

MINUTES OF THE House COMMITTEE ON Labor & Industry

The meeting was called to order by Representative Anthony Hensley
Chairperson

9:06 a.m./~~p.m.~~ on February 7, 1991 in room 526-S of the Capitol.

All members were present except:

Representative Douville - Excused Representative Dillon

Representative Cribbs - Excused

Representative Webb - Excused

Committee staff present:

Jim Wilson, Revisor of Statutes

Jerry Donaldson, Research Assistant

Barbara Dudney, Committee Secretary

Conferees appearing before the committee:

Rep. George Gomez

Gigi Felix

James P. Schwartz, Jr.

Betty Dunhaupt

Leroy Jones

Keith Landis

Phyllis Wisneski

Wayne Maichel

Paul Shelby

Craig Grant

Bill Curtis

The meeting was called to order at 9:06 a.m. by the chairman, Rep. Anthony Hensley.

Chairman Hensley entertained a motion to approve the minutes of the January 29th and January 30 meetings. Rep. Sam Roper moved, seconded by Rep. Eloise Lynch, that the minutes of the January 29th and 30th meetings be approved. Motion carried.

The chairman announced that the hearings on House Bill No. 2076 would continue and introduced conferees as proponents of House Bill No. 2076:

Rep. George Gomez described his family's personal experience when his wife had their baby and her employer did not allow her appropriate family leave. She had to quit her job as a result of her employer's lack of a family leave policy. Rep. Gomez said he would provide written testimony in the near future.

Betty Dunhaupt, a part-time employee, described her past personal experiences with caring for her children and her mother when they were ill. She said she was very fortunate to work for employers who would give her time off to fulfill her family responsibilities. (attachment #1)

Phyllis Wisneski, representing the National Organization of Women, described her own experiences as a single parent. She was terminated from her job when she was unable to find someone to care for her sick child and exceeded her employer's allotment of time off. When she returned to the job market, she had to work three jobs in order to catch up on her financial obligations. She also described how over the past two years she has had to care for her elderly parents, one who has Alzheimer's disease. She finally decided to have her parents move in with her to care for them. She has lost time at work due to moving her parents, doctor appointments, and finding an appropriate nursing home placement for her mother. Her present employer has a very flexible leave policy which has allowed her to assume these family responsibilities. In her present job as a registered nurse, she has observed the adverse affects of inadequate family an medical leave: parents are unable to be with their sick child because they cannot take off work, elderly patients without a spouse face coping with illness alone because their children are unable to take time off from work to be with them, and premature nursing home placements of elderly patients because no one can stay home from work to care for them during convalescence (attachment #2). Ms. Wisneski answered questions from members of the committee.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Labor and Industry,

room 526-S, Statehouse, at 9:06 a.m./~~p.m.~~ on February 7, 1991

Craig Grant, Legislative Director of Kansas National Education Association, stated that in today's economy most families need two incomes to maintain the standard of living their parents enjoyed with one income. He pointed out that the bill provides for unpaid leave. He does not believe abuse will occur because most workers cannot afford to take long periods of unpaid leave. He cited findings of a study conducted by the U.S. General Accounting Office (GAO) which showed family and medical leave: saves employers rehiring and retraining costs, created higher employee moral and productivity, causes less than 1 in 300 workers to absent from work at any one time, and affects 2,500 employers in Kansas or only 4% or 65,000 employers. He went on to point out that the GAO study concluded that family and medical leave would cost less than \$5 per covered employee per year (attachment #3). Mr. Grant answered questions from members of the committee.

Gigi Felix, Executive Director, Kansas Chapter of the National Association of Social Workers, suggested two amendments to the bill: add licensed social workers to the definition of "health care provider" on page 1, lines 35-40, and clarify that the bill applies to employees who work 20 hours "or more" per week on page 2, line 19. She presented the results of a June, 1990 study conducted by The Families and Work Institute in which employers in Oregon, Wisconsin, Minnesota and Rhode Island were surveyed on how family and medical leave affected their businesses. The results of the survey showed that there was very little negative impact on businesses in four areas: implementing the program, health benefit costs, administrative costs, and training costs (attachment #4). Ms. Felix answered questions from members of the committee.

