

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Susan Wagle at 12:00 p.m., on March 22, 2011, in Room 548-S of the Capitol.

All members were present except:  
Senator Emler – excused

Committee staff present:

Ms. Margaret Cianciarulo, Committee Assistant  
Mr. Ken Wilke, Office of the Revisor of Statutes  
Mr. Reed Holwegner, Kansas Legislative Research Department  
Ms. Dorothy Noblitt, Kansas Legislative Research Department

Conferees appearing before the Committee:

Ms. Rebecca Proctor, Legal Counsel, Kansas Organization of State Employees  
Mrs. Karin Brownlee, Secretary, Department of Labor  
Mr. Ken Hansen, Chief Legal Counsel, Department of Labor

Others attending:

See attached list.

**Continued hearing on the Department of Labor's amendment pertaining to classified employees to Substitute for HB2135, an act concerning certain employees; relating to misclassification of employees to avoid tax withholding contributions and reporting requirements.**

Upon calling the meeting to order, Chairperson Wagle stated last week the Committee took action on this bill and added an amendment the Secretary of Labor had requested. The bill has now been pulled back into Committee and is a blessed bill. They do not have to act on it, but she wanted to have further discussion on the amendment and called on Ms. Rebecca Proctor, Legal Counsel for the Kansas Organization of State Employees, who explained:

1.) No Change is Required, as the Kansas Civil Service Act creates a Merit-Based System – Secretary Brownlee has been quoted as saying that federal law requires the agency dealing with unemployment insurance must be a performance-based employment system and quoting Section 303(a)(1) of the Social Security Act. However, the standards of a merit system of personnel administration are set in 5 CFR 900.603 and are identical to Sections 6 (a)(3)(A-F) of Secretary Brownlee's amendment. Her recitation of Federal law is correct except she replaced the term “merit system” used in the Federal law, with “performance-based employment system, which does not appear in Federal law. The amendment fails to point out that the Kansas Civil Service Act itself creates a merit-based employment system set for in K.S.A. 75-2925 and reads, “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,” and defines “merit principles” in K.S.A. 75-2925(f) as “relative knowledge, skills, and ability.”

2.) Kansas Already Has a Comprehensive Employee Evaluation System – The proposed amendment recites the standards of a merit system, but does not provide any information or detail regarding how the Secretary will implement these standards. Referring to Section 6(c) and Section 6(a)(2), these two provisions create:

A.) A system where the Secretary of Labor can implement whatever procedure she sees fit and may discipline or discharge employees for any reason, or none at all.

B.) Circumstances where even departmental managers or supervisors will have no idea or guidance regarding what performance measures will be used until the Secretary creates those measures. She then gave a history of **HB2196**, passed in 2008 and the performance management process (PMP), where the state embarked on its first major overhaul evaluation and pay system in over 30 years and was implemented by the State in 2010. A trial/dry-run period in 2009 included training sessions for both managers and employees, and instructions and documentation for each step. Ms. Proctor stated, this amendment seeks to abandon the PMP for the DOL employees and allow them to create its own evaluation system under which the employees will serve at the pleasure of the Secretary of Labor.

## CONTINUATION SHEET

The minutes of the Senate Commerce Committee at 12:00 p.m. on March 22, 2011, in Room 548-S of the Capitol.

Lastly, she said the amendments makes no provision for the benefits the DOL classified employees have accrued under the Civil Service system, places no restrictions on the Agency regarding the personnel system it intends to develop and makes no provision for employees to vote and authorize removal. A copy of her testimony is (Attachment 1) attached hereto and incorporated into the Minutes as referenced.

The Chair then called on Mrs. Karin Brownlee, Secretary, Department of Labor, who first asked is she correct in saying the Committee report was not turned in? (The Chair said, that's correct.) So the bill is as it was previously and the amendment the DOL offered is not in the bill? (No, it is in the bill. The Committee took action and it has been blessed.) But the bill resides in Committee rather than having been read into the Senate? (Yes.)

