney General's Opinions:**

State personnel services; certification of names eligible for appointment to vacancies; authority of secretary of administration. 97-54.

**75-2949. Dismissals, demotions and suspensions; basis; procedure; hearings; status after demotion; employee relieved of duties pending investigation.** (a) An appointing authority may dismiss or demote any permanent employee in the classified service when the appointing authority considers that the good of the



**75-53,102 STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES**

K.S.A. 72-961 *et seq.*, and amendments thereto, and public law 101-476 (the individuals with disabilities education act) shall receive transition planning services upon attaining the age of 16 years. The local education authority which is responsible for the education of a person, with the consent of the person or the person's parent or guardian, shall notify the secretary of the name and address of such person, the record of the special education services being provided to such person and the expected date of termination of such services.

(b) Within 30 days after such notification, the secretary shall begin to prepare a case file on such person consisting of all available information relevant to the questions of whether such person has a disability and what services may be necessary or appropriate upon termination or graduation. The local education authority, with the consent of such person or the person's parent or guardian, shall provide the secretary with copies of relevant current portions of the record of such person, which shall be included in such person's case file. The secretary also shall provide an opportunity for the submission by or on behalf of such person, of information relative to such person's training needs and all information so provided shall be included in such person's case file.

**History:** L. 1992, ch. 129, § 3; July 1.

**75-53,102. Same; transition councils.** The secretary will direct statewide development of local transition councils. A state transition council, comprised of representatives of the local councils, will meet at least annually to identify successful alternatives to barriers for effective education, employment and independent living outcomes.

**History:** L. 1992, ch. 129, § 4; July 1.

#### **Article 54.—Reserved**

##### **Revisor's Note:**

Article was formerly entitled "State Architectural Services." Sections 75-5401 to 75-5416 were transferred to 75-1250 to 75-1269.

#### **Article 55.—PAYROLL ACCOUNTING FOR STATE AGENCIES**

##### **Cross References to Related Sections:**

Setoff of fines, fees and penalties owed educational institutions under state board of regents, see 76-741.

**75-5501. Formulation, installation and operation of system of payroll accounting;**

**system elements and principles; modification for biweekly payroll periods; plan for deductions for certain employee organization and association dues.** (a) The director of accounts and reports shall formulate a system of payroll accounting, including timekeeping, payroll calculation and pay distribution (delivery) and labor cost distribution and analysis, and shall install and operate such system of payroll accounting for all state agencies. The system shall include provision for centralized records, which shall include payroll data for all individuals which with the common law employer-employee relationship is created by agencies of the state of Kansas and which shall be coordinated with records maintained by the division of personnel services and other state agencies. If biweekly payroll periods are established under K.S.A. 75-5501a, the system of payroll accounting shall be modified to implement such biweekly payroll periods. State agencies shall utilize the system of payroll accounting to the extent prescribed by the director of accounts and reports, and shall submit such reports and statements as may be required by the director in order to carry out the provisions of this act. The director of accounts and reports shall design, revise and direct the use of records and procedures and prescribe classifications of coding payroll data, methods of funding labor cost through the central payroll account and a system of prepayment and postpayment debit and credit transactions and entries on the records created from payroll data and the necessary forms to be used by all state agencies in connection with such system of payroll accounting. The payroll system so designed shall include generally accepted accounting principles of internal check, and may include timekeeping for attendance and performance, as prescribed in this act.

(b) The director of accounts and reports shall provide, as a part of the system of payroll accounting, a plan for the deduction from the salary or wages of an amount equal to regular membership dues for state officers and employees who are members of the Kansas troopers association or who are in any employee organization which has filed an annual report pursuant to K.S.A. 75-4337 or which has a business agent registered pursuant to K.S.A. 75-4336. Such plan, in addition to such provisions as are negotiated by the director of accounts and reports and the employee organization, shall provide for:

(1) A written authorization-assignment by a state officer or employee prior to any dues de-

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duction from the salary or wages of such officer or employee, which authorization-assignment shall remain effective for not less than 180 days and shall be terminated at any time thereafter upon 30 days' prior notice by the state officer or employee of termination of the authorization-assignment;

(2) change in the amount of regular membership dues to be deducted, but not more often than twice in any fiscal year;

(3) renewal of an authorization-assignment by an officer or employee after termination of a prior authorization-assignment upon 90 days' prior notice by the officer or employee who has terminated a membership dues deduction; and

(4) payment of all moneys deducted each payroll period pursuant to this section to the employee organization less the amount of actual direct expenses incurred by this state for the membership dues deduction.

**History:** L. 1974, ch. 390, § 1; L. 1975, ch. 452, § 1; L. 1978, ch. 373, § 3; L. 1978, ch. 350, § 13; L. 1980, ch. 264, § 1; L. 1981, ch. 354, § 1; July 1.

**Research and Practice Aids:**

States — 121.

C.J.S. States §§ 203, 223.

**Attorney General's Opinions:**

State payroll accounting system; payroll deductions for membership dues. 92-117.

**75-5501a. Biweekly payroll periods; university of Kansas medical center; establishment for other state agencies, authority of secretary of administration; implementation procedures.** (a) The secretary of administration shall approve the establishment of biweekly payroll periods for all officers and employees of the university of Kansas medical center. The secretary of administration may approve the establishment of biweekly payroll periods for any officers and employees of one or more other state agencies. As used in this act, the term "approval date" means the date on which such approval is given by the secretary of administration.

(b) Subject to the provisions of subsection (c), the secretary of administration shall integrate biweekly payroll periods into the system of payroll accounting established under this act, for purposes of the officers and employees to whom the biweekly payroll periods established apply, on a date fixed by the secretary of administration. As used in this act, the term "implementation date"

means the date fixed under this subsection by the secretary of administration.

(c) The period preceding an implementation date for biweekly payroll periods shall be a transition period during which the secretary of administration may vary the procedures and requirements of this act concerning biweekly payroll periods, in order to provide the orderly transition contemplated by this act.

(d) The provisions of this section shall be controlling over any statute making reference to monthly or semimonthly payment of salaries or compensation of state officers and employees.

**History:** L. 1975, ch. 452, § 2; L. 1980, ch. 264, § 2; L. 1994, ch. 274, § 21; L. 1995, ch. 132, § 4; Dec. 17.

**75-5502. Payroll accounting system; staggered or cycled payroll periods or pay dates, limitations; powers of director of accounts and reports.** The system of payroll accounting may provide for the fixing of staggered or cycled payroll periods or pay dates by designation of the days of the month or week on which certain employees' payroll periods shall be fixed and by designation of the date of payment for the earnings during a designated payroll period. Such established pay dates, as far as practicable, shall be uniform for all employees of each state agency employed in the same geographical area, and if biweekly payroll periods are established under K.S.A. 75-5501a, such established pay dates shall not be more than fourteen (14) calendar days following the close of the payroll period. For the purpose of implementing this section, the director of accounts and reports may alter any established payroll period or pay date by not more than seven calendar days by establishing a schedule of staggered payroll periods and pay dates as provided in this section.

**History:** L. 1974, ch. 390, § 2; L. 1975, ch. 452, § 3; L. 1980, ch. 264, § 3; July 1.

**75-5503. Same; changes in payroll periods and pay dates; notice to affected employees required; time for notice.** The payroll period and pay date of employees of a state agency shall not be changed by inclusion of the state agency into the system of payroll accounting or by any revision or modification of the system, unless notice of the proposed change has been given to each employee who will be affected by such change, in the form and manner prescribed by the director of accounts and reports, not less than



forty-five (45) days prior to the effective date of the change.

**History:** L. 1974, ch. 390, § 3; L. 1975, ch. 452, § 4; July 1.

**75-5504. Same; duty of appointing authority to certify changes to payroll rosters and encumbrance documents to director of accounts and reports; reliance thereon by director.** Each appointing authority shall correctly and promptly certify to the director of accounts and reports as required by such system of payroll accounting all changes, modifications, additions and deletions to the payroll roster and encumbrance documents in compliance with all applicable laws, rules and regulations and work policies of any state agency, including certification of such time and attendance records as are required under this act. The director of accounts and reports shall rely upon all payroll rosters, encumbrance documents and time and attendance reports certified to the director of accounts and reports by an appointing authority or its designee.

**History:** L. 1974, ch. 390, § 4; L. 1975, ch. 452, § 5; July 1.

**75-5505. Same; standard 40-hour workweek established; exception, when; submission of information to director of accounts and reports; inapplicability to elective state officers.** (a) It is the policy of the state that a forty-hour workweek shall be the standard workweek of state employees, and all pay rates established for such employees shall be based on a forty-hour workweek, except that workweeks which deviate from the forty-hour workweek may be established by appointing authorities in order to meet the varying needs of the different state agencies, and in such cases the pay rates established shall be based on the workweek so established.

(b) Every state agency shall submit information to the director of accounts and reports:

(1) Necessary for determining the number of hours per day and the number of days per week or, in case of irregular workweeks, the number of hours per week which shall constitute full-time employment for each position within its jurisdiction;

(2) showing such schedules of work time assignment that are in effect for each employee in the agency;

(3) describing the system of accruing credits and charges for all recognized annual, sick and

other compensable leave for all officers and employees of the state agency who are not covered for such purposes by the Kansas civil service act and, if biweekly payroll periods are established for officers or employees of the state agency under K.S.A. 75-5501a, the balances of such accrued credits for such officers or employees on the implementation date; and

(4) specifying the terms of any contractual obligations that affect any employment relationship.

(c) Nothing in this section shall apply to individual elective state officers.

**History:** L. 1974, ch. 390, § 5; L. 1975, ch. 452, § 6; L. 1980, ch. 264, § 4; July 1.

#### CASE ANNOTATIONS

1. Cited; compensation allowable for home duty telephone time to state employees involved in oil and gas field operations examined. *Hickey v. Kansas Corporation Comm'n*, 244 K. 71, 74, 765 P.2d 1108 (1988).

2. Whether employees monthly salaries under state pay plan compensated all nonovertime hours worked examined. *Schmitt v. State of Kan.*, 864 F.Supp. 1051, 1065 (1994).

**75-5506. Same; conversion of existing salaries, ranges, rates and certain semi-monthly compensation systems to hourly and biweekly rates when biweekly payroll periods approved.** (a) If biweekly payroll periods are established under K.S.A. 75-5501a, salaries, salary ranges and wage rates approved by the governor under K.S.A. 75-2935b and the existing schedule of salaries or wage rates and ranges established under K.S.A. 75-2938 for each class, grade or group of positions in the classification plan which are in effect on the approval date shall be converted to hourly and biweekly pay rates for the officers and employees of each state agency for which biweekly payroll periods are established, in accordance with a plan prepared by the director of accounts and reports and approved or modified and approved by the secretary of administration.

(b) If biweekly payroll periods are established under K.S.A. 75-5501a which are applicable to officers or employees of the university of Kansas medical center who are under a semimonthly compensation system under K.S.A. 75-4315, such system shall no longer apply to such officers and employees and such officers and employees shall be converted to a biweekly system for pay earned on and after the implementation date, and the pay rates for such officers and employees shall be converted to hourly and biweekly pay rates, in accordance with a plan prepared by the director of ac-



counts and reports and approved or modified and approved by the secretary of administration.

(c) Notwithstanding any existing provision of law to the contrary, if biweekly payroll periods are established under K.S.A. 75-5501a for a state officer or employee whose salary is fixed by statute, such salary shall be converted to hourly and biweekly pay rates in accordance with a plan prepared by the director of accounts and reports and approved or modified and approved by the secretary of administration, subject to the statutory amount of such salary.

**History:** L. 1974, ch. 390, § 6; L. 1975, ch. 452, § 7; L. 1980, ch. 264, § 5; July 1.

**75-5507. Same; calculation of pay under biweekly pay system where records indicate pay due for more or less than full time; exceptions pursuant to rules and regulations.** If biweekly payroll periods are established under K.S.A. 75-5501a, whenever time and attendance records indicate that the number of hours pay due in any payroll period to an officer or employee, to whom such biweekly payroll periods apply, is for more or less than the time fixed for full-time employment, considering the balance and usage of holiday, annual, sick and compensating time, or other compensable leave, the pay for such payroll period shall be calculated on the basis of the number of hours of pay due multiplied by the hourly rate or rates fixed for such employee. Rules and regulations may be adopted by the secretary of administration, as provided in K.S.A. 75-3706, to provide for exceptions to this section.

**History:** L. 1974, ch. 390, § 7; L. 1975, ch. 452, § 8; L. 1980, ch. 264, § 6; July 1.

**75-5508. Same; payment of terminated employee's earned wages.** Whenever the employment of any state employee is terminated in any way, the appointing authority shall cause the employee's earned wages to be paid on the regular pay date upon which such employee would have been paid if still employed.

**History:** L. 1974, ch. 390, § 8; L. 1975, ch. 452, § 9; July 1.

**75-5509. Same; calculation of biweekly pay for nine-month school employees.** If biweekly payroll periods are established under K.S.A. 75-5501a, which apply to nine-month employees of the state who are employed and engaged in school employment as teachers, or higher education faculty, or who have as their principal

duty academic supervision over such teachers or faculty, the monthly pay of such employees shall be calculated for payment on the prescribed biweekly payment system under all contracts entered into for the school year commencing in the year in which the implementation date occurs.

**History:** L. 1974, ch. 390, § 9; L. 1975, ch. 452, § 10; L. 1980, ch. 264, § 7; July 1.

**75-5510. Same; conversion of monthly rates fixed for housing, food service or other employee maintenance to biweekly rates.** If biweekly payroll periods are established under K.S.A. 75-5501a which apply to state officers or employees who are receiving housing, food service or other employee maintenance from a state agency under K.S.A. 75-2961a, the existing monthly rates fixed for such housing, food service or other employee maintenance, as provided under K.S.A. 75-2961a, shall be converted by the secretary of administration to biweekly rates for use in the system of payroll accounting, by multiplying the monthly rate by twelve (12) and by dividing such annualized rate by twenty-six (26), rounding off any fraction of such biweekly rate to the next highest cent.