Leroy Jones, representing the Brotherhood of Locomotive Engineers, explained of his personal involvement in lobbying for the national family and medical leave act in Congress over the past two years. He stated that he has visited with many employee organizations in the Kansas City area that support this legislation. Mr. Jones said he will provide written testimony in the near future.

Wayne Maichel, Executive Vice President, Kansas AFL-CIO, stated that the family is the key to social stability, community progress and national strength. He said that unions have long sought to improve the welfare of working people and their families through collective bargaining and the political process. He said the Kansas AFL-CIO supports House Bill No. 2076 because it recognizes the importance of solidifying the family and combines the three elements to make this possible: labor, business and government (attachment # 5).

Chairman Hensley then introduced conferees as opponents of House Bill No. 2076:

Bill Curtis, representing the Kansas Association of School Boards, said that school districts in Kansas now provide paid leave policies for their employees. He pointed out that of 302 districts reporting 1989-90 negotiations information 275 have paid sick leave, bereavement leave, and family illness leave. He said additional leave should not be mandated but should be determined by negotiations between employees and employers. He stated that additional leave may adversely affect educational programs because of the loss of service provided by trained employees. He believes that the bill does not allow employers an opportunity to challenge or change the employee's decision to take a leave of absence (attachment #6).

James P. Schwartz, Jr., Consulting Director, Kansas Employer Coalition on Health, Inc., stated that the 100 employer-members of his organization are opposed to mandating any additional employee benefits. He cited three reasons as to why they are opposed to House Bill No. 2076: mandated family and medical leave would give labor too much advantage, a system of voluntary employee benefits should be retained, and a new tax is created in the name of public welfare but without recognizing the cost to employers (attachment # 7). Mr. Schwartz answered questions from members of the committee.

Keith Landis, Christian Science Committee on Publication for Kansas, suggested four technical amendments to the bill which would clarify the role of Christian Science practitioners in relations to the provisions of the bill (attachment #8).

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Labor and Industry,
room 526-S, Statehouse, at 9:06 a.m./~~p.m.~~ on February 7, 1991

Paul Shelby, Assistant Judicial Administrator, Office of Judicial Administration, stated that a provision of House Bill No. 2076 would allow nonjudicial employees to file a complaint with the civil service board, which is contrary to the doctrine of separation of powers. He said the judicial branch has its own administrative appeal system. He pointed out that judicial branch employees have comparable if not more generous leave benefits than provided for in the bill. He suggested amending the bill to delete any reference made to the legislature and the courts, and to insert on page 2, line 11, "(a) The legislature and judicial branch shall provide family and medical leave benefits no less comprehensive than those provided by this act." (attachment #9).

Chairman Hensley called to the committee members' attention copies of letters which were submitted by other proponents and opponents of House Bill No. 2076: Sue Rouse, Chairperson, Legislation Committee, Kansas Federation of Business and Professional Women's Clubs (attachment #10); Erik E. Berggren of Topeka (attachment #11); and William O. Barnes, Plant Manager, Modine Manufacturing Company, Emporia, Kansas (attachment #12). The chairman also announced that he had provided for each member a copy of the rules and regulations on state employee "hours; leaves; employee-management relations" (attachment #13).

The chairman announced that the agenda for this week had been revised and that the committee would not meet tomorrow, but that a subcommittee on House Bill No. 2076 would be appointed to meet during the regular meeting time of the committee.

The chairman appointed the following members to comprise the subcommittee on House Bill No. 2076: Rep. Denise Everhart, who will be chairperson of the subcommittee, Rep. Diane Gjerstad, and Rep. Gary Hayzlett. The chairman said that he hoped the subcommittee could finish its work and report to the full committee by next Thursday, February 14th. He declared that the public hearings on House Bill No. 2076 to be closed.

The meeting was adjourned at 9:55 a.m.