Secretary Brownlee began her testimony by saying they came to the DOL on January 10, 2011, they have tried to sort what are the laws, rules and regs of government personnel, what is on the federal and state level, and frankly, they see different messages in all of this and they are trying to mesh it together and figure out how to make that work. We do have a large number of employees who are retirement eligible, 46%, within the next four years. So as we refill positions, we want to make sure we are doing it according to the laws and rules and regs that govern the DOL, believing the merit based system is the route to go. She said, if she uses the words "performance based" or "merit based," she would consider the terms to be synonymous of each other.

She said despite commentary to the contrary, the merit system outlined by the amendment provides for nondiscrimination protection for all employees, shielding them from the political whim as administrations change, the premise upon which now the unwieldy civil service based system originated, and an act itself that is now almost purely a tenure based system.

She offered facts including:

- 1.) In the bill, the classified employees of the DOL are not being deprived of continued employment absent a merit-related cause. If fact, the bill provides that personnel decisions by the Secretary of Labor shall consider specific merit principles.
- 2.) The KDOL employees will still enjoy a personnel system that is based purely on merit and safeguards of discrimination.
- 3.) The amendment does not contain mandatory terminations upon passage.
- 4.) The bill does not conflict with the Civil Service Statutes, see K.S.A. 75-2925(z), which provide for unclassified service positions held by state officers or employees who are specifically designated by law as being in the unclassified service. So if this amendment passes, it would be in sync with the existing provision.

Lastly, she offered information in her testimony the Committee might look through that have been cited. For example, 5 CFR 900603(d), retaining employees on the basis of the adequacy of their performance, correcting inadequate performances, and separating employees whose inadequate performance cannot be corrected. She also offered the Kansas Attorney General's opinion and some court cases. A copy of her testimony is (Attachment 2) attached and incorporated into the Minutes as referenced.

Secretary Brownlee asked her Chief Legal Counsel, DOL, Mr. Ken Hansen, for his comments regarding Ms. Proctor's testimony which included:

- 1.) Spending some time in the personnel's website, looking at an entire section on how, as a manager, we are suppose to execute this evaluation system and finding nothing in the documents he opened, that went down the path of these performance evaluations that are to be used in such a manner as to properly discipline employees. The sole focus of that website was how to run employees through the rate category so they can get accelerated pay raises.

## CONTINUATION SHEET

The minutes of the Senate Commerce Committee at 12:00 p.m. on March 22, 2011, in Room 548-S of the Capitol.

2.) Even though the Department of Personnel Services replaced 26 different performance management and review systems and replaced it with one large system (PMP) does not make it right.

4.) Regarding consistency, it says that the performance systems creates a consistent evaluation system, but they only work depending on the supervisors, as some do not like conflict so they write up a pretty evaluation, hit the satisfactory button, and move on.

5.) Another problem with the classified systems, to really get a bump in any kind of pay, you have to move them up a box. This does not lend itself appropriate to performance evaluations. No written testimony was offered.

The Chair thanked all of the conferees and asked for questions from the Committee, answered by Mr. Hansen and Secretary Brownlee which included:

1.) Senator Faust-Gaudeau who asked, regarding page of 5 of their testimony they mention "The Board." Who is that Board and what is the makeup of that Board? (Mr. Hansen – The Civil Service Board, is appointed by the Governor and believes it breaks down along congressional districts. He thinks the Board members are all confirmed by Senate confirmation.)