**History:** L. 1974, ch. 390, § 10; L. 1975, ch. 452, § 11; L. 1980, ch. 264, § 8; July 1.

**75-5511. Same; reference in other laws to monthly pay of state employees construed.** Notwithstanding any other provision of law to the contrary, if biweekly payroll periods are established under K.S.A. 75-5501a, wherever in the statutes reference is made to monthly pay of state officers and employees to whom such biweekly payroll periods apply, such reference shall continue in effect until the implementation date, and thereafter such reference shall mean biweekly pay. When any conflict arises as a result of any change made by this act, such conflict shall be resolved by the governor and such decision shall be final.

**History:** L. 1974, ch. 390, § 11; L. 1975, ch. 452, § 12; L. 1980, ch. 264, § 9; July 1.

**75-5512. Same; required compliance of certain contracts and memorandums of agreement with biweekly payroll periods; exemptions.** If biweekly payroll periods are established under K.S.A. 75-5501a, the provisions of all contracts and memorandums of agreement entered into under authority of K.S.A. 75-4321 to 75-4335, inclusive, relating to officers or employ-



ees to whom such biweekly payroll periods apply and relating to payments to such officers and employees and concerning the method of payment of salaries or wages or the recognition and furnishing of non-cash employee remuneration, and all salaries and salary reduction or deduction agreements which are authorized by statute and which relate to such officers and employees, shall be made to comply and be administered in accordance with provisions of this act. The provisions of this act shall not apply to contracts between a state agency and an independent contractor, whether for professional services or for any other services or thing, except that the secretary of administration may adopt rules and regulations, as provided in K.S.A. 75-3706, which may make all or any part of this act applicable to any or all such contracts.

**History:** L. 1974, ch. 390, § 28; L. 1975, ch. 452, § 13; L. 1980, ch. 264, § 10; July 1.

**75-5513.**

**History:** L. 1974, ch. 390, § 29; Repealed, L. 1975, ch. 452, § 23; July 1.

**75-5514. Same; rules and regulations by secretary of administration.** The secretary of administration may adopt rules and regulations, as provided in K.S.A. 75-3706, and amendments thereto, for the administration of this act.

**History:** L. 1974, ch. 390, § 30; L. 1975, ch. 452, § 14; L. 1983, ch. 291, § 4; July 1.

**75-5515. Payroll accounting system; fixing of salaries and wages, annual basis; payroll periods; budgeting and accounting for payroll payments; payment on hourly basis for certain employees, determination of wages.** (a) Except as may be otherwise fixed under the Kansas civil service act or other applicable laws, salaries and wages shall be fixed on an annual basis prior to the beginning of each fiscal year.

(b) Changes in such salaries or wages made during the fiscal year shall be reported to the secretary of administration.

(c) The secretary of administration shall specify the payroll period beginning and ending dates and the payment dates for payroll periods.

(d) For budget and accounting purposes each payment of salaries and wages shall be charged to appropriations for the fiscal period or year in which the payment occurs.

(e) (1) The wages for any officers and employees in positions which are not exempt under

the federal fair labor standards act, 29 U.S.C. 201 *et seq.*, may be paid on an hourly basis, when authorized by the secretary of administration. The provisions of this section shall be controlling over any statute making reference to monthly payment of salaries or compensation of state officers and employees. The wages for employees who are paid hourly shall be determined by dividing the annual wages for the employee's job position by the number of hours required for the position on an annual basis as specified in paragraph (2) of this subsection. The annual wages for each position shall be as fixed pursuant to the Kansas civil service act for classified positions and as fixed by other applicable law for unclassified positions.

(2) In determining hourly wage rates, the number of hours required for the position on an annual basis shall be:

(A) The amount of 2,080 hours for employees working the standard workweek specified by K.S.A. 75-5505, and amendments thereto; or

(B) for those classes of positions for which a deviation has been established pursuant to K.S.A. 75-5505, and amendments thereto, the number of hours required for the position on an annual basis, as determined by the director of personnel services, subject to approval by the secretary of administration.

**History:** L. 1965, ch. 473, § 2; L. 1973, ch. 348, § 1; L. 1974, ch. 390, § 22; L. 1975, ch. 452, § 15; L. 1980, ch. 264, § 11; L. 1994, ch. 274, § 22; L. 1995, ch. 132, § 5; Dec. 17.

**75-5516. Same; consolidated payrolls, accounts; payment of future salaries and wages; procedure; transactions between state agencies.** (a) There is hereby created in the state treasury a payroll account for each state agency which may be used by the director of accounts and reports and state treasurer to issue a consolidated payroll for each state agency. If consolidated payroll procedures are required by the director of accounts and reports, each state agency shall file such consolidated claims and encumbrance documents containing authorization to pay future salaries and wages of officers and employees of such state agency. Payment of such future salaries and wages shall be based on time and attendance reports required by the director of accounts and reports. Payrolls of state agencies prepared by either the agency or the director of accounts and reports as prescribed in the system of payroll accounting shall be charged against the



payroll account created for the state agency by this section or directly against the appropriate agency account or accounts in the state treasury on an individual account basis as determined by the director of accounts and reports. The payroll of each state agency shall show thereon a summary distribution of the amount of the payroll to be charged against each appropriation or fund account within the state treasury or fund in the custody of the state treasurer. If the consolidated payroll procedures are in effect under this section at the time the payroll is paid, the director of accounts and reports and state treasurer shall transfer moneys from each appropriation in the state treasury or fund in the custody of the state treasurer to the payroll account of the state agency in the amounts shown on the payroll distribution summary, and shall charge such amounts to the proper account affected thereby. For purposes of providing a procedure for automatic payment of reported time worked, salaries and wages due, and for proper cost allocation and distribution of designated project, indirect overhead or other employee salary and wage cost to establish cost centers or subactivities, activities, accounts, work project, federal grant or other appropriate account, the encumbrance documents required may be filed against such agency payroll clearing accounts as may be established on the records by the director of accounts and reports to pay such project or shared salary and wage costs. Advances from appropriate accounts within the state treasury in the custody of the state treasurer may be made to such agency payroll clearing accounts on the records in the amount required to cover the estimated salary and wage costs of such officers and employees. Any advances made to such agency payroll clearing account shall be used for the payment of actual salary and wage costs chargeable from actual time and attendance reports or returned to the appropriate account, and such transactions shall be based on claims approved by signature or electronic means by the chief administrative officer of the state agency or such officer's authorized representative. Upon request of any state agency, the director of accounts and reports may authorize the issuance of payrolls within a fund other than that authorized by this section.

(b) Under rules and regulations established as provided in K.S.A. 75-3706 and amendments thereto, the accounting system may include provisions for the settlement of transactions between

state agencies by making of debit and credit entries on the books on the basis of adequate vouchers, approved by the director of accounts and reports in lieu of warrants. The director of accounts and reports, upon approval of any such voucher, shall immediately notify the state treasurer of the amount thereof, and of the accounts which are to be debited and credited upon the treasurer's books and records. The state treasurer and the director of accounts and reports shall forthwith make the proper entries upon their books and records to correspond to such debit and credit entries.

**History:** L. 1953, ch. 375, § 33; L. 1974, ch. 390, § 23; L. 1975, ch. 452, § 16; L. 1983, ch. 298, § 1; May 5.

**75-5517. Compensation for accumulated sick leave upon retirement from state service; limitations; employee retirement contributions deducted.** (a) Each person retiring from the classified or unclassified service of the state of Kansas who has accumulated one hundred (100) days or more of sick leave shall receive at the time of retirement, compensation for their accumulated sick leave as follows:

(1) Compensation for not more than thirty (30) days, if such person has completed eight or more years of such service and has accumulated at least one hundred (100) but less than one hundred twenty-five (125) days of sick leave;

(2) compensation for not more than forty-five (45) days, if such person has completed fifteen (15) or more years of such service and has accumulated at least one hundred twenty-five (125) but less than one hundred fifty (150) days of sick leave; and

(3) compensation for not more than sixty (60) days, if such person has completed twenty-five (25) or more years of such service and has accumulated one hundred fifty (150) days of sick leave or more.

(b) Retirement employee contributions shall be deducted from all compensation for accumulated sick leave paid to each person who retires and benefit calculations for such person shall include all such compensation.

**History:** L. 1974, ch. 368, § 1; L. 1978, ch. 332, § 50; L. 1980, ch. 290, § 1; May 17.

**Cross References to Related Sections:**

State leave payment reserve fund, see 75-5542 et seq.



**75-5518** STATE DEPARTMENTS: PUBLIC OFFICERS AND EMPLOYEES

**Attorney General's Opinions:**

Payment of compensation—definitions; wages, unused sick leave. 89-14.

**75-5518. Severability.** If any word, phrase, sentence or provision of this act is determined to be invalid, such invalidity shall not affect the other provisions of this act and they shall be given effect without the invalid provision, and to this end the provisions of this act are declared to be severable.

**History:** L. 1974, ch. 390, § 31; July 1, 1975.

**75-5519. Payment of tuition and educational training costs of state agency personnel; rules and regulations.** (a) Any state agency may pay the tuition and other educational expenses for the education or training of any personnel of such state agency when it is determined by the head of the state agency that such education or training is of value to the state and such state agency.

(b) All payments under this section shall be made from appropriations to the state agency in accordance with policies and procedures developed by the secretary of administration to the state agency and shall be approved by the head of the state agency.

(c) As used in this section, "state agency" means any state department, office, board, commission, authority, council or officer and the personnel thereof.

(d) In accordance with K.S.A. 75-3706 and amendments thereto and with the advice of the director of accounts and reports, the secretary of administration may adopt rules and regulations prescribing limitations and procedures relating to expenditures for tuition and other education or training expenses under this section.

**History:** L. 1974, ch. 371, § 1; L. 1976, ch. 402, § 1; L. 1982, ch. 373, § 1; L. 1985, ch. 291, § 1; July 1.

**75-5520.**

**History:** L. 1975, ch. 452, § 22; Repealed, L. 1995, ch. 132, § 7; Dec. 17.

**75-5521. Deferred compensation plan for state employees, definitions.** As used in this act:

(a) "Beneficiary" means any person designated to receive benefits under a deferred compensation plan.

(b) "Deferred compensation plan" means a plan developed and approved as provided in this

act and under which an employee sets aside a specified amount of salary or compensation which may not be subject to state or federal taxation until receipt thereof by the employee under stated conditions in the future.

(c) "Director" means the director of accounts and reports.

(d) "Employee" means any person who is an elected or appointed officer or any employee of the state in the classified service or unclassified service under the Kansas civil service act, other than persons who are employed on a seasonal or temporary basis.

(e) "Participant" means an eligible employee who has entered into an agreement with the director as provided in K.S.A. 75-5524, to defer an amount of the employee's salary or compensation under the Kansas public employees deferred compensation plan.

(f) "State" means the state of Kansas and any state agency as defined in subsection (3) of K.S.A. 75-3701.

**History:** L. 1976, ch. 367, § 1; L. 1978, ch. 332, § 51; L. 1979, ch. 298, § 1; July 1.

**Attorney General's Opinions:**

Interlocal agreements; area solid waste utility; members' participation in Kansas deferred compensation plan. 94-30.

State agencies required to appoint a records officer; deferred compensation unit; department of administration; state agency defined. 95-26.

**75-5522.**

**History:** L. 1976, ch. 367, § 2; Repealed, L. 1988, ch. 301, § 33; July 1.

**75-5523. Deferred compensation plan for state employees; establishment; agreements for plan benefits and services.** (a) The director is authorized to establish a deferred compensation plan in accordance with the federal revenue act of 1978, Public Law No. 95-600, subject to the approval of the secretary of administration. Such plan shall be the Kansas public employees deferred compensation plan. All powers and duties heretofore conferred by such plan upon the advisory committee on deferred compensation are hereby transferred to the director of personnel services or the director's designees.

(b) The director may enter into an agreement or agreements with approved insurers or other contracting parties whereby benefits under the Kansas public employees deferred compensation plan would be made available to those participants who contract with the director for deferred com-

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pensation under K.S.A. 75-5524, and amendments thereto. In addition, the director may enter into an agreement with one or more qualified private firms for consolidated billing services, participant enrollment services, participant accounts and other services related to the administration of the Kansas public employees deferred compensation plan.

(c) No significant costs shall be incurred by the state as a result of the administration of this act unless such costs are recovered by charging and collecting a service charge from all participants and in addition thereto or in lieu thereof, where the director has entered into agreements with one or more qualified private firms under subsection (b), are recovered from such firms. The amount of any such significant costs incurred and to be recovered by the state shall be determined by the director.

(d) Subject to the approval of the secretary of administration, the director is authorized to negotiate and enter into contracts with qualified insurers and other contracting parties for the purposes of establishing a deferred compensation plan, including acquisition of actuarial and other services necessary therefor. The director shall advertise for deferred compensation proposals, shall negotiate with not less than three firms or other contracting parties submitting such proposals, and shall select from among those submitting such proposals the firm or firms or other contracting party or parties to contract with for purposes of establishing a deferred compensation plan. Contracts entered into under this act shall not be subject to K.S.A. 75-3739 and amendments thereto.

**History:** L. 1976, ch. 367, § 3; L. 1979, ch. 298, § 2; L. 1988, ch. 301, § 30; July 1.

**75-5524. Same; employee participation agreements; service charge; payroll deductions, minimum and maximum; state liability limited; amounts deferred considered for retirement purposes; clearing fund.** (a) The director is authorized to enter into a voluntary agreement with any employee whereby the director agrees to defer and deduct each payroll period a portion of the employee's salary or compensation from the state in accordance with the Kansas public employees deferred compensation plan. Such agreement may require each participant to pay a service charge to defray all or part of any significant costs incurred and to be recovered by the state pursuant to subsection (c) of K.S.A. 75-

5523, as a result of the administration of this act. Pursuant to this act and such agreements the director is authorized to deduct amounts authorized in such agreements from the salary or compensation of such employee each payroll period, as part of the system of regular payroll deduction.

(b) The minimum amount and the maximum amount which may be deferred in any one payroll period shall be established by rules and regulations adopted under K.S.A. 75-5529.

(c) The Kansas public employees deferred compensation plan shall exist and be in addition to, and shall not be a part of any retirement or pension system for employees. The state shall not be responsible for any loss incurred by an employee under the Kansas public employees deferred compensation plan established and approved pursuant to this act.

(d) Any amount of the employee's salary or compensation that is deferred under such authorized agreement shall continue to be included as regular compensation for all purposes of computing retirement and pension benefits earned by any such employee, but any sum deferred or deducted shall not be subject to any state or local income taxes for the year in which such sum is earned but shall be subject to applicable state and local income taxes for the year in which such sum is received by the employee.