GUEST LIST

COMMITTEE: House Labor and Industry

DATE: Feb. 7, 1991

NAME	ADDRESS	COMPANY/ORGANIZATION
Mayorie Van Buren	Topeka	self
Kelley Kuitala	KCRS	NOW
Phyllis J. Lisneski	Wichita	NOW
Betty Sunkaupt	Topeka	YWCA-Topeka
Craig Grant	Topeka	K-NEA
Jennifer Thomas	Topeka	K-NEA
KEITH R. HANDIS	TOPEKA	CHRISTIAN-SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Paul Bates	Topeka	OJA
Paul Shelby	Topeka	OJA
Charles D. Dson	Topeka	KAPE
Jim McHaff	Topeka	KS AFL-CIO
Harry W. Welberg	Wichita	" " "
Wayne Marickel	Topeka	" " "
Al Robert	Topeka	DHD
Jim Schwartz	Topeka	KECH
Terry Leatherman	Topeka	KCGI
Anne Kimmel	Topeka	AAVW
Michelle Pieter	Topeka	John Peterson & Associates
JAN BUEKER	TOPEKA	K-NASW
Gizelle Felix	Topeka	K-NASW
LISA Getz	WICHITA	KS ASSO FOR SMALL BUSINESS
Bill Curtis	Topeka	Ks. Assoc. of School Bds
Joanne Gomez / Anna	Topeka	Self

HOUSE LABOR AND INDUSTRY COMMITTEE

Testimony in behalf of HB 2076

February 7, 1991

I am Betty Dunhaupt. I retired from the Topeka YWCA in 1990 and currently work part time.

As a working single parent in the days before that was a common situation, I was fortunate to have lenient, compassionate employers who allowed me to take time when any of my five children were seriously ill. I remember one time doing paperwork at the bedside of a 6 year old who had surgery.

Later, as the closest child of an elderly, ailing mother, the same situation made it possible for me to be available to her. Because of this and my ability to take long weekends occasionally for doctor and other appointments we were able to keep mother in her own home longer than we had hoped.

Because my nearest daughter works for an employer who has a liberal family leave policy (the State of Kansas) she has been able to be with me both times I have had emergency surgery and needed someone.

Not everyone is as fortunate in employers. Because of this there is a definite need for legislation. More and more families and single parents do not have a support system in times of emergencies.

This was one of the most common problems for the clients I worked with. In the long run it is usually to an employer's advantage to assist a good employee. I urge passage of the Family and Medical Leave Bill.

Respectively Submitted,
Betty Dunhaupt

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2-7-91
Attachment # 1-1

TESTIMONY
ON
FAMILY MEDICAL LEAVE ACT 1991

Phyllis Wisneski
National Organization for Women

Many of the problems of family life today stem from "economy's demand that women work, coupled with society's failure to accomodate its institutions to this economic reality." This statement from the 1987 House Hearings on the Family Medical Leave Act summarizes the problem of dual and multiple responsibilities many people face. The crucial unpaid caretaking services traditionally performed by women have become increasingly difficult for families to fulfill. Although many businesses have maternity leave of some type now, foster and adoptive parents are rarely considered, nor are the needs of male members of the family. We must also distinguish that after a family is established there are equally important needs, such as serious illness of children, spouses, or parents that must be met. Only 16% of businesses have ill-child leave policies and only 14% have ill-parent policies. This is a failure to deal with the reality of ongoing family needs and responsibilities.

As a single parent I realize the importance of my income. I made between \$12,000 and \$20,000 annually until my son reached age 15, and now that he is 17 I finally make enough to start saving money. Many are not as fortunate. They rightly fear absentee policies and the risk of losing their jobs. I once was terminated when babysitters and child care centers refused to care for my sick child and I exceeded my allotment of time off. With no income until I found another job, and inadequate income to build a savings, the

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Attachment #27*

bills mounted, the creditors hounded and shamed me, and I was forced to work three jobs, rarely seeing my child until I could catch up. While in nursing training, I was injured by a falling patient. I barely escaped expulsion because of a strict attendance code aimed at teaching single students responsibility.

The ability to recover financially from personal illness, providing care for seriously ill loved ones, or seeking new employment when jobs are lost due to these absences is much more difficult with low income or low job status, as benefits and job security concerning these issues increase as pay and job status increase. This would infer less value on the personal responsibilities of lower income families and makes it difficult to impossible for them to meet these needs.