2.) Senator Holland asked if they have had any discussion outside the DOL, particularly on this amendment? (Secretary Brownlee – We have had some discussion with the Department of Administration but did not run this amendment by them.) So I would assume it would be fair to say, you did not get into specifics? (Actually, we have tried regarding their bringing rules and regs, which is another aspect of the whole Civil Service thing.) In looking on page 2, regarding Federal laws, for example, 5 CFR 900 603, how long has it been in existence, years? (Mr. Hansen – Believes so but would have to check.) Has the US DOL ever related to you that they have a problem with our current system? (Not that I am aware of, but if they would have gone in and looked for these problems, it probably never would have come up.) Is it your contention Kansas has somehow been out of compliance with the Federal regs, for what, years now? (He is not going into the direction of that, but what this is based on in our 60 days in office, we feel the intent of that Federal statute, while it may be acknowledged by the Civil Service, perhaps it is certainly not being fully implemented.) Currently, do you folks conduct periodic evaluations of classified employees? (Believes according to their HR Director, they are doing that.) What ratings do you use? (They follow the performance management forms using satisfactory, unsatisfactory, exceptional and room for comments.) How many employees have been rated unsatisfactory in the last six months? (Don't know that, they would know that.) Lastly he asked, have they ever run this by the US DOL? (No we have not.) He respectfully requests they do and would like to hear the US DOL's comments. His main concern is the phrase, "at the pleasure of the Secretary." (Secretary Brownlee feels he has raised a point that is worthy of consideration and removing this phrase would be a reasonable change.)

The Chair commended the DOL for the progress they have made in their short time in the DOL. She said the Secretary has come before the Committee responding to the needs of Kansas, as opposed to the last few years. This Secretary, in a matter of weeks, has made the DOL function in a better way and their goal here is to meet the needs that are required by the Agency and serve the needs of Kansas. So, the Chair would like to find some way to meet the needs of the Secretary, the people of Kansas, and respect the rights of those who are classified. She said the Committee will continue to look at this, have further communication and meet again.

### Adjournment

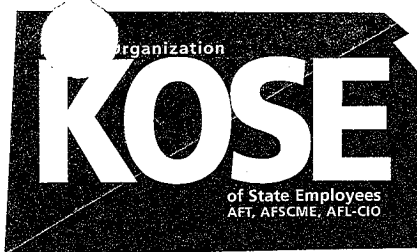
As there was no further discussion, the meeting was adjourned. The time was 12:50 p.m.

The next meeting is scheduled for April 1, 2011.

## SENATE COMMERCE COMMITTEE GUEST LIST

DATE: March 22, 2011

[illegible]



## A NEW DAY... A BETTER WAY... FOR STATE EMPLOYEES

Testimony submitted to the  
Senate Commerce Committee

On

Proposed Amendment to Substitute for HB 2135

By

Rebecca Proctor, Legal Counsel

Kansas Organization of State Employees

March 22, 2011

Mr./Ms. Chairman and Members of the committee:

My name is Rebecca Proctor and I am legal counsel for the Kansas Organization of State Employees (KOSE). I speak to you today both in my capacity as counsel for KOSE and as a lifelong Kansas resident. My remarks to you today will focus on the proposed amendment to HB 2135, which would remove classified employees of the Kansas Department of Labor from the state civil service.

### ***I. No Change is Required, as the Kansas Civil Service Act Creates A Merit-Based System***

As I understand it, the Kansas Department of Labor has claimed this amendment is necessary because of what is perceived as a conflict between federal and state law. Specifically, Secretary Brownlee has been quoted as saying that federal law requires that the agency dealing with unemployment insurance must be a performance-based employment system.

The contention of the Department of Labor is not quite accurate. Section 303(a)(1) of the Social Security Act, the law cited by the Department of Labor, provides that no state can be certified for payment unless state law provides, as a method of administration for "methods relating to the establishment and maintenance of personnel standards on a merit basis..."

The standards of a merit system of personnel administration are set forth in 5 CFR 900.603. These standards are identical to Sections 6(a)(3)(A-F) of Secretary Brownlee's amendment. Secretary Brownlee's recitation of Federal law is correct except for one small point: she replaced the term "merit system" (the term actually used in the Federal law) with "performance-based employment system" (a term that does not appear in the Federal law).