(e) The director is hereby authorized to establish a deferred compensation clearing fund in the state treasury in which shall be placed temporarily all compensation deferred and deducted in accordance with this act, as provided for in any agreement between an employee and the director.

**History:** L. 1976, ch. 367, § 4; L. 1979, ch. 298, § 3; July 1.

**75-5525. Same; amounts deducted remain state assets; disposition; deferred compensation contributions not subject to premium tax or other charges under insurance laws, refunds.** (a) All moneys which are deferred and deducted by the director in accordance with the provisions of an agreement entered into under K.S.A. 75-5524, and the provisions of this act, shall remain assets of the state and shall be disposed of in accordance with the terms of the agreement between the employee and the director. The obligation of the state to the employee and approved insurers or other contractors shall be a contractual obligation only and no preferred or special inter-



est in the deferred moneys shall accrue to such employee or to such approved insurer or other contractor.

(b) Contributions payable to the deferred compensation plan pursuant to the plan shall not be subject to any premium tax or other charges arising under the insurance laws of this state. If any such tax or charge has been paid prior to the effective date of this act, the same shall be refunded.

**History:** L. 1976, ch. 367, § 5; L. 1979, ch. 298, § 4; L. 1981, ch. 355, § 1; July 1.

**75-5526, 75-5527.**

**History:** L. 1976, ch. 367, §§ 6, 7; Repealed, L. 1979, ch. 298, § 5; July 1.

**75-5528. Same; deferred compensation payment rights unassignable.** No participant or beneficiary shall have the right to commute, sell, assign or otherwise transfer or convey the rights to receive any payments under agreements compensation plans entered into pursuant to this act and such payments and rights are expressly declared to be and shall be unassignable.

**History:** L. 1976, ch. 367, § 8; July 1.

**75-5529. Same; rules and regulations; accounts and records.** The secretary of administration, upon the recommendation of the director, may adopt rules and regulations, in the manner provided in K.S.A. 75-3706, and amendments thereto, for the implementation and administration of this act. The director shall maintain such accounts and records as are necessary and appropriate to the efficient operation of this act.

**History:** L. 1976, ch. 367, § 9; L. 1983, ch. 291, § 5; July 1.

**75-5529a. Same; participation by local governments.** Subject to the approval of the secretary of administration, the director of accounts and reports may enter into agreements for the participation of local governments of the state of Kansas, which are defined as eligible employers by subsection (13) of K.S.A. 74-4902 and amendments thereto, and their employees, as defined by subsection (14) of K.S.A. 74-4902 and amendments thereto except that such employees need not be employed by a participating employer under the Kansas public employees retirement system, within the deferred compensation plan for state employees established under K.S.A. 75-5523 and amendments thereto. Such participation may include any such eligible employer and employees

when authorized by the governing body of the eligible employer by ordinance or resolution. Except for such participation agreements, the director of accounts and reports or any other state officer or employee shall not be involved nor incur any expense in the administration of such plan as it applies to local governments or their employees.

**History:** L. 1982, ch. 335, § 1; L. 1984, ch. 289, § 25; L. 1988, ch. 301, § 31; July 1.

**Attorney General's Opinions:**

Interlocal agreements; area solid waste utility; members' participation in Kansas deferred compensation plan. 94-30.

**75-5529b. Same; conditions for local government employee participation; effect.**

The governing body of any local government of the state of Kansas, which is defined as an eligible employer by K.S.A. 74-4902 and which has agreed to participate in the Kansas public employees deferred compensation plan, may establish such conditions as the governing body deems advisable to govern the terms of agreement for the voluntary participation of its employees in such plan. Any amount of an employee's salary or compensation that is deferred under such agreement shall continue to be included as regular compensation for all purposes of computing retirement and pension benefits earned by such employee, but any sum deferred or deducted shall not be subject to any state or local income tax for the year in which such sum is earned but shall be subject to applicable state and local income taxes for the year in which such sum is received by the employee.

**History:** L. 1982, ch. 335, § 2; July 1.

**75-5530. State employee payroll deductions for purchase of United States savings bonds; rules and regulations; state employee defined.**

(a) Upon receipt of written authorization by any state employee, the director of accounts and reports shall make periodic deductions of amounts as specified in such authorization from the salary or wages of such state employee for the purposes of purchasing United States savings bonds and shall make payments of such amounts in accordance with such authorization and the payroll deduction plan adopted pursuant to subsection (b). Any amounts deducted from the salary or wages of such state employee pursuant to such authorization shall be subject to the maximum and minimum amounts established by rules and regulations adopted pursuant to subsection (c). Any such written authorization may be withdrawn or modified by such state employee upon filing writ-



ten notice of such withdrawal or modification in the manner and at the times prescribed in rules and regulations adopted pursuant to subsection (c).

(b) The director of accounts and reports shall establish a payroll deduction plan for the purchase of United States savings bonds by state employees. Such plan shall be administered by the director of accounts and reports in accordance with rules and regulations adopted pursuant to subsection (c) and such additional accounting procedures as may be prescribed by the director of accounts and reports.

(c) The secretary of administration, upon the recommendation of the director of accounts and reports, shall adopt rules and regulations as provided in K.S.A. 75-3706 for the implementation and administration of this act. Such rules and regulations shall include maximum and minimum limitations on the amounts to be deducted from the salary or wages of any state employee and provisions for the modification or withdrawal of any authorization to make periodic deductions for the purchase of United States savings bonds under this act.

(d) As used in this act, the term "state employee" means any appointed or elective officer or employee of the state of Kansas whose employment is not seasonal or temporary and whose employment requires at least one thousand (1,000) hours of work per year.

**History:** L. 1977, ch. 285, § 1; Jan. 1, 1978.

**75-5531. State employee payroll deductions for contributions to united way organizations; definitions.** As used in K.S.A. 75-5531 to 75-5534, inclusive:

(a) "State employee" means any appointed or elective officer or any employee of the state of Kansas whose employment is not seasonal or temporary and whose employment requires at least one thousand (1,000) hours of work per year; and

(b) "united way organization" means the organization conducting a single, annual, consolidated effort to secure funds for distribution to agencies engaged in charitable or public health, welfare or service purposes, which commonly is known as the united way. Such term includes the united fund, the community chest or any other organization which serves in communities or areas of the state where the united way is not organized.

**History:** L. 1979, ch. 277, § 1; Jan. 1, 1980.

**75-5532. State employee payroll deductions for contribution to united way organizations; notification by employing agency of employee authorization; amounts deducted, limits; authorization withdrawal or modification; payroll deduction plan.** (a) Upon notification of an employing agency's receipt of written authorization by any state employee, the director of accounts and reports shall make periodic deductions of amounts as specified in such authorization from the salary or wages of such state employee for the purpose of contributing to a united way organization and shall make payments of such amounts in accordance with such authorization and the payroll deduction plan adopted under subsection (b). Any amounts deducted from the salary or wages of such state employee pursuant to such authorization shall be subject to the maximum and minimum amounts established by rules and regulations adopted under K.S.A. 75-5534 and amendments thereto. Any such written authorization may be withdrawn or modified by such state employee upon filing written notice of withdrawal or modification in the manner and at the times prescribed in rules and regulations adopted under K.S.A. 75-5534 and amendments thereto.

(b) As part of the system of payroll accounting formulated under K.S.A. 75-5501 and amendments thereto, the director of accounts and reports shall establish a payroll deduction plan for the purpose of making contributions to united way organizations by state employees. Such plan shall be administered by the director of accounts and reports in accordance with rules and regulations adopted under K.S.A. 75-5534 and amendments thereto and such additional accounting procedures as may be prescribed by the director of accounts and reports.

**History:** L. 1979, ch. 277, § 2; L. 1990, ch. 318, § 5; July 1.

**75-5533. Same; fees for making payroll deductions and payments; manner of collection; disposition.** (a) The director of accounts and reports shall charge and collect a fee for making payroll deductions and payments authorized under K.S.A. 75-5531 to 75-5534, inclusive. Such fees shall be fixed in an amount equal to the total costs incurred in making the necessary transfers and transactions, including administrative costs, to accomplish the purpose involved as determined by the director of accounts and reports with the



approval of the secretary of administration. The fees fixed shall be levied against and shall be paid by the united way organization which receives payments pursuant to written authorizations by state employees under this section. Such fees shall be paid as part of each transaction remitting payments to the united way organization.

(b) All moneys received by the director of accounts and reports from the fees levied under this section shall be remitted to the state treasurer and the state treasurer shall deposit all of such moneys in the state treasury and shall credit the same to the state general fund.

**History:** L. 1979, ch. 277, § 3; Jan. 1, 1980.

**75-5534. Same; rules and regulations for administration, prohibited acts.** The secretary of administration, upon the recommendation of the director of accounts and reports, may adopt rules and regulations as provided in K.S.A. 75-3706, and amendments thereto, for the implementation and administration of K.S.A. 75-5531 to 75-5534, inclusive. Such rules and regulations shall include: (a) Provisions prohibiting the use of official action or threat of official action by a state employee to coerce or attempt to coerce a subordinate state employee to contribute to a united way organization; and (b) maximum and minimum limitations on the amounts to be deducted from the salary or wages of any state employee and provisions for the modification or withdrawal of any authorization to make periodic deductions for the purpose of making contributions to united way organizations.

**History:** L. 1979, ch. 277, § 4; L. 1983, ch. 291, § 6; July 1.

**75-5535. State officers and employees payroll deductions for parking fees; authorization.** The director of accounts and reports shall make payroll deductions from the salary and wages of state officers and employees for parking fees charged such officers and employees in accordance with K.S.A. 75-4506 for use of state parking facilities, when authorized to make such deductions by the written, voluntary authorization of such officers and employees.

**History:** L. 1979, ch. 291, § 4; July 1.

**Cross References to Related Sections:**

Parking fees imposed, see 75-4506.

Payroll deductions for purchase of United States savings bonds, see 75-5530.

Deductions from state retirement and other benefit payments for group health insurance premiums, see 75-4113a.

**75-5536. State agency payroll deduction plans.** (a) As used in this section, "agency payroll deduction" means a payroll deduction established by a state agency from the salary or wages of a state employee of the state agency for (1) payment of fees, charges or other payments owed to a state agency, (2) contributions to the endowment association or foundation for a state agency which is a state educational institution, as defined by K.S.A. 76-711 and amendments thereto, and which employs the state employee, or (3) other payments for which the employee's state agency has been performing a function of receiving payments for distribution to another firm or entity and such function was ongoing prior to January 1, 1990. "Agency payroll deduction" shall not include any deduction directly affecting amounts to be withheld or reported for federal, state and local income taxes.

(b) A state agency may establish an agency payroll deduction plan pursuant to this section. Each proposed agency payroll deduction plan shall be submitted to the director of accounts and reports, who shall review the plan and then forward a copy to the secretary of administration together with any recommendations and comments. The plan shall specify the conditions, limitations and restrictions applicable to the plan. The conditions, limitations and restrictions of the plan may include, but are not limited to, maximum and minimum limitations on the amount to be deducted from the salaries or wages and provisions for the modification or withdrawal of any authorization for any agency payroll deduction by an employee.

(c) Implementation or continuation of any agency payroll deduction plan shall be subject to the approval of the secretary of administration to assure that adequate data processing and accounting resources are available for proper functioning of the plan.

(d) An agency payroll deduction plan established pursuant to this section shall be administered by the state agency establishing the plan in accordance with this section and in accordance with the accounting and payroll procedures approved for such plan by the director of accounts and reports.

(e) No payroll deduction shall be made from the salary or wages of any employee under an agency payroll deduction plan except upon written authorization of such employee. Any amounts deducted from the salary or wages of an employee



may be subject to maximum and minimum amounts which are established by the state agency under this section. Any such written authorization may be withdrawn or modified by the employee upon filing written notice of such withdrawal of modification in the manner and at the times prescribed by the state agency under the agency payroll deduction plan established under this section.

**History:** L. 1990, ch. 296, § 1; Jan. 1, 1991.

**75-5537. Overtime compensation, mandatory provisions of rules and regulations; invalidation of contrary provisions.** Except as otherwise required by federal law, after December 31, 1994, any rule and regulation relating to overtime compensation for state employees adopted by the secretary of administration shall provide that only hours actually worked may be considered in determining whether overtime compensation is due and the amount of overtime compensation due, whether in the form of overtime pay or compensatory time off in lieu of overtime pay. After December 31, 1994, to the extent that any rule and regulation adopted by the secretary of administration prior to the effective date of this act contains a provision contrary to this section, that portion of the rule and regulation, and documents pertaining to such portion of the rule and regulation, shall have no effect and shall not be enforced.

**History:** L. 1994, ch. 352, § 3; May 19.

**75-5538, 75-5539. Reserved.**

**75-5540. Payroll remittance plan for direct deposit of compensation; authorization by employee.** As part of the system of payroll accounting formulated under K.S.A. 75-5501, and amendments thereto, the director of accounts and reports shall develop and authorize a payroll remittance plan which will allow the salaries and wages of state officers or employees to be deposited directly to the accounts of such officers or employees, in banks, savings and loan associations or credit unions. Such direct deposits shall be made only upon the written authorization and direction of such state officers or employees.

**History:** L. 1988, ch. 344, § 1; Jan. 1, 1989.

**Source or prior law:**  
75-3733.

**75-5541. Longevity bonus payments; eligibility; limitations; administration.** (a) Each classified employee, excluding any such employee who is on temporary appointment, and each non-

judicial employee in the unclassified service under the Kansas civil service act in a state agency in the judicial branch of state government, shall receive a bonus as provided by this section, which shall be referred to as a longevity bonus, under the terms and conditions and subject to the limitations prescribed by this section.

(b) After June 30, 1989, any such officer or employee who has been employed by any agency, board or department within any branch of state government, whether or not the entire period of service is continuous with the same agency, board or department, shall be eligible to receive a longevity bonus upon completion of 120 months of state service. Length of service and service anniversary dates shall be determined pursuant to rules and regulations adopted by the secretary of administration.

(c) The amount of each longevity bonus payment shall be computed by multiplying \$40 by the number of full years of state service, not to exceed 25 years, rendered by such officer or employee as of the service anniversary date within such fiscal year.

(d) Each longevity bonus payment shall be included in the employee's regular pay warrant. The amount of the bonus shall be displayed separately on the warrant stub or advice.