As a child, I have dealt with the time-consuming care of my elderly parents over the past two years. My dad had exhausted his energies as sole caretaker of my mother with Alzheimer's disease. After losing work to join them in Tulsa for extensive testing and treatment I insisted they move in with me to ease the burden. It was not only a physical burden of 24-hour per day care, but a mental and emotional drain as well. I lost time from work moving their household in with mine from Louisiana. I lost work when mom had doctor appointments or became violent or ill and dad couldn't cope alone. Over one year her physical condition worsened and we could no longer cope at home; I lost work during her hospitalization and subsequent search for Nursing Home placement. Once I could no longer work as well as provide home care with dad, Medicare - i.e., taxpayers - stepped in for most of the \$1800/month expenses for nursing home care.

At this time, as an RN with a flexible self-scheduling policy and an employer who recognized these responsibilities, I was able to continue my financial obligation as a single parent and save taxpayers around \$20,000 in costs to care for my mom. How lucky I was to have those benefits on this job for the first time in my 25 years of employment.

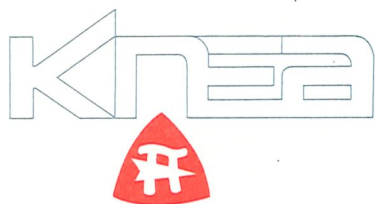
As an LPN for 13 years in various fields, and an RN on heart units the past three years, I see the ill effects of inadequate family medical leave on a daily basis. Children seriously ill and scared, whose parents cannot be with them because of job insecurity, often from out-of-town as well, making it hard to spend time with the sick child. Elderly patients, often facing life-threatening conditions, often with physical and mental impairments with no support. Often their spouse has died and their children are unable to take time off from work, leaving the patient to cope alone. Newborns who must stay at the hospital long after their mother must return to work often suffer from lack of contact with their parents. The nursing home placements of elderly patients and their subsequent mental and physical decline because children cannot stay home from work to care for them during convalescence.

There is no monetary value for these losses and the anguish caused by them - the feelings of guilt on the caretaker and the feelings of fear and abandonment on the family member in need. Neither medicine nor caring nurses can adequately fill that gap. They cannot affect the speed of recovery or regaining of will power as can a loved one. I see proof of this consistently as I work with families to overcome these problems.

This bill is fair to employees because it does not single out women, it does not limit benefits to cover only the beginning of a family, it does not limit care only to children, and it provides job security. It is fair to the employer who has less expense by using temporary workers or absorbing the extra workload on a short-term basis than by hiring and training all new personnel. It provides a more loyal and experienced workforce. And it protects employers who are responsible by relieving competitive pressure by more irresponsible employers.

It is time for the State of Kansas to provide a framework in which families gain both security and needed time to strengthen the fabric of the family unit. I hope you will carefully consider the great need for this bill.

Thank you.



Craig Grant Testimony Before The
House Labor & Industry Committee
Thursday, February 7, 1991

Thank you, Mr. Chairman. I am Craig Grant and I represent Kansas-NEA. I appreciate this opportunity to visit with the committee about HB 2076, the family and medical leave act.

The demographics of the American and Kansas work force and families have changed dramatically over the past 25 years. No longer do we have the "classic" family model with a single male "breadwinner" heading the family of four (less than 10%). The majority of families today are comprised of two-earner couples working outside the home. In addition, an estimated 16 million children nationwide are from single parent households.

In today's economy, most families need two incomes to maintain the standard of living their parents enjoyed with only one income; most single parents are struggling to survive. In addition to child care responsibilities, many families provide care to elderly parents and relatives. The balance between work and family responsibilities has become a precarious one. The obstacles facing working families are daunting enough. Families need the security of knowing that caring for their families and themselves will not jeopardize their economic well-being.

The above situation holds significant implications for public policy and public policy makers. HB 2076 is a response to the ever-growing need to build and maintain strong family units in our state.