*Senate Commerce Committee  
Date: March 22, 2011  
Attachment 1*

Kansas Organization of State Employees, AFT/AFSCME, AFL-CIO

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This appears to be a seemingly simple and meaningless word substitution, but it is not. What the proposed amendment fails to recognize or point out is that the Kansas Civil Service Act itself creates a merit-based employment system. The purpose of the Kansas Civil Service Act is set forth in K.S.A. 75-2925 and reads, in part, "All personnel actions regarding employees in the state classified service shall be made without regard to race, national origin or ancestry, religion, political affiliation, or other non-merit factors. 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."

The Civil Service Act defines "merit principles" in K.S.A. 75-2926(f) as "relative knowledge, skills, and ability."

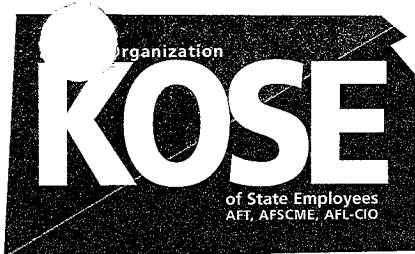
Accordingly, with the Civil Service system set out by the Kansas Civil Service Act, Kansas already has the merit system of personnel administration required by Federal law. There is no conflict or incongruence between Kansas law and the Federal law. A conflict only exists if you interpret "merit system" as "at will employment." That interpretation is in no way, shape, or form supported by Federal Statute or supporting regulations.

## ***II. Kansas Already Has a Comprehensive Employee Evaluation System***

The proposed amendment recites the standards of a merit system, mentioning, among others, the need to train and counsel employees. However, while the Brownlee amendment recites the standards of a merit system, it does not provide any information or detail regarding how the Secretary of Labor will implement these standards. The amendment merely provides in Section 6(c) that "The Secretary of Labor shall have the power and authority to adopt, amend, or revoke such rules and regulations as the Secretary deems necessary to carry out the provisions of this act." Section 6(a)(2) states "all employees of the department of labor shall serve at the pleasure and direction of the secretary of labor."

Taken together, these two provisions create a system where the Secretary of Labor can create and implement whatever procedures she sees fit and may discipline or discharge employees for any reason, or no reason at all. This creates a circumstance where even departmental managers or supervisors will have no idea or guidance regarding what performance measures will be used until the Secretary creates those measures. The result is inefficiency and confusion.

By contrast, in conjunction with the Kansas Legislature's passage of HB 2916 in 2008, the state embarked on its first major overhaul of performance evaluation and pay systems in over thirty years. The result is comprehensive performance management system, fully implemented by the State in 2010. Full information about the performance management system, or PMP, can be located at <http://www.da.ks.gov/pmp/>.



## **A NEW DAY... A BETTER WAY... FOR STATE EMPLOYEES**

During 2008, the legislature heard testimony regarding the need for change in the performance management process. One of the major issues was the fact that the Division of Personnel Services found twenty-six different performance management and review systems in place across the State agencies. This resulted in a lack of consistency in how employee performance was managed and evaluated. The goal of the new PMP was to create consistency across the agencies and to help insure that all employees are evaluated in a fair, correct, and timely manner.

The PMP was a collaborative effort, designed and implemented by the Department of Administration, the Hay Group (consultants), a Steering Committee (of stakeholders and sponsors) and a Design Committee (state employees representing a diverse group of occupations and agencies). It was well thought-out and planned, and included a trial/dry-run period in 2009 before full implementation in 2010. The roll-out included training sessions for both managers and employees, so everyone would understand how and when employees would be evaluated. The State spent significant time and resources developing the PMP. It is a well-defined program that includes instruction and documentation for each step and is currently only in its second year of full operation.