(e) Longevity bonus payments shall be compensation, within the meaning of K.S.A. 74-4901 *et seq.*, and amendments thereto, for all purposes under the Kansas public employees retirement system and shall be subject to applicable deductions for employee contributions notwithstanding the fact that payments are made annually. Longevity bonus payments shall be in addition to the regular earnings to which an officer or employee may become entitled or for which such employee may become eligible.

(f) The purpose of longevity pay is to recognize permanent employees who have provided experience and faithful long-term service to the state of Kansas in order to encourage officers and employees to remain in the service of the state. The provisions of this section shall apply to fiscal years commencing after June 30, 1989. The mandatory language of this section shall be construed to confirm that longevity pay is intended, and has been intended since its enactment, to be a bonus as defined in 29 C.F.R. §778.208.

(g) In accordance with the provisions of K.S.A. 75-3706, and amendments thereto, the secretary of administration shall adopt rules and



regulations to implement the provisions of this section with respect to officers and employees in the executive branch of state government. The supreme court may adopt policies to implement the provisions of this section with respect to officers and employees who are nonjudicial personnel of state agencies in the judicial branch of state government.

**History:** L. 1989, ch. 260, § 3; L. 1994, ch. 352, § 4; L. 1995, ch. 132, § 6; Dec. 17.

**Cross References to Related Sections:**

Pay plan, see 75-2938.

**CASE ANNOTATIONS**

1. Whether state law enforcement employees longevity pay was bonus for overtime compensation purposes examined. *Schmitt v. State of Kan.*, 844 F.Supp. 1449, 1453, 1463 (1994).

**STATE EMPLOYEE LEAVES OF ABSENCE**

**75-5542. State leave payment reserve fund; payment of compensation for accumulated sick and vacation leave; duties of secretary of administration.** (a) As used in K.S.A. 75-5542 to 75-5545, inclusive, and amendments thereto, "state agency" means the state, or any department or agency of the state, but not including the Kansas turnpike authority, the council on vocational education or any political subdivision of the state.

(b) For the purposes of providing for the payment of compensation for accumulated sick and vacation leave on retirement from state service arising on and after July 1, 1994, and for the payment of accumulated hours of sick leave upon being laid off from state service as provided under K.S.A. 75-4371 and amendments thereto arising on and after July 1, 1996, there is hereby established the state leave payment reserve fund in the state treasury.

(c) The state leave payment reserve fund shall be liable to pay compensation for accumulated sick and vacation leave on retirement from state service arising on and after July 1, 1994, and for the payment of accumulated hours of sick leave upon being laid off from state service as provided under K.S.A. 75-4371 and amendments thereto arising on and after July 1, 1996. To this end and for the purposes of K.S.A. 75-5542 to 75-5545, inclusive, and K.S.A. 75-4371, and amendments thereto, all state agencies are hereby deemed to be a single employer whose liabilities specified in subsection (b) are hereby imposed upon the state leave payment reserve fund.

(d) The secretary of administration shall administer the state leave payment reserve fund and all payments from such fund shall be upon warrants of the director of accounts and reports issued pursuant to the system of payroll accounting formulated under K.S.A. 75-5501 *et seq.*, and amendments thereto, or pursuant to K.S.A. 75-5540 and amendments thereto. The director of accounts and reports may issue warrants pursuant to vouchers approved by the secretary for payments from the state leave payment reserve fund notwithstanding the fact that claims for such payments were not submitted or processed for payment from money appropriated for the fiscal year in which the state leave payment reserve fund first became liable to make such payments.

(e) The secretary of administration shall remit all moneys received by or for the secretary in the capacity as administrator of the state leave payment reserve fund, to the state treasurer. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury to the credit of the state leave payment reserve fund.

(f) In the computation of accumulated vacation leave, time served as an elected official in an elected position for which vacation leave is not credited shall not be credited to length of service for employees who are appointed to the classified or unclassified service in the executive branch of state government.

**History:** L. 1992, ch. 207, § 1; L. 1994, ch. 176, § 1; L. 1996, ch. 255, § 10; July 1.

**75-5543. Same; leave payment reserve assessment; rate and amount of assessment; gross wages defined.** (a) Commencing with the first payroll period chargeable to funds appropriated for the fiscal year beginning on July 1, 1994, and for each payroll period thereafter, each state agency shall certify with each payroll, the amount of each leave payment reserve assessment for such state agency, not in conflict with appropriations therefor. The director of accounts and reports shall transfer the amount of each leave payment reserve assessment for such state agency to the credit of the state leave payment reserve fund.

(b) For fiscal years beginning July 1, 1994, and each July 1 thereafter, the secretary of administration shall determine annually the rate of the leave payment reserve assessment for all state agencies based upon the experience of all state agencies. Such rate shall be expressed as a per-



centage and shall be the same for all state agencies. The secretary of administration may utilize actuarial and other professional assistance in determining the rate of the leave payment reserve assessment under this section. On or before July 15, 1994, and each July 15 thereafter, the director of the budget shall notify each state agency of the rate of the leave payment reserve assessment for the next fiscal year. The secretary of administration may adjust the rate of the leave payment reserve assessment during a fiscal year as necessary to pay projected expenditures as they become due.

(c) The amount of the leave payment reserve assessment for each state agency shall be determined by multiplying the total gross wages for each employee for each payroll period of such state agency, by the rate of the leave payment reserve assessment for the fiscal year.

(d) As used in this section "gross wages" means all compensation for services, including commissions, bonuses, back pay and the value of all remuneration including benefits paid in any medium other than cash.

**History:** L. 1992, ch. 207, § 2; L. 1994, ch. 176, § 2; July 1.

**75-5544. Same; manner in which compensation made.** Compensation for accumulated sick and vacation leave on retirement from state service arising on and after July 1, 1994, shall be made from the state leave payment reserve fund in the manner specified by the secretary of administration.

**History:** L. 1992, ch. 207, § 3; L. 1994, ch. 176, § 3; July 1.

**75-5545. Same; rules and regulations.** The secretary of administration may adopt rules and regulations necessary for the administration of the state leave payment reserve fund, including the processing of payments from such fund. Such rules and regulations shall be subject to the provisions of K.S.A. 75-3706 and amendments thereto and shall be adopted in accordance therewith.

**History:** L. 1992, ch. 207, § 4; July 1.

**75-5546. Disaster service volunteer leave; citation of act.** This act shall be known and may be cited as the disaster service volunteer leave act.

**History:** L. 1993, ch. 33, § 1; July 1.

**75-5547. Same; definitions.** As used in this act:

(a) "State agency" means any state office or officer, department, board, commission, institution, bureau or any agency, division or unit within any office, department, board, commission or other state authority or any person requesting a state appropriation;

(b) "disaster" includes disasters designated at level II and above in the American national red cross regulations and procedures.

**History:** L. 1993, ch. 33, § 2; July 1.

**75-5548. Same; leave from work with pay for certified disaster service volunteers of American red cross; rate of compensation and preservation of benefits; when leave may be granted.** An employee of a state agency who is a certified disaster service volunteer of the American red cross may be granted leave from work with pay for not more than 20 working days in any twelve-month period to participate in specialized disaster relief services for the American red cross, upon the request of the American red cross for the services of that employee and upon the approval of that employee's state agency, without loss of seniority, pay, vacation leave, compensatory time, personal vacation days, sick leave or earned overtime accumulation. The state agency shall compensate an employee granted leave under this section at the employee's regular rate of pay for those regular work hours during which the employee is absent from work. An employee deemed to be on leave under this section shall not be deemed to be an employee of the state for purposes of workers compensation. An employee deemed to be on leave under this section shall not be deemed to be an employee of the state for purposes of the Kansas tort claims act. Leave under this act shall be granted only for services related to a disaster occurring within the state of Kansas and states contiguous to Kansas.

**History:** L. 1993, ch. 33, § 3; July 1.

**75-5549. State employee leave sharing program, authorization; rules and regulations; guidelines.** The secretary of administration, upon recommendation of the director of personnel services, is hereby authorized to adopt rules and regulations as provided by K.S.A. 75-3706, and amendments thereto, establishing a program for the sharing of leave between employees of the state of Kansas. Employees authorized to share leave pursuant to such rules and reg-



ulations shall be authorized to donate annual and sick leave to other state employees who are suffering from, or who have a family member suffering from, an extraordinary or severe illness, injury, impairment or physical or mental condition which has caused, or is likely to cause, the employee to take leave without pay or terminate employment. As used in this section "extraordinary or severe" means serious, extreme or life threatening.

**History:** L. 1994, ch. 240, § 1; July 1.

# **Article 56.—DEPARTMENT OF HEALTH AND ENVIRONMENT**

## **Revisor's Note:**

The Department of Health and Environment was created by 1974 Executive Reorganization Order No. 3, Feb. 6, 1974. (L. 1974, ch. 351.) 75-5601 to 75-5625.

## **Cross References to Related Sections:**

Activities of secretary of health and environment, see ch. 65, art. 1.

Regulation of food service and lodging establishments, see ch. 36, art. 5.

## **GENERAL PROVISIONS**

**75-5601. Secretary of health and environment; appointment and confirmation; creation of department of health and environment; department and office of secretary subject to K-GOAL.** (a) There is hereby created a department of health and environment, the head of which shall be the secretary of health and environment, which office is hereby created. The governor shall appoint the secretary of health and environment, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, and the secretary shall serve at the pleasure of the governor. The department of health and environment shall consist of the division of health and the division of environment. The secretary of health and environment shall receive an annual salary fixed by the governor.

(b) The provisions of the Kansas governmental operations accountability law apply to the office of secretary of health and environment and the department of health and environment, and the office and department are subject to audit, review and evaluation under such law.

**History:** L. 1974, ch. 351, § 1; L. 1978, ch. 308, § 76; L. 1982, ch. 347, § 74; L. 1992, ch. 116, § 50; July 1.

## **Research and Practice Aids:**

Physicians and Surgeons — 2.

C.J.S. Physicians, Surgeons, and Other Health-Care Providers §§ 2 to 11, 54 to 56, 104 to 110.

## **Law Review and Bar Journal References:**

"State Environmental Impact Statements," Karen Black and John Black, 15 W.L.J. 64, 84 (1976).

"Environmental Law Creeps into Kansas: A Commentary on the Concerned Citizens United Suit," George Cameron Coggins and William H. Hensley, 23 K.L.R. 421, 422 (1975).

## **Attorney General's Opinions:**

Local health departments; home rule; name changes. 87-176.

**75-5602. Transfer of powers, duties and functions; preservation of rules and regulations, orders and directives.** (a) All of the powers, duties, functions, records, property and personnel of the existing state board of health and the state department of health including the power to expend funds now or hereafter made available in accordance with appropriation acts are hereby transferred to and conferred and imposed upon the secretary of health and environment created by this order, except as is herein otherwise provided.

(b) The secretary of health and environment created by this order shall be the successor in every way to the powers, duties and functions of the state board of health, the state department of health, and the director of health in which the same were vested prior to the effective date of this order, except as herein otherwise provided. Every act performed under the authority of the secretary of health and environment created by this order shall be deemed to have the same force and effect as if performed by the state board of health, the state department of health or the director of health, in which such functions were vested prior to the effective date of this order.

(c) Whenever the state board of health, or the state department of health, or words of like effect, is referred to or designated by the statute, contract or other document, such reference or designation shall be deemed to apply to the secretary of health and environment created by this order.

(d) Whenever the executive secretary of the state board of health or the director of health, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary of health and environment created by this order.

(e) All rules and regulations and all orders or directives of the state board of health or the director of health in existence on the effective date of this order, shall continue to be effective and shall be deemed to be the rules and regulations



**75-53,115** STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES

(b) Notwithstanding the provisions of subsection (a) an eligible foster child shall not have waived the amount of tuition waived for any course repeated or taken in excess of the requirements for completion of the educational program in which such foster child is enrolled.

(c) Within the limits of appropriations available therefor, the secretary may make expenditures to reimburse each eligible foster child who is enrolled in a Kansas educational institution and who is participating in the program for room and board, technical equipment, course required fees and books.

(d) Each eligible foster child who is enrolled in a Kansas educational institution and who is participating in the program shall be responsible for all fees charged by the Kansas educational institution that are not directly related to and required for the courses in the educational program of the eligible foster child.

**History:** L. 2006, ch. 132, § 4; July 1.

**75-53,115. Same; continuing requirements for program participation.** In order to remain eligible for participation in the program, an eligible foster child shall remain in good standing at the Kansas educational institution where the eligible foster child is enrolled and shall make satisfactory progress toward completion of the requirements of the educational program in which the eligible foster child is enrolled.

**History:** L. 2006, ch. 132, § 5; July 1.

**75-53,116. Same; enrollment not contingent on available appropriations.** No Kansas educational institution shall delay enrollment of an eligible foster child who is participating in the program because appropriations are not available therefor.

**History:** L. 2006, ch. 132, § 6; July 1.

**75-53,117. Same; rules and regulations.** The secretary shall adopt rules and regulations for administration of the Kansas foster child educational assistance act.

**History:** L. 2006, ch. 132, § 7; July 1.

**75-53,118. Same; annual report to legislature.** On or before January 15, 2007, and January 15, 2008, the secretary shall publish an annual report on the Kansas foster child educational assistance act and shall present the report to the legislature. The annual report shall specifically account for the ways in which the purpose of this act have been carried out and the recommenda-

tions shall specifically note what changes are necessary to better address the purposes described in this act.

**History:** L. 2006, ch. 132, § 8; July 1.

**75-53,119. Same; expiration date of provisions.** The provisions of K.S.A. 2006 Supp. 75-53,111 through 75-53,119 shall expire on June 30, 2008.

**History:** L. 2006, ch. 132, § 9; July 1.

**75-53,120. Same; eligibility for tuition waiver continuing, when.** Any eligible foster child who received a tuition waiver before June 30, 2008, under the provisions of the Kansas foster child educational assistance program in effect prior to June 30, 2008, and is deemed by the state board of regents to be eligible pursuant to this section and the provisions of the Kansas foster child educational assistance program in effect prior to June 30, 2008, shall be allowed to remain eligible and continue to receive the waiver of tuition in accordance with the provisions of the Kansas foster child educational assistance program in effect prior to June 30, 2008, until such eligible foster child completes such eligible foster child's course of study or becomes ineligible pursuant to the provisions of the Kansas foster child educational assistance program in effect prior to June 30, 2008.