Why is the Kansas-NEA interested in such legislation? More than its effect on our own members (some of whom still cannot use all their sick leave for maternity reasons), we are the ones who see the children of those broken families and/or the families struggling to survive. The difference in pupils' "readiness to learn" between those from stable and unstable

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families is readily noticed and documented. Whatever we can do to support the family assists the job we do preparing the future citizens of this state.

The United States is alone among the industrialized nations in the lack of a comprehensive parental leave policy. More than 100 nations guarantee workers some form of job-protected partially paid leave for maternity. Many also provide parental leave for both men and women.

HB 2076 is not a paid leave. The employers' only obligation is the continuation of their share of group health insurance. The key is a guarantee of a job when returning from leave. The leave is only for a serious health condition or after the birth or adoption of a child. Further, the act covers only companies which employ 50 or more employees.

We think these provisions are reasonable ones. First, most employees cannot afford unpaid leave. We do not believe abuse will take place. It appears many companies provide some type of benefits, but setting a minimum state standard we believe is wise state policy.

As you have heard, the federal government nearly passed such a piece of legislation. Since it was a major piece of legislation, the United States General Accounting Office studied the matter in depth. The GAO study is worth noting. Some of its findings were:

- the legislation would save employers rehiring and retraining costs, create higher morale and increase productivity;
- the legislation would cause less than 1 in 300 workers to be absent at any one time;
- the legislation would affect 2,500 employers in Kansas or only 4% of the over 65,000 employers;
- less than 50% of the employees would qualify (be employed in a company of more than 50) for leave; and
- the estimated number of Kansas workers likely to use the provisions of the act in any one year would be under 2% of the total number of employees.

The GOA study held further that only 30% of the workers taking leave would be actually replaced and the cost of those replacement workers was

generally similar or less than the worker replaced. The conclusion reached by the GAO was that the measure would cost less than \$5 per covered employee per year. That total cost, which might be slightly higher when just Kansas is concerned, is minimal compared to the higher morale and productivity created by the policy.

Kansas-NEA supports HB 2076 and believes that our state should create this minimal state standard for our workers. The positive family atmosphere created will assist our teachers not only in their own job circumstances but also in their teaching situation. If we believe that all students should come to school ready to learn, then we should do all we can to help that home environment. We will all benefit.


Thank you for listening to the concerns of our members.

KANSAS NASW

National Association of Social Workers, Inc.
Chapter Office
817 West Sixth Street
Topeka, Kansas 66603

Telephone: 913-354-4804

TESTIMONY SUPPORTING HB2076

 By: Gigi Felix, LMSW
Executive Director
FEB 6, 1991

Mr. Chairman, and members of the House Committee on Labor and Industry, I am pleased to present **supporting testimony** for HB2076 on behalf of the Kansas Chapter of the National Association of Social Workers today. Our National Office has been working on the Federal level for several years to have this type of legislation enacted in Washington - we almost made it last year! Their position statement is attached for your information.

Before addressing our position on the bill, I'd like to suggest two small amendments. First, page 1, line 40: I'd like to suggest that Licensed Social Workers be added to the list of "Health Care Providers" since we are. Secondly, on page 2, line 19: I believe the intent of this is to include part time workers in the legislation. However, the wording seems to limit the legislation to those folks only; I think it might need clarification.

As to our position on the bill, HB2076 represents a significant step toward supporting and strengthening the Kansas family, as well as Kansas business. There are currently 26 states which have this type of legislation enacted. They have recognized and provided for the many homes with single heads of households and children being cared for, a problem Kansas shares. There are also many young families starting out who depend on two incomes, yet will be starting families, often without adequate maternity leave, or medical leave. These families face choices as to whether to work and maintain the two income level (when perhaps they shouldn't because of medical problems) or loose their jobs. When a child comes into a home, either by birth, adoption, or foster care, the family is again torn with these decisions - stay home to care for, and foster a loving relationship with the child, and loose their job; or return to work and depend on some form of day care where some one else will nurture the child. Tough decisions. There is a sign in Topeka for a a day care center advertising that they will care for children as young as 2 weeks old. That doesn't fit the "American Dream" of family life, in my opinion.