The amendment seeks to abandon the PMP for DOL employees and to allow the Department of Labor to create its own evaluation system under which employee will serve at the pleasure of the Secretary of Labor. In other words, this amendment is asking the Legislature to allow the Secretary of Labor to "reinvent the wheel." Not only would this destroy the consistency created by the PMP, but it would also result in a non-merit-based system. Ironically, requiring employees to serve at the Secretary's pleasure creates clear and open opportunity for employees to be disciplined or discharged based on political affiliation or favoritism rather than on merit-based principles. If anything, this amendment would make the Department of Labor more likely to face federal scrutiny because the specific language of the amendment creates a mechanism through which employment actions could be based on non-merit principles.

### ***III. Employees Should Not Randomly Be Removed From Civil Service***

Finally, it is not unprecedented for state employees to be removed from civil service. However, such moves have historically been carefully considered and presented to impacted employees for final decisions.

For example, in 2005, the Kansas Legislature passed, and the governor signed, SB 74, which allowed but did not require state universities to convert any or all classified employee positions to unclassified positions. That bill significantly differed from the amendment before you today.

Under SB 74, employees whose positions became unclassified were entitled to keep all health, leave, and retirement benefits and retained their collective bargaining rights. SB 74 also required any new personnel systems developed by the state universities to contain provisions for a disciplinary and grievance process with rights of appeal and due process procedures. SB 74 additionally mandated that before positions were unclassified, the university had to hold a vote of affected classified employees. Removal only occurred if a majority of affected employees voted in favor of the proposal.

The amendment before you today makes no provision for the benefits Department of Labor classified employees have accrued under the Civil Service system, places no restrictions on the Agency regarding the personnel system it intends to develop, and makes no provision for employees to vote and authorize removal. Fundamentally, this amendment does nothing except allow Secretary Brownlee to discipline and discharge employees without cause.

#### ***IV. Conclusion***

Since the Kansas Civil Service system is a merit-based system, and since the State of Kansas has a clear and comprehensive performance management system, there is no legal justification for the proposed amendment. This amendment is simply an attack on Kansas worker protections and is completely unnecessary. Please oppose this amendment and allow Department of Labor employees to have the same consistency in employee management and evaluation afforded all other State employees. Thank you for your time and attention.



**Testimony of Karin Brownlee  
Secretary, Department of Labor**

**Sub. HB 2135  
Senate Committee on Commerce**

**March 22, 2011**

**OVERVIEW**

The governor charged the cabinet to identify or create efficiencies in their respective agencies. Toward that end, at KDOL, we have moved toward a performance based management system. Many functions are now being measured, and we charge our employees and vendors with specific deliverables and timelines.

It is this performance model that has achieved the turnaround at the call center where wait times have fallen to less than four minutes and force-disconnect calls are virtually a thing of the past. Claims are being processed faster and payments reaching claimants more timely. Performance management has allowed us to get a handle on the UIM project – a \$50 million debacle that is overdue and a functional failure. That project is now on a course to a successful resolution and the changes implemented are resulting in a savings of just under \$1 million per month. While the performance model has been successful to date, we have identified a looming potential threat at the agency. Our work force has a large group of employees that are retirement eligible or will be in the very near term. While we are in the process of succession planning, including some cross training efforts, we have discovered that many of these retirements are in critical upper ranks of the agency – skilled folks. The constraints of the classified service are such that filling these positions with qualified, experienced individuals will be difficult. Compensation structures and the restriction of functionality due to classification of positions makes the task ever more difficult. Further, the classified scheme limits the flexibility of the agency to move quickly to address issues as they arise. Much as we have applied performance management to tackle operational issues in the agency, we would like to apply performance merit based principles to our work force.

**A MERIT BASED SYSTEM**

As we move forward, the flexibility and efficiencies to be achieved under this performance based model will allow the agency to do more with less. Through retirements, we will be losing staff, and with the expiration or diminishment of various federal funds and reduced SGF, we will be losing significant funding.

The merit based system outlined in the amendment is similar to the performance merit based system identified in the Social Security Act as a merit based example suggested for adoption by states to comply with the administrative requirements of the employment security act.