**History:** L. 2006, ch. 132, § 10; July 1.

**Article 55.—PAYROLL ACCOUNTING  
FOR STATE AGENCIES**

**75-5520a. Deferred compensation plan for state employees; short title.** The provisions of K.S.A. 75-5521 through 75-5529a and K.S.A. 2006 Supp. 75-5520a and 75-5529c and amendments thereto shall be known and may be cited as the Kansas public employees deferred compensation act.

**History:** L. 1998, ch. 18, § 1; July 1.

**Revisor's Note:**

Reference to 75-5529a apparently should refer to 75-5529b.

**75-5521. Deferred compensation plan for state employees; definitions.** (a) "Beneficiary" means any person designated to receive benefits under a deferred compensation plan.

(b) "Deferred compensation plan" means a plan developed and approved as provided in this act and under which a participant elects to defer, transfer or rollover amounts as permitted by the plan.



(c) "Director" means the director of accounts and reports.

(d) "State" means the state of Kansas and any state agency as defined in subsection (3) of K.S.A. 75-3701, and amendments thereto.

**History:** L. 1976, ch. 367, § 1; L. 1978, ch. 332, § 51; L. 1979, ch. 298, § 1; L. 2002, ch. 192, § 2; June 6.

**75-5523. Deferred compensation plan for state employees; establishment; agreements for plan benefits and services.** (a) The director is authorized to establish a deferred compensation plan in accordance with section 457 of the federal internal revenue code of 1986, and amendments thereto, subject to the approval of the secretary of administration. Such plan shall be the Kansas public employees deferred compensation plan. All powers and duties heretofore conferred by such plan upon the advisory committee on deferred compensation are hereby transferred to the director of personnel services or the director's designees.

(b) The director may enter into an agreement or agreements with approved insurers or other contracting parties whereby benefits under the Kansas public employees deferred compensation plan would be made available to participants. In addition, the director may enter into an agreement with one or more qualified private firms for consolidated billing services, participant enrollment services, participant accounts and other services related to the administration of the Kansas public employees deferred compensation plan.

(c) No significant costs shall be incurred by the state as a result of the administration of this act unless such costs are recovered by charging and collecting a service charge from all participants and in addition thereto or in lieu thereof, where the director has entered into agreements with one or more qualified private firms under subsection (b), are recovered from such firms. The amount of any such significant costs incurred and to be recovered by the state shall be determined by the director.

(d) Subject to the approval of the secretary of administration, the director is authorized to negotiate and enter into contracts with qualified insurers and other contracting parties for the purposes of establishing a deferred compensation plan, including acquisition of actuarial and other services necessary therefor. The director shall advertise for deferred compensation proposals, shall

negotiate with not less than three firms or other contracting parties submitting such proposals, and shall select from among those submitting such proposals the firm or firms or other contracting party or parties to contract with for purposes of establishing a deferred compensation plan. Contracts entered into under this act shall not be subject to K.S.A. 75-3739 and amendments thereto.

**History:** L. 1976, ch. 367, § 3; L. 1979, ch. 298, § 2; L. 1988, ch. 301, § 30; L. 2002, ch. 192, § 3; June 6.

**75-5524. Same; employee participation agreements; service charge; payroll deductions, minimum and maximum; state liability limited; amounts deferred considered for retirement purposes; clearing fund.** (a) The director is authorized to enter into a voluntary agreement with any employee whereby the director agrees to defer and deduct each payroll period a portion of the employee's salary or compensation from the state in accordance with the Kansas public employees deferred compensation plan. Such agreement may require each participant to pay a service charge to defray all or part of any significant costs incurred and to be recovered by the state pursuant to subsection (c) of K.S.A. 75-5523, and amendments thereto, as a result of the administration of this act. Pursuant to this act and such agreements the director is authorized to deduct amounts authorized in such agreements from the salary or compensation of such employee each payroll period, as part of the system of regular payroll deduction. On and after July 1, 2002, pursuant to section 401(a) of the federal internal revenue code, the director may establish a qualified plan under which the state may contribute a specified amount, subject to appropriations, to the deferred compensation plan for state employees who have entered into a voluntary agreement with the director under this section.

(b) The minimum amount and the maximum amount which may be deferred in any one payroll period shall be established by rules and regulations adopted under K.S.A. 75-5529, and amendments thereto.

(c) The Kansas public employees deferred compensation plan shall exist and be in addition to, and shall not be a part of any retirement or pension system for employees. The state shall not be responsible for any loss incurred by a participant under the Kansas public employees deferred



compensation plan established and approved pursuant to this act.

(d) Any amount of the employee's salary or compensation that is deferred under such authorized agreement shall continue to be included as regular compensation for all purposes of computing retirement and pension benefits earned by any such employee, but any sum deferred or deducted shall not be subject to any state or local income taxes for the year in which such sum is earned but shall be subject to applicable state and local income taxes for the year in which such sum is received by the employee.

(e) The director is hereby authorized to establish a deferred compensation clearing fund in the state treasury in which shall be placed temporarily all compensation deferred, deducted or contributed in accordance with this act, as provided for in any agreement between a participant and the director.

**History:** L. 1976, ch. 367, § 4; L. 1979, ch. 298, § 3; L. 2002, ch. 116, § 10; L. 2002, ch. 192, § 4; June 6.

**Law Review and Bar Journal References:**

"2002 Legislative Wrap-Up," Paul T. Davis, 71 J.K.B.A. No. 7, 15 (2002).

**75-5525. Same; amounts deferred, transferred or rolled-over held in trust; diversion of assets prohibited; not subject to premium tax or insurance law charges.** (a) All moneys which are deferred, transferred or rolled-over in accordance with the provisions of the deferred compensation plan, and the provisions of this act, shall be held in trust in accordance with section 457 of the federal internal revenue code of 1986, and amendments thereto, for the exclusive benefit of participants and their beneficiaries, and shall be disposed of in accordance with the terms of the agreement with the participant. No part of the assets of the plan may be used for, or diverted to, purposes other than for the exclusive benefit of participants and the participant's beneficiaries and for defraying reasonable expenses of the plan.

(b) Amounts payable to the deferred compensation plan pursuant to the plan shall not be subject to any premium tax or other charges arising under the insurance laws of this state. If any such tax or charge has been paid prior to the effective date of this act, the same shall be refunded.

**History:** L. 1976, ch. 367, § 5; L. 1979, ch. 298, § 4; L. 1981, ch. 355, § 1; L. 1998, ch. 18, § 3; L. 2002, ch. 192, § 5; June 6.

**75-5529c. Same; oversight committee; duties.** (a) The secretary of administration shall establish an administrative oversight committee on deferred compensation. The members of the administrative oversight committee on deferred compensation shall meet at least once each calendar quarter. The members of the administrative oversight committee on deferred compensation shall receive no compensation or expenses for service on the committee.

(b) The administrative oversight committee on deferred compensation shall:

(1) Advise and consult on the implementation and administration of the provisions of the Kansas public employees deferred compensation act and the deferred compensation plan;

(2) evaluate the program operations with respect to customer service and operations;

(3) evaluate investment performance as it relates to comparable options;

(4) evaluate program operations with respect to federal and state statutes and contractual requirements and as compared to other deferred compensation programs;

(5) review the overall administration of each agreement entered into under K.S.A. 75-5523 and amendments thereto for the deferred compensation plan and the overall performance by the qualified insurer or other qualified contracting party entering into such agreement;

(6) review the investment management fees under the deferred compensation plan for reasonableness compared with other deferred compensation programs;

(7) review audits conducted on the deferred compensation plan and other reports reviewing program operations thereunder to assure operations are following all applicable statutes and rules and regulations and to assure coverage of appropriate deferred compensation plan accounts of participants under the Kansas life and health insurance guaranty associations act;

(8) review overall performance of the contracting party under the agreement entered into under K.S.A. 75-5523 and amendments thereto for the deferred compensation plan that is in effect on the effective date of this act and determine whether or not competition should be initiated



with other qualified insurers and other qualified contracting parties to enter into such agreements;

(9) review current procedures for handling complaints about the deferred compensation plan to ensure customer satisfaction and sharing of complaint information;

(10) evaluate on a continuing basis the need to provide participants with information regarding the provisions, requirements and procedures under the deferred compensation plan; and

(11) periodically prepare and present reports of the findings and results of the activities of the committee to the secretary of administration, the governor and the legislature, as appropriate.

**History:** L. 1998, ch. 18, § 2; July 1.

**75-5530. State employee payroll deductions for purchase of United States savings bonds; rules and regulations; state employee defined.** (a) Upon receipt of written authorization by any state employee, the director of accounts and reports shall make periodic deductions of amounts as specified in such authorization from the salary or wages of such state employee for the purposes of purchasing United States savings bonds. The director of accounts and reports shall make payments of such amounts in accordance with such authorization and the payroll deduction plan adopted pursuant to subsection (b). Any amounts deducted from the salary or wages of such state employee pursuant to such authorization shall be subject to the maximum and minimum amounts established by rules and regulations adopted pursuant to subsection (c). Any such written authorization may be withdrawn or modified by such state employee upon filing written notice of such withdrawal or modification in the manner and at the times prescribed in rules and regulations adopted pursuant to subsection (c).

(b) The director of accounts and reports shall establish a payroll deduction plan for the purchase of United States savings bonds by state employees. Such plan shall be administered by the director of accounts and reports in accordance with rules and regulations adopted pursuant to subsection (c) and such additional accounting procedures as may be prescribed by the director of accounts and reports.

(c) The secretary of administration, upon the recommendation of the director of accounts and reports, shall adopt rules and regulations as provided in K.S.A. 75-3706, and amendments thereto, for the implementation and administration of this act. Such rules and regulations shall include maximum and minimum limitations on the amounts to be deducted from the salary or wages of any state employee and provisions for the modification or withdrawal of any authorization to make periodic deductions for the purchase of United States savings bonds under this act.

(d) As used in this act, the term "state employee" or "employee" means any appointed or elective officer or any employee of the state of Kansas.

**History:** L. 1977, ch. 285, § 1; L. 2002, ch. 192, § 6; June 6.

**75-5531. State employee payroll deductions for contributions to charitable organizations; definitions.** As used in K.S.A. 75-5531 to 75-5534, inclusive, and amendments thereto:

(a) "Community health charities" means community health charities of Kansas and Missouri, Inc.

(b) "State employee" or "employee" means any appointed or elective officer or any employee of the state of Kansas.

(c) "United way organization" means the organization conducting a single, annual, consolidated effort to secure funds for distribution to agencies engaged in charitable, public health, welfare or service purposes, which commonly is known as the united way. Such term includes the united fund, the community chest or any other organization which serves in communities or areas of the state where the united way is not organized.

**History:** L. 1979, ch. 277, § 1; L. 2002, ch. 192, § 7; L. 2006, ch. 120, § 1; July 1.

**75-5532. Same; notification by employing agency of employee authorization; amounts deducted, limits; authorization withdrawal or modification; payroll deduction plan.** (a) Upon notification of an employing agency's receipt of written authorization by any state employee, the director of accounts and reports shall make periodic deductions of amounts as specified in such authorization from the salary or wages of such state employee for the purpose of contributing to a united way organization or community health charities and shall make payments of such amounts in accordance with such authorization and the payroll deduction plan adopted under subsection (b). Any amounts deducted from the salary or wages of such state employee pursuant to such authorization shall be subject to the maximum and minimum amounts



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established by rules and regulations adopted under K.S.A. 75-5534 and amendments thereto. Any such written authorization may be withdrawn or modified by such state employee upon filing written notice of withdrawal or modification in the manner and at the times prescribed in rules and regulations adopted under K.S.A. 75-5534 and amendments thereto.

(b) As part of the system of payroll accounting formulated under K.S.A. 75-5501 and amendments thereto, the director of accounts and reports shall establish a payroll deduction plan for the purpose of making contributions to united way organizations and to community health charities by state employees. Such plan shall be administered by the director of accounts and reports in accordance with rules and regulations adopted under K.S.A. 75-5534 and amendments thereto and such additional accounting procedures as may be prescribed by the director of accounts and reports.

**History:** L. 1979, ch. 277, § 2; L. 1990, ch. 318, § 5; L. 2006, ch. 120, § 2; July 1.

**75-5533. Same; fees for making payroll deductions and payments; manner of collection; disposition.** (a) The director of accounts and reports shall charge and collect a fee for making payroll deductions and payments authorized under K.S.A. 75-5531 to 75-5534, inclusive, and amendments thereto. Such fees shall be fixed in an amount equal to the total costs incurred in making the necessary transfers and transactions, including administrative costs, to accomplish the purpose involved as determined by the director of accounts and reports with the approval of the secretary of administration. The fees fixed shall be levied against and shall be paid by the united way organization or community health charities which receives payments pursuant to written authorizations by state employees under this section. Such fees shall be paid as part of each transaction remitting payments to the united way organization or community health charities.

(b) All moneys received by the director of accounts and reports from the fees levied under this section shall be remitted to the state treasurer in accordance with the provisions [of] K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the accounting services recovery fund.

**History:** L. 1979, ch. 277, § 3; L. 2001, ch. 5, § 402; L. 2006, ch. 120, § 3; July 1.

**75-5534. Same; rules and regulations for administration, prohibited acts.** The secretary of administration, upon the recommendation of the director of accounts and reports, may adopt rules and regulations as provided in K.S.A. 75-3706, and amendments thereto, for the implementation and administration of K.S.A. 75-5531 to 75-5534, inclusive, and amendments thereto. Such rules and regulations shall include: (a) Provisions prohibiting the use of official action or threat of official action by a state employee to coerce or attempt to coerce a subordinate state employee to contribute to a united way organization or community health charities; and (b) maximum and minimum limitations on the amounts to be deducted from the salary or wages of any state employee and provisions for the modification or withdrawal of any authorization to make periodic deductions for the purpose of making contributions to united way organizations or community health charities.

**History:** L. 1979, ch. 277, § 4; L. 1983, ch. 291, § 6; L. 2006, ch. 120, § 4; July 1.

**75-5537. Overtime compensation, determinations; holidays counted as time worked, when.** (a) Except as otherwise required by federal law or by the provisions of this section, after June 11, 2000, any rule and regulation relating to overtime compensation for state employees adopted by the secretary of administration shall provide that only hours actually worked may be considered in determining whether overtime compensation is due and the amount of overtime compensation due, whether in the form of overtime pay or compensatory time off in lieu of overtime pay. After June 11, 2000, to the extent that any rule and regulation previously adopted by the secretary of administration contains a provision contrary to this section, that portion of the rule and regulation, and documents pertaining to such portion of the rule and regulation, shall have no effect and shall not be enforced.

(b) Each official state holiday which occurs within a regularly scheduled workweek may be counted as time worked in determining the amount of overtime work for state employees.

**History:** L. 1994, ch. 352, § 3; L. 2000, ch. 112, § 2; July 11.



**75-5541.****CASE ANNOTATIONS**

2. State employee can not be denied longevity bonus because of administrative changes in anniversary date or changes in payroll period. *Shelley v. Kansas Dept. of Human Resources*, 27 K.A.2d 715, 8 P.3d 33 (2000).

**75-5542. State leave payment reserve fund; payment of compensation for accumulated sick and vacation leave; duties of secretary of administration.** (a) As used in K.S.A. 75-5542 to 75-5545, inclusive, and amendments thereto, "state agency" means the state, or any department or agency of the state, but not including the Kansas turnpike authority, the university of Kansas hospital authority or any political subdivision of the state.

(b) For the purposes of providing for the payment of compensation for accumulated sick and vacation leave on retirement from state service arising on and after July 1, 1994, and for the payment of accumulated hours of sick leave upon being laid off from state service as provided under K.S.A. 75-4371, and amendments thereto, arising on and after July 1, 1996, there is hereby established the state leave payment reserve fund in the state treasury.

(c) The state leave payment reserve fund shall be liable to pay compensation for accumulated sick and vacation leave on retirement from state service arising on and after July 1, 1994, and for the payment of accumulated hours of sick leave upon being laid off from state service as provided under K.S.A. 75-4371, and amendments thereto, arising on and after July 1, 1996. To this end and for the purposes of K.S.A. 75-5542 to 75-5545, inclusive, and K.S.A. 75-4371, and amendments thereto, all state agencies are hereby deemed to be a single employer whose liabilities specified in subsection (b) are hereby imposed upon the state leave payment reserve fund.

(d) The secretary of administration shall administer the state leave payment reserve fund and all payments from such fund shall be upon warrants of the director of accounts and reports issued pursuant to the system of payroll accounting formulated under K.S.A. 75-5501 *et seq.* and amendments thereto, or pursuant to K.S.A. 75-5540, and amendments thereto. The director of accounts and reports may issue warrants pursuant to vouchers approved by the secretary for payments from the state leave payment reserve fund notwithstanding the fact that claims for such payments were not submitted or processed for pay-

ment from money appropriated for the fiscal year in which the state leave payment reserve fund first became liable to make such payments.

(e) The secretary of administration shall remit all moneys received by or for the secretary in the capacity as administrator of the state leave payment reserve fund, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state leave payment reserve fund.

(f) In the computation of accumulated vacation leave, time served as an elected official in an elected position for which vacation leave is not credited shall not be credited to length of service for employees who are appointed to the classified or unclassified service in the executive branch of state government.

**History:** L. 1992, ch. 207, § 1; L. 1994, ch. 176, § 1; L. 1996, ch. 255, § 10; L. 1999, ch. 168, § 2; L. 2001, ch. 5, § 403; July 1.

**75-5543. Same; leave payment reserve assessment; rate and amount of assessment; gross wages defined.** (a) Commencing with the first payroll period chargeable to funds appropriated for the fiscal year beginning on July 1, 1994, and for each payroll period thereafter, each state agency shall certify with each payroll, the amount of each leave payment reserve assessment for such state agency, not in conflict with appropriations therefor. The director of accounts and reports shall transfer the amount of each leave payment reserve assessment for such state agency to the credit of the state leave payment reserve fund.

(b) For fiscal years beginning July 1, 1994, and each July 1 thereafter, the secretary of administration shall determine annually the rate of the leave payment reserve assessment for all state agencies based upon the experience of all state agencies. Such rate shall be expressed as a percentage and shall be the same for all state agencies. The secretary of administration may utilize actuarial and other professional assistance in determining the rate of the leave payment reserve assessment under this section. On or before July 15, 1994, and each July 15 thereafter, the director of the budget shall notify each state agency of the rate of the leave payment reserve assessment for the next fiscal year. The secretary of administration may adjust the rate of the leave payment reserve assessment during a fiscal year as necessary



to pay projected expenditures as they become due.

(c) The amount of the leave payment reserve assessment for each state agency shall be determined by multiplying the total gross wages for each employee for each payroll period of such state agency, by the rate of the leave payment reserve assessment for the fiscal year.

(d) As used in this section "gross wages" means all compensation for services, including commissions, bonuses, back pay and the value of all remuneration including benefits paid in any medium other than cash. For purposes of this section, "gross wages" shall not include any payments made by the state board of regents pursuant to the provisions of subsection (5) of K.S.A. 74-4927a, and amendments thereto, to a member of the faculty or other person defined in subsection (1)(a) of K.S.A. 74-4925, and amendments thereto.

**History:** L. 1992, ch. 207, § 2; L. 1994, ch. 176, § 2; L. 2006, ch. 168, § 4; July 1.

**ANNUAL SUMMARY OF COMPENSATION PACKAGE**

**75-5550. Annual summary of compensation package, contents.** Each fiscal year commencing after June 30, 2001, the secretary of administration shall prepare and distribute to each state officer or employee an annual one-page summary of such officer or employee's compensation package from the state, including salary, benefits under the state health care benefits program of the Kansas state employees health care commission, the cafeteria plan administered by the secretary of administration, retirement, insured and other benefits under the Kansas public employees retirement system, paid leave and other benefits provided for under the Kansas civil service act and any other benefits provided to such officer or employee.

**History:** L. 2000, ch. 112, § 1; Apr. 27.

**Article 56.—DEPARTMENT OF HEALTH AND ENVIRONMENT**

**GENERAL PROVISIONS**

**Cross References to Related Sections:**

Umbilical cord banks, department of health and environment duties and functions, see 65-1,249.

**75-5601. Secretary of health and environment; appointment and confirmation; creation of department of health and environment;**

**department and office of secretary subject to K-GOAL.** (a) There is hereby created a department of health and environment, the head of which shall be the secretary of health and environment, which office is hereby created. The governor shall appoint the secretary of health and environment, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, and the secretary shall serve at the pleasure of the governor. The department of health and environment shall consist of the division of health and the division of environment. The secretary of health and environment shall receive an annual salary fixed by the governor.

(b) The provisions of the Kansas governmental operations accountability law apply to the department of health and environment, and the department is subject to audit, review and evaluation under such law.

**History:** L. 1974, ch. 351, § 1; L. 1978, ch. 308, § 76; L. 1982, ch. 347, § 74; L. 1992, ch. 116, § 50; L. 2001, ch. 86, § 14; April 12.

**Cross References to Related Sections:**

Kansas health policy authority, see 75-7401 et seq.

**75-5603. Division of health, establishment and administration; director of the division of health, qualifications, appointment, compensation.** There is hereby established within and as a part of the department of health and environment a division of health, the head of which shall be the director of the division of health. Under the supervision of the secretary of health and environment, the director of the division of health shall administer the division of health. The director shall be a physician, hold a valid license to practice medicine and surgery, and have experience and educational training in the field of public health. The secretary of health and environment shall appoint the director of the division of health. Each person appointed shall serve for a term of four years from and after the date of such appointment, and thereafter at the pleasure of the secretary. The director shall be in the unclassified service and shall receive an annual salary fixed by the secretary and approved by the governor.

**History:** L. 1974, ch. 351, § 3; L. 1974, ch. 352, § 186; L. 1993, ch. 169, § 1; L. 2005, ch. 122, § 6; Apr. 21.

**75-5611a.**

**History:** L. 1982, ch. 258, § 10; Repealed, L. 2004, ch. 145, § 51; July 1, 2005.



**75-6404 STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES**

and reports for payment. Interest penalties on amounts due to a vendor by a state agency shall be paid to the vendor beginning on the day after the required payment date under subsection (b) and ending seven days after the voucher for payment is sent to the director of accounts and reports, except that no interest penalty shall be paid if full payment of the amount due for such goods or services is made on or before the 15th calendar day after the required payment date under subsection (b).

(3) The chief executive officer of the unified school district shall forward a copy of each vendor's request for payment to the governing body thereof, if any, along with the documents prepared to make payment to the vendor, including payment of the interest penalty prescribed by this subsection. Interest penalties on amounts due to a vendor by a unified school district shall be paid to the vendor beginning on the day after the required payment date under subsection (b) and ending on the date on which payment of the amount due is made, except that no interest penalty shall be paid if full payment of the amount due for such goods or services is made on or before the 15th calendar day after the required payment date under subsection (b).

(d) The interest penalty under this section shall be computed at the rate of 1.5% per month on the amount of the payment which is due in accordance with this section. Any amount of an interest penalty which remains unpaid at the end of any thirty-day period after the required payment date under subsection (b) shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on such added amount.

(e) In the event a state agency denies liability and alleges grounds to not make payment after a vendor has requested payment therefor in accordance with subsection (c), the state agency shall inform the vendor in writing of the reasons therefor and that the vendor has the right to file a claim on the dispute with the joint committee on special claims against the state.

(f) No interest penalty shall be payable if a vendor fails to request payment in accordance with subsection (c) within four months after the payment date prescribed by subsection (b).

**History:** L. 1984, ch. 310, § 3; Jan. 1, 1985.

**Attorney General's Opinions:**

Unified school district, authority to contract; incurring liability; securing payment of obligations. 96-36.

**75-6404. Same; payments prior to final acceptance not prohibited.** Nothing in the Kansas prompt payment act shall be construed to prohibit full or partial payments by government agencies for goods or services whether or not such goods or services have been completely received or finally accepted by the government agencies.

**History:** L. 1984, ch. 310, § 4; Jan. 1, 1985.

**75-6405. Same; payment at discount rate; late penalty.** (a) If a vendor offers a government agency a discount from the amount otherwise due under a contract for goods or services in exchange for payment within a specified period of time, the government agency may make payment in an amount equal to the discounted price only if payment is made within such specified period of time.

(b) Each government agency which violates subsection (a) shall be subject to a late payment penalty under K.S.A. 75-6403 if the vendor makes a request for payment in accordance with subsection (c) of K.S.A. 75-6403.

**History:** L. 1984, ch. 310, § 5; Jan. 1, 1985.

**75-6406. Reports by state agencies.** Prior to October 1, 1985, and each October 1 thereafter, each state agency shall make a detailed report to the director of accounts and reports on any interest penalties paid or incurred under the Kansas prompt payment act during the preceding fiscal year. Such report shall include the number, amounts and frequency of interest penalty payments and accruals, the reasons such payments and accruals were not avoided by prompt payment and such other information relating thereto as may be required by the director of accounts and reports.

**History:** L. 1984, ch. 310, § 6; Jan. 1, 1985.

**75-6407. Rules and regulations.** The secretary of administration may adopt necessary rules and regulations for the implementation of the provisions of the Kansas prompt payment act applicable to state agencies.

**History:** L. 1984, ch. 310, § 7; Jan. 1, 1985.

**Article 65.—STATE EMPLOYEE  
BENEFIT PROGRAMS**

**HEALTH CARE BENEFITS PROGRAM**

**75-6501. State health care benefits program; benefits authorized; designation of persons qualified to participate, rules and**

See K.S.A. Supp.



**regulations; effective date.** (a) Within the limits of appropriations made or available therefor and subject to the provisions of appropriation acts relating thereto, the Kansas state employees health care commission shall develop and provide for the implementation and administration of a state health care benefits program.

(b) The state health care benefits program may provide benefits for persons qualified to participate in the program for hospitalization, medical services, surgical services, nonmedical remedial care and treatment rendered in accordance with a religious method of healing and other health services. The program may include such provisions as are established by the Kansas state employees health care commission, including but not limited to qualifications for benefits, services covered, schedules and graduation of benefits, conversion privileges, deductible amounts, limitations on eligibility for benefits by reason of termination of employment or other change of status, leaves of absence, military service or other interruptions in service and other reasonable provisions as may be established by the commission.

(c) The Kansas state employees health care commission shall designate by rules and regulations those persons who are qualified to participate in the state health care benefits program, including active and retired public officers and employees and their dependents as defined by rules and regulations of the commission. In designating persons qualified to participate in the state health care benefits program, the commission may establish such conditions, restrictions, limitations and exclusions as the commission deems reasonable. Each person who was formerly elected or appointed and qualified to an elective state office and who was covered immediately preceding the date such person ceased to hold such office by the provisions of group health insurance or a health maintenance organization plan under the law in effect prior to August 1, 1984, or the state health care benefits program in effect after that date, shall continue to be qualified to participate in the state health care benefits program and shall pay the cost of participation in the program as established and in accordance with the procedures prescribed by the commission if such person chooses to participate therein.

(d) The state health care benefits program established under this act shall be effective on and after August 1, 1984.

**History:** L. 1984, ch. 329, § 1; March 1.

**Cross References to Related Sections:**

Participation of laid-off employees of certain closed institutions, see 75-4372.

**Research and Practice Aids:**

States ⇒ 64.1(5), 89.

C.J.S. States §§ 117, 149, 150.

**Attorney General's Opinions:**

State departments; public officers and employees; state health care benefits; health care commission. 87-175.

**75-6502. Kansas state employees health care commission; composition; chairperson; meetings; quorum; compensation, travel allowances and expenses.** (a) There is hereby established the Kansas state employees health care commission which is composed of five members as follows: (1) the commissioner of insurance; (2) the secretary of administration; (3) a current state employee in the classified service under the Kansas civil service act, appointed by the governor; (4) a person who retired from a position in the classified service under the Kansas civil service act, appointed by the governor; and (5) a representative of the general public, appointed by the governor. A state officer or employee may not be appointed as the member representative of the general public.

(b) Each member appointed under this section by the governor shall serve at the pleasure of the governor. Not more than three members of the commission shall be members of the same political party.

(c) The chairperson of the commission shall be designated by the governor. The commission shall meet at least once each calendar quarter and at such other times as may be required on call of the chairperson or any three members thereof.