Despite commentary to the contrary, the merit system outlined by the amendment provides for nondiscrimination protections for all employees, shielding them from political whim as administrations change. Those protections are the premise upon which the now unwieldy civil service based system originated. Unfortunately, for all practical purposes, the civil service act is now almost purely a tenure based system, and reflects little of the merit principles anticipated by the federal law. The amendment seeks to establish a recognized merit based system, and though surprisingly set forth in federal legislation, is very similar to the merit based system one would find in successful private businesses. A true merit based system will keep skills sharp, ensure a qualified and motivated workforce, and allow the agency to quickly adapt to legislative, technological, economic and societal changes.

*Senate Commerce Committee  
Date: March 22, 2011  
Attachment 2*

## FACTS

In this bill, the classified employees of the department of labor are not being deprived of continued employment absent a merit-related cause. In fact, the bill, by its plain language, provides that personnel decisions by the secretary of labor shall consider specific merit principles.

KDOL employees will still enjoy a personnel system that is based purely on merit and, as mentioned previously, has safeguards against discrimination based on political affiliation, race, color, national origin, sex, religious creed, age or handicap.

The amendment does not contain mandatory terminations upon passage. This is critically important. If the person still has their job, they haven't been deprived of any substantive right as a direct result of this amendment. The amendment conforms with existing constitutional safeguards for public employees.

The government has a strong interest that is furthered by this language. (See reasons outlined above). These interests weigh heavily in favor of the reasonableness of this legislation.

This bill does not conflict with the Civil Service statutes. The Civil Service statutes provide for unclassified service positions held by state officers or employees who are specifically designated by law as being in the unclassified service. See, K.S.A. 75-2935(z). If passed, this amendment would be in sync with this existing provision.

Summary: This bill is constitutional. It is reasonable given the government's interest. It is critically distinguishable from the bill in Darling in that it does not terminate any person's employment.

## SAMPLING of RELEVANT LAWS, REGULATIONS, and OPINIONS

### Section 303(a) of the SSA (42 U.S.C. 503)

The USDOL may make no certification for payment to any state unless state law provides, as a method of administration, for "methods relating to the establishment and maintenance of personnel standards on a merit basis..."

### 5 CFR § 900.601 Purpose.

(a) The purpose of these regulations is to implement provisions of title II of the Intergovernmental Personnel Act of 1970, as amended, relating to Federally required merit personnel systems in State and local agencies, in a manner that recognizes fully the rights, powers, and responsibilities of State and local governments and encourages innovation and allows for diversity among State and local governments in the design, execution, and management of their systems of personnel administration, as provided by that Act.

### 5 CFR § 900.603 Standards for a merit system of personnel administration.

*The quality of public service can be improved by the development of systems of personnel administration consistent with such merit principles as*

(a) Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment.

(b) Providing equitable and adequate compensation.

(c) Training employees, as needed, to assure high quality performance.

(d) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected.

(e) Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religious creed, age or handicap and with proper regard for their privacy and constitutional rights as citizens. This "fair treatment" principle includes compliance with the Federal equal employment opportunity and nondiscrimination laws.

(f) Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

#### **Appendix A to Subpart F of Part 900—Standards for a Merit System of Personnel Administration**

Part I: The following programs have a statutory requirement for the establishment and maintenance of personnel standards on a merit basis.

##### *Program, Legislation, and Statutory Reference*

Employment Security (Unemployment Insurance and Employment Services), Social Security Act (Title III), as amended by the Social Security Act Amendments of 1939, Section 301, on August 10, 1939, and the Wagner-Peyser Act, as amended by Pub. L. 81-775, section 2, on September 8, 1950; 42 U.S.C. 503(a)(1) and 29 U.S.C. 49d(b).

#### **KANSAS ATTORNEY GENERAL OPINION**

In Kan A.G. Op. No. 85-65, the issue was whether cities and counties participating in FEMA programs must compensate their employees based on the Kansas Civil Service Act. The Attorney General, opined that the requirements of 5 C.F.R. 900.603 did not require jurisdictions to follow a state civil service salary plan in compensating emergency management personnel, but that such jurisdictions must comply with merit principles (including advancement of employees on the basis of their relative ability).