(d) A quorum of the Kansas state employees health care commission shall be three. All actions of the commission shall be taken by a majority of all of the members of the commission.

(e) Members of the Kansas state employees health care commission attending meetings of such commission, or attending a subcommittee meeting thereof authorized by such commission, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto.

**History:** L. 1984, ch. 329, § 2; L. 1992, ch. 271, § 1; July 1.

**75-6503. Same; budgeting, purchasing and related management functions; technical administrator; additional assistance by secretary of administration.** (a) Except as other-



wise provided by this act, all budgeting, purchasing and related management functions of the Kansas state employees health care commission shall be administered by the secretary of administration under the direction and supervision of the chairperson of the commission. All vouchers for expenditures and all payrolls of the Kansas state employees health care commission shall be approved by the chairperson of the commission or by a person or persons designated by the chairperson.

(b) There is hereby created the position of technical administrator for the state health care benefit program. Under the direction and supervision of the secretary of administration, the technical administrator shall provide primary staffing assistance to the commission and perform such other functions and duties as may be prescribed by the commission. The technical administrator shall be in the classified or unclassified service under the Kansas civil service act as specified by the secretary of administration and shall be appointed by the secretary of administration. Within the limits of available appropriations, the secretary of administration shall provide such additional assistance as may be requested by the commission.

**History:** L. 1984, ch. 329, § 3; L. 1995, ch. 220, § 1; July 1.

**75-6504. Same; powers for development and implementation of program; open meeting exemption; contract bidding exemption.** (a) Subject to the provisions of appropriation acts relating thereto, in developing and providing for the implementation of a state health care benefits program the Kansas state employees health care commission may:

(1) Enter into one or more group insurance contracts to provide coverage for all or part of the state health care benefits program;

(2) establish a self-funded program on an actuarially sound basis to provide coverage for all or part of the state health care benefits program and administer the self-funded program or contract for all or part of the administration of the self-funded program;

(3) provide for the self-administration of all or part of the state health care benefits program;

(4) enter into contracts with one or more health care providers for the provision of health care services;

(5) enter into contracts in accordance with the provisions of K.S.A. 75-6505, and amendments

thereto, with one or more health maintenance organizations for the provision of health care services; or

(6) any combination of the authority granted under this subsection (a).

(b) The Kansas state employees health care commission is hereby authorized to negotiate and enter into contracts with qualified insurers, health maintenance organizations and other contracting parties for the purpose of establishing the state health care benefits program, including the acquisition of consulting and other services necessary therefor. The commission shall advertise for proposals, shall negotiate with not less than three firms or other parties submitting proposals, and shall select from among those submitting proposals the firm or other contracting party to contract with for the purpose of entering into contracts for services related to the state health care benefits program.

(c) The provisions of K.S.A. 75-4317 through 75-4320a, and amendments thereto, shall not apply to meetings of the Kansas state employees health care commission when the commission meets solely for the purpose of:

(1) Discussing and preparing strategies for negotiations for such plans and contracts; and

(2) considering health care matters relating to individually identifiable plan participants.

(d) Contracts entered into pursuant to this section, K.S.A. 75-6505 or 75-6510, and amendments thereto, shall not be subject to the provisions of K.S.A. 75-3738 to 75-3740, inclusive, and amendments thereto. Such contracts may be for terms of not more than three years and may be renegotiated and renewed. All such contracts shall be subject to the limits of appropriations made or available therefor and subject to the provisions of appropriations acts relating thereto.

**History:** L. 1984, ch. 329, § 4; L. 1992, ch. 271, § 2; July 1.

**Attorney General's Opinions:**

State departments; public officers and employees; state health care benefits; health care commission. 87-175.

**75-6505. Same; contracts with health maintenance organizations.** The Kansas state employees health care commission, in accordance with the provisions of K.S.A. 75-6504, may contract to provide health care services of a health maintenance organization for persons qualified to participate in the state health care benefits program. The contract shall provide that coverage un-



der the contract is applicable to those persons qualified to participate in the state health care benefits program as the commission determines feasible. This coverage may be available to such qualified persons as an alternative to other benefits under the state health care benefits program or may be part of the benefits provided to such persons under the program. The contract may include services for spouses and dependents of members at rates established in accordance with such contract. A contract to provide health care services of a health maintenance organization under this section shall be construed to be part of the state health care benefits program.

**History:** L. 1984, ch. 329, § 5; March 1.

**75-6506. Health care benefits program; voluntary participation; payroll deductions, state and local governments and certain not-for-profit entities.** (a) The participation of a person qualified to participate in the state health care benefits program shall be voluntary, and the cost of the state health care benefits program for such person shall be established by the Kansas state employees health care commission.

(b) Periodic deductions from state payrolls may be made in accordance with procedures prescribed by the secretary of administration to cover the costs of the state health care benefits program payable by persons who are on the state payroll when authorized by such persons. Any such periodic payroll deductions in effect on an implementation date for biweekly payroll periods shall be collected in the manner prescribed by the secretary of administration.

(c) In the event that the Kansas state employees health care commission designates by rules and regulations a group of persons on the payroll of a county, township, city, special district or other local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in K.S.A. 19-4001 *et seq.* and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 *et seq.* and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101 and amendments thereto, as qualified to participate in the state health care benefits program, periodic

deductions from payrolls of the local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in K.S.A. 19-4001 *et seq.* and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 *et seq.* and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101 and amendments thereto, may be made to cover the costs of the state health care benefits program payable by such persons when authorized by such persons. All such moneys deducted from payrolls shall be remitted to the Kansas state employees health care commission in accordance with the directions of the commission.

**History:** L. 1984, ch. 329, § 6; L. 1990, ch. 282, § 25; L. 1992, ch. 271, § 3; L. 1994, ch. 279, § 24; July 1.

**Attorney General's Opinions:**

State departments; public officers and employees; state health care benefits; health care commission. 87-175.

**75-6507.**

**Revisor's Note:**

Section transferred to 75-6513.

**75-6508. Same; employer's contribution for participants; charges; not deemed wages.** (a) (1) Each state agency which has on its payroll persons participating in the state health care benefits program shall pay from any moneys available to the agency for such purpose an amount specified by the Kansas state employees health care commission, including any amounts prescribed under a cafeteria plan established under K.S.A. 75-6512, and amendments thereto. All such payments shall continue on the behalf of employees otherwise eligible for participation in the state health care benefits program in accordance with the continuation provisions of the federal family and medical leave act of 1993, P.L. 103-03, 107 Stat. 6. The commission may charge each state agency a uniform amount per person as the cost to the agency for the state's contribution for persons participating in the state health care benefits program. Such amounts may include the costs of administering the program.

(2) In the event that the Kansas state employees health care commission designates by rules



and regulations a group of persons on the payroll of a county, township, city, special district or other local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in K.S.A. 19-4001 *et seq.*, and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 *et seq.*, and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101, and amendments thereto, as qualified to participate in the state health care benefits program, each local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in K.S.A. 19-4001 *et seq.*, and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 *et seq.*, and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101, and amendments thereto, which has on its payroll persons participating in the state health care benefits program shall pay from any moneys available to the local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in K.S.A. 19-4001 *et seq.*, and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 *et seq.*, and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101, and amendments thereto, for such purpose an amount specified by the commission. The commission may charge each local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in

K.S.A. 19-4001 *et seq.*, and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 *et seq.*, and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101, and amendments thereto, a uniform amount per person as the cost to the local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in K.S.A. 19-4001 *et seq.*, and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 *et seq.*, and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101, and amendments thereto, for the contribution of the local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in K.S.A. 19-4001 *et seq.*, and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 *et seq.*, and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101, and amendments thereto, for persons participating in the state health care benefits program. Such amounts may include the costs of administering the program.

(b) Payments from public funds for coverage under the state health care benefits program for persons participating in that program shall not be deemed a payment or supplement of wages of such person notwithstanding any other provision of law or rules and regulations relating to wages of any such person.

**History:** L. 1984, ch. 329, § 8; L. 1986, ch. 343, § 2; L. 1990, ch. 282, § 26; L. 1992, ch. 271, § 4; L. 1993, ch. 231, § 4; L. 1994, ch. 279, § 25; L. 1994 ch. 352, § 6; July 1.

~~**75-6509. Same; report, recommendations and cost estimates to legislature.** Commencing with the regular session of the legislature in 1985 and with each regular session of the legislature thereafter, the Kansas state employees health care commission shall submit to the pres-~~



ident of the senate and to the speaker of the house of representatives, on the day the governor's budget report is submitted to the legislature, recommendations with respect to the state health care benefits program together with estimates of the cost of the program proposed by the commission, including a five-year projection of the cost of the program. Together with the recommendations submitted, the commission shall include alternatives for cost containment and benefit coverage for qualified persons for both the proposed program and the five-year projected program. The commission shall also submit any recommendations for legislation with respect to the state health care benefits program.

**History:** L. 1984, ch. 329, § 9; March 1.

**75-6510. Rules and regulations; advisory committee; study of program by commission.** (a) In exercising and performing the powers, duties and functions prescribed by K.S.A. 75-6501 to 75-6511, inclusive, the Kansas state employees health care commission may adopt rules and regulations and enter into such contracts as may be necessary.

(b) The Kansas state employees health care commission may establish an advisory committee to advise the commission on matters relating to health care benefits of state officers and employees and to assist the commission in the development of policy with respect to such benefits.

(c) The Kansas state employees health care commission shall maintain an ongoing study and review of the state health care benefits program in order to make necessary improvements therein and to make recommendations thereon under K.S.A. 75-6509.

**History:** L. 1984, ch. 329, § 10; March 1.

**75-6511. Costs of participation by retired persons; deductions from benefit payments.** (a) Except as provided in subsection (b), the director of accounts and reports shall make periodic deductions from state retirement or other benefit payments to retired state officers and employees and other persons who are qualified to participate in the state health care benefits program for the costs of the state health care benefits program which are payable by such retired state officers and employees and other persons.

(b) No deductions shall be made under this section in cases (1) where the retired state officer or employee or other person submits a written request in accordance with procedures prescribed

by the commission that the deductions not be made, or (2) where the commission has directed that the deductions not be made.

(c) No deductions made under this section shall be construed to be an assignment of any annuity, benefits, funds, property or rights of any person under K.S.A. 20-2618, 74-4923 or 74-49,105 and amendments to these sections.

**History:** L. 1984, ch. 329, § 11; March 1.

**Law Review and Bar Journal References:**

"Annotated Bibliography: Retirement Benefits in Kansas," Michelle Mahaffey, 44 K.L.R. 823 (1996).

**CAFETERIA PLAN FOR BENEFITS**

**75-6512. Same; "cafeteria plan" authorized; agreements for reduced compensation to receive certain benefits under program; eligibility; effect of reduced compensation.**

(a) Subject to the provisions of appropriations acts, the secretary of administration is hereby authorized to establish and administer a cafeteria plan pursuant to the provisions of section 125 of the federal internal revenue code of 1986 which shall be available to persons who are officers or employees of the state and who are qualified to participate in the state health care benefits program and which shall include, but not be limited to, provisions under which such officers and employees may agree to receive reduced compensation and (1) have the state's contribution under K.S.A. 75-6508 and amendments thereto cover costs of dependent benefit coverage or other benefits under the state health care benefits program which would otherwise be payable by such officers and employees, and (2) receive benefits under the state employee dependent care assistance program under K.S.A. 75-6520.

(b) Any reduction in compensation for any person pursuant to any such cafeteria plan shall not reduce the compensation of such person for purposes of the employment security law, workers compensation act or the purposes of determining contributions and benefits under the Kansas public employees retirement system or any retirement system administered by the board of trustees of the Kansas public employees retirement system.

(c) Implementation of any such cafeteria plan and any additions or deletions thereto shall be subject to approval of the secretary of administration to assure adequate data processing resources therefor within the division of information sys-



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tems and communications of the department of administration.

**History:** L. 1986, ch. 343, § 1; L. 1988, ch. 355, § 3; L. 1988, ch. 381, § 8; July 1.

**75-6513. Cafeteria benefits fund created; transfer of assets and liabilities from prior fund; references to prior fund; payment of cost of authorized programs from fund; moneys deposited in fund; expenditures from fund.** (a) The health care benefits program fund is hereby abolished and any reference to the health care benefits program fund in any statute, contract or other document shall be deemed to be a reference to the cafeteria benefits fund established by this section. There is hereby created in the state treasury the cafeteria benefits fund. On the effective date of this act, the director of accounts and reports shall transfer all moneys in the health care benefits program fund to the cafeteria benefits fund and all liabilities of the health care benefits program fund are hereby transferred to and imposed upon the cafeteria benefits fund.

(b) The cost of the state health care benefits program, including the costs of administering the program, shall be paid from the cafeteria benefits fund. The cost of the long-term care insurance, including the costs of administration, purchased pursuant to K.S.A. 75-6523 shall be paid from the cafeteria benefits fund. The Kansas state employees health care commission shall remit all moneys received by or for the commission pursuant to the state health care benefits program or from the purchase of long-term care insurance to the state treasurer. Upon receipt of such remittance the state treasurer shall deposit the entire amount thereof in the state treasury to the credit of the cafeteria benefits fund.

(c) Each state agency shall pay into the cafeteria benefits fund amounts specified by the secretary of administration to pay for costs of administering the cafeteria plan as provided by law, including the costs of benefits provided thereunder.

(d) All expenditures from the cafeteria benefits fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by: (1) The chairperson of the Kansas state employees health care commission or by a person or persons designated by the chairperson, for expenditures relating to the health care benefits program; and (2) the secretary of administra-

tion or by a person or persons designated by the secretary, for expenditures relating to administering the cafeteria plan as provided by law, including the costs of benefits provided thereunder. The director of accounts and reports shall issue warrants pursuant to vouchers approved under this section for payments from the cafeteria benefits fund notwithstanding the fact that claims for such payments were not submitted or processed for payment from money appropriated for the fiscal year in which the fund first became liable to make such payments.

**History:** L. 1984, ch. 329, § 7; L. 1988, ch. 355, § 2; L. 1996, ch. 170, § 5; July 1.

**Attorney General's Opinions:**

State departments; public officers and employees; state health care benefits; health care commission. 87-175.

**75-6514 to 75-6519. Reserved.**

**DEPENDENT CARE ASSISTANCE PROGRAM**

**75-6520. State employee dependent care assistance program; administration by secretary of administration under cafeteria plan; provisions and procedures.** Subject to the provisions of appropriations acts, the secretary of administration is hereby authorized to establish and administer a state employee dependent care assistance program for all state officers and employees as part of the cafeteria plan established under K.S.A. 75-6512 and amendments thereto, pursuant to the provisions of sections 125 and 129 of the federal internal revenue code of 1986. Subject to the provisions of subsection (c) of K.S.A. 75-6512 and amendments thereto, the state employee dependent care assistance program shall be in effect not later than July 1, 1989. In accordance with this section, the secretary of administration shall establish the provisions and procedures of such program and shall inform all state officers and employees of such provisions and procedures.

**History:** L. 1988, ch. 355, § 1; July 1.

**LONG-TERM CARE INSURANCE**

**75-6521. Long-term care insurance; definitions.** As used in K.S.A. 75-6521 through 75-6523:

(a) "Commission" means the Kansas state employees health care commission established pursuant to K.S.A. 75-6502, and amendments thereto.



tablished the office of the securities commissioner of Kansas. The office shall be administered by the securities commissioner of Kansas who shall be in the unclassified service under the Kansas civil service act and shall serve at the pleasure of the governor. The securities commissioner shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b and amendments thereto, shall have special training and qualifications for such position and shall receive such compensation as may be fixed by the governor.

(b) The securities commissioner may appoint directors within the office of the securities commissioner as determined necessary by the securities commissioner to effectively carry out the mission of the office. All directors appointed after the effective date of this act shall be in the unclassified service under the Kansas civil service act, shall have special training and qualifications for such positions, shall serve at the pleasure of the securities commissioner and shall receive compensation fixed by the securities commissioner and approved by the governor.

(c) Nothing in subsection (b) shall affect the classified status of any person employed in the office of the securities commissioner on the day immediately preceding the effective date of this act. The provisions of this subsection shall not be construed to limit the powers of the securities commissioner pursuant to K.S.A. 75-2948 and amendments thereto.

**History:** L. 1982, ch. 98, § 1; L. 1998, ch. 182, § 21; May 21.

**75-6302. Predecessor office abolished; transfer of powers, duties and functions; preservation of rules and regulations, orders, directives.** (a) On July 1, 1982, the office of the securities commissioner of Kansas provided for by K.S.A. 17-1270, prior to its amendment in 1982, and prior to its repeal by this act, shall be and is hereby abolished and all of the powers, duties and functions of such securities commissioner shall be and are hereby transferred to and conferred and imposed upon the securities commissioner of Kansas provided for by this act.

(b) Except as otherwise provided in this act, the securities commissioner provided for by this act shall be the successor in every way to the powers, duties and functions of the securities commissioner, in which the same were vested prior to the effective date of this act.

(c) Whenever the securities commissioner of Kansas, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the securities commissioner provided for by this act.

(d) All rules and regulations and all orders and directives of the securities commissioner of Kansas in existence immediately prior to the effective date of this act shall continue to be effective and shall be deemed to be the rules and regulations and orders or directives of the securities commissioner of Kansas provided for by this act, until revised, amended, repealed or nullified pursuant to law.

**History:** L. 1982, ch. 98, § 2; L. 2004, ch. 154, § 64; July 1, 2005.

#### Article 64.—PROMPT PAYMENT BY GOVERNMENT AGENCIES

##### 75-6405.

###### CASE ANNOTATIONS

1. State waived its sovereign immunity by voluntarily accepting federal funds under rehabilitation act (29 U.S.C. 701 et seq.). *Robinson v. Kansas*, 295 F.3d 1183, 1185 (2002).

##### 75-6406.

**History:** L. 1984, ch. 310, § 6; Repealed, L. 2002, ch. 200, § 6; June 6.

#### Article 65.—STATE EMPLOYEE BENEFIT PROGRAMS

**75-6501. State health care benefits program; benefits authorized; designation of persons qualified to participate, rules and regulations; limitations.** (a) Within the limits of appropriations made or available therefor and subject to the provisions of appropriation acts relating thereto, the Kansas state employees health care commission shall develop and provide for the implementation and administration of a state health care benefits program.

(b) The state health care benefits program may provide benefits for persons qualified to participate in the program for hospitalization, medical services, surgical services, nonmedical remedial care and treatment rendered in accordance with a religious method of healing and other health services. The program may include such provisions as are established by the Kansas state employees health care commission, including but not limited to qualifications for benefits, services covered, schedules and graduation of benefits,



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conversion privileges, deductible amounts, limitations on eligibility for benefits by reason of termination of employment or other change of status, leaves of absence, military service or other interruptions in service and other reasonable provisions as may be established by the commission.

(c) The Kansas state employees health care commission shall designate by rules and regulations those persons who are qualified to participate in the state health care benefits program, including active and retired public officers and employees and their dependents as defined by rules and regulations of the commission. Such rules and regulations shall not apply to students attending a state educational institution as defined in K.S.A. 76-711, and amendments thereto, who are covered by insurance contracts entered into by the board of regents pursuant to K.S.A. 75-4101, and amendments thereto. In designating persons qualified to participate in the state health care benefits program, the commission may establish such conditions, restrictions, limitations and exclusions as the commission deems reasonable. Such conditions, restrictions, limitations and exclusions shall include the conditions contained in subsection (d) of K.S.A. 75-6506, and amendments thereto. Each person who was formerly elected or appointed and qualified to an elective state office and who was covered immediately preceding the date such person ceased to hold such office by the provisions of group health insurance or a health maintenance organization plan under the law in effect prior to August 1, 1984, or the state health care benefits program in effect after that date, shall continue to be qualified to participate in the state health care benefits program and shall pay the cost of participation in the program as established and in accordance with the procedures prescribed by the commission if such person chooses to participate therein.

(d) The commission shall have no authority to assess charges for employer contributions under the student health care benefits component of the state health care benefits program for persons who are covered by insurance contracts entered into by the board of regents pursuant to K.S.A. 75-4101, and amendments thereto.

(e) Nothing in this act shall be construed to permit the Kansas state employees health care commission to discontinue the student health care benefits component of the state health care benefits program until the state board of regents has contracts in effect that provide student coverage

pursuant to the authority granted therefor in K.S.A. 75-4101, and amendments thereto.

**History:** L. 1984, ch. 329, § 1; L. 2002, ch. 30, § 1; L. 2006, ch. 189, § 2; May 25.

**75-6504.**

**Cross References to Related Sections:**

Professional services sunshine act, see 75-37,130 et seq.

**75-6506. Health care benefits program; voluntary participation; payroll deductions, state and local governments and certain not-for-profit entities; requirements for participation.** (a) The participation of a person qualified to participate in the state health care benefits program shall be voluntary, and the cost of the state health care benefits program for such person shall be established by the Kansas state employees health care commission.

(b) Periodic deductions from state payrolls may be made in accordance with procedures prescribed by the secretary of administration to cover the costs of the state health care benefits program payable by persons who are on the state payroll when authorized by such persons. Any such periodic payroll deductions in effect on an implementation date for biweekly payroll periods shall be collected in the manner prescribed by the secretary of administration.

(c) In the event that the Kansas state employees health care commission designates by rules and regulations a group of persons on the payroll of a county, township, city, special district or other local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community mental health center, as provided in K.S.A. 19-4001 *et seq.* and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 *et seq.* and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101 and amendments thereto, as qualified to participate in the state health care benefits program, periodic deductions from payrolls of the local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of such care from the department of social and rehabilitation services, nonprofit community



mental health center, as provided in K.S.A. 19-4001 *et seq.* and amendments thereto, nonprofit community facility for the mentally retarded, as provided in K.S.A. 19-4001 *et seq.* and amendments thereto, or nonprofit independent living agency, as defined in K.S.A. 65-5101 and amendments thereto, may be made to cover the costs of the state health care benefits program payable by such persons when authorized by such persons. All such moneys deducted from payrolls shall be remitted to the Kansas state employees health care commission in accordance with the directions of the commission.

(d) On and after July 1, 2002, whenever the Kansas state employees health care commission designates any entity listed in subsection (c) as qualified to participate in the state health care benefits program, such entity's participation shall be conditioned upon the following:

(1) At least 70% of such entity's employees shall participate in the state health care plan;

(2) except as provided by paragraph (6) of this subsection, the rate of the premium paid by the entity as the employer's share of the total amount of premium paid shall be at least equal to the rate paid by the state of Kansas for its employees;

(3) the entity shall not create, maintain or permit any exemption from participation in the state health care plan for such entity's employees;

(4) the rate charged to such entity shall be sufficient to pay for any administrative or underwriting costs incurred by the state employees health care commission;

(5) the rate charged to such entity shall not increase the rate of premium paid by the state of Kansas for its employees;

(6) the entity shall elect to participate for a minimum of three consecutive years in the state health care benefits program; and

(7) the commission may authorize an entity to pay less than the state rate for the employee coverage for no more than three years and no more than five years for dependent coverage on the condition that the entity elects to participate for at least three consecutive years after first paying the state rate for employee coverage.

**History:** L. 1984, ch. 329, § 6; L. 1990, ch. 282, § 25; L. 1992, ch. 271, § 3; L. 1994, ch. 279, § 24; L. 2002, ch. 30, § 2; July 1.

**75-6506a. Health care benefits program; pilot program; employer contributions for certain children; report to legislature. (a)**

Commencing in plan year 2002, within the limits of appropriations thereof, the Kansas state employees health care commission shall establish a pilot program which provides that, if an active employee of the state of Kansas is enrolled in a health care benefits plan administered by the Kansas state employees health care commission, pursuant to K.S.A. 75-6501 *et seq.*, and amendments thereto, the commission shall provide that a percentage determined by the commission, within the limits of appropriations for the pilot program, of the cost to cover an eligible child or children shall be paid as an employer contribution for the participation of any eligible child or children in the state health benefits program.

(b) As used in this section, "eligible child" means any child who is an eligible dependent pursuant to K.A.R. 108-1-1 and who is otherwise eligible for insurance coverage under the insurance plan authorized by K.S.A. 38-2001 and amendments thereto and under the guidelines for eligibility developed by the commission within the limits of appropriations for the pilot program but is not eligible solely because the child is a member of a family that is eligible for health benefits coverage under a state health benefits plan administered by the Kansas state employees health care commission.

(c) The Kansas state employees health care commission shall report its findings and any recommendations which the commission may have concerning the pilot program established under this section to the governor and to the legislature annually.

(d) The secretary of administration is hereby authorized to receive grants, gifts or donations from the United States government, or its agencies, the Sunflower Foundation: Healthcare for Kansas, or any other source whatsoever for the purposes of the pilot program established under this section and amendments thereto, and any moneys so received shall be deposited in the state treasury and credited to the cafeteria benefits fund established by K.S.A. 75-6513 and amendments thereto. All funds received pursuant to this section shall be placed in a separate account within the cafeteria benefits fund. All expenditures made from such fund for the purposes of this section shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued by the secretary of administration or a person designated by the secretary of administration.



**History:** L. 2001, ch. 198, § 3; July 1.

**75-6509. Same; report, recommendations and cost estimates to legislature.** Commencing with the regular session of the legislature in 1985 and with each regular session of the legislature thereafter, the Kansas state employees health care commission shall submit to the president of the senate and to the speaker of the house of representatives, on the day the governor's budget report is submitted to the legislature, recommendations with respect to the state health care benefits program together with estimates of the cost of the program proposed by the commission, including a five-year projection of the cost of the program, and the estimated cost of admitting each entity pursuant to subsection (c) of K.S.A. 75-6506 and amendments thereto. Together with the recommendations submitted, the commission shall include alternatives for cost containment and benefit coverage for qualified persons for both the proposed program and the five-year projected program. The commission shall also submit any recommendations for legislation with respect to the state health care benefits program.

**History:** L. 1984, ch. 329, § 9; L. 2002, ch. 30, § 3; July 1.

**75-6513. Cafeteria benefits fund created; transfer of assets and liabilities from prior fund; references to prior fund; payment of cost of authorized programs from fund; moneys deposited in fund; expenditures from fund.** (a) The health care benefits program fund is hereby abolished and any reference to the health care benefits program fund in any statute, contract or other document shall be deemed to be a reference to the cafeteria benefits fund established by this section. There is hereby created in the state treasury the cafeteria benefits fund. On the effective date of this act, the director of accounts and reports shall transfer all moneys in the health care benefits program fund to the cafeteria benefits fund and all liabilities of the health care benefits program fund are hereby transferred to and imposed upon the cafeteria benefits fund.

(b) The cost of the state health care benefits program, including the costs of administering the program, shall be paid from the cafeteria benefits fund. The cost of the long-term care insurance, including the costs of administration, purchased pursuant to K.S.A. 75-6523, and amendments thereto, shall be paid from the cafeteria benefits fund. The Kansas state employees health care

commission shall remit all moneys received by or for the commission pursuant to the state health care benefits program or from the purchase of long-term care insurance to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the cafeteria benefits fund.

(c) Each state agency shall pay into the cafeteria benefits fund amounts specified by the secretary of administration to pay for costs of administering the cafeteria plan as provided by law, including the costs of benefits provided thereunder.

(d) All expenditures from the cafeteria benefits fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by: (1) The chairperson of the Kansas state employees health care commission or by a person or persons designated by the chairperson, for expenditures relating to the health care benefits program; and (2) the secretary of administration or by a person or persons designated by the secretary, for expenditures relating to administering the cafeteria plan as provided by law, including the costs of benefits provided thereunder. The director of accounts and reports shall issue warrants pursuant to vouchers approved under this section for payments from the cafeteria benefits fund notwithstanding the fact that claims for such payments were not submitted or processed for payment from money appropriated for the fiscal year in which the fund first became liable to make such payments.

**History:** L. 1984, ch. 329, § 7; L. 1988, ch. 355, § 2; L. 1996, ch. 170, § 5; L. 2001, ch. 5, § 408; July 1.

#### **75-6522.**

##### **Cross References to Related Sections:**

Professional services sunshine act, see 75-37,130 et seq.

#### **Article 66.—STATE SURPLUS PROPERTY PROGRAM**

##### **Cross References to Related Sections:**

Lease of real estate not in current governmental use, see 75-3686.

**75-6601. State surplus property program; established; eligible participants; storage.** The secretary of administration or the secretary's designee shall operate the state surplus