#### **ADDRESSED IN COURT**

This C.F.R. was discussed in an Ohio Court of Appeals case, *Keefer v. Ohio Dept. of Job and Family Services*, unpublished, 2003 WL 22890291 (2003). In that case, the plaintiffs were classified exempt employees whose job responsibilities were reassigned or transferred. The plaintiffs argued that the reorganization violated federal merit principles. But, the court rejected that claim, stating, "The federal statutes and regulations which plaintiffs cite neither impose specific details regarding a state's civil-service system nor prohibit changes in those civil-service laws after a state certifies that its civil-service system conforms to federal 'merit' standards."

Classification of Kansas employees addressed in *Darling v. Kansas Water Office*; 245 Kan. 45 (1989). The court states "Had senate Bill 501 declassified the positions without the mandatory terminations and grandfathering in, to existing employees, their civil service rights, the case herein would not be before us."

## **SUSPENSION, DEMOTION, OR DISMISSAL PROCEDURES**

Procedurally, the following steps must be executed to effect a proper suspension, demotion, or dismissal, relating to performance:

- 1) If action is for performance, suspension, demotion, or dismissal may only be proposed after the employee has received two performance evaluations in the 180 days immediately preceding the effective date of the proposed action. Such evaluations must be at least 30 days apart. K.S.A. 75-2949e.
- 2) There is a small exception to #1, but if the secretary bypasses the time requirements set forth, if the action is appealed to the civil service board, the board shall require the secretary to make a showing that the employee was adequately counseled concerning the employee's performance deficiencies and what was expected of the employee to correct the deficiencies. K.S.A. 75-2949e.
- 3) The employee must be delivered a notice from the secretary via certified mail to the employee's last known address, return receipt requested, or by personal delivery to the employee, indicating the basis for the suspension, demotion, or dismissal, both statutory and factual. K.S.A. 75-2949.
- 4) A copy of the notice must also be delivered to the Director of Personnel Services. K.S.A. 75-2949.
- 5) The notice shall state the effective date of the suspension, demotion, or dismissal, which shall be no less than three days, nor more than fourteen days following the date of notice. (Logistically, three days may be difficult to accomplish given the intervening tasks). K.S.A. 75-2949.
- 6) The notice shall offer the employee an opportunity to reply in writing or appear in person before the secretary or the secretary's designee at a given time and place prior to the effective date of the suspension, demotion, or dismissal. K.S.A. 75-2949.
- 7) After having heard or otherwise reviewed the employee's response to the proposed suspension, demotion, or dismissal, or if no such response is forthcoming within the prescribed time period, a second notice shall be delivered to the employee rendering the final decision of the secretary regarding the employee's suspension, demotion, or dismissal, prior to the effective date of such action. K.S.A. 75-2949.

- 8) A copy of the second notice shall be immediately forwarded to the Director of Personnel Services. K.S.A. 75-2949.
- 9) The employee has 30 calendar days following the effective date of the suspension, demotion, or dismissal to appeal such action to the civil service board. K.S.A. 75-2949.
- 10) The board shall have a hearing on the suspension, demotion, or dismissal within 45 days of receiving a request for appeal. K.S.A. 75-2929d.
- 11) Notice of the hearing date shall be provided no less than 14 days prior to the hearing. K.S.A. 75-2929d.
- 12) The board may affirm, modify or reverse any agency action, and order any other action it deems appropriate. K.S.A. 75-2929d.
- 13) Decisions of the civil service board may be appealed to the district court. K.S.A. 75-2929h.

***Basically, the procedure equates to a minimum 4 month timeline, and perhaps longer depending on the time it takes for the board to render its decision, and the duration of any subsequent appeal to the district court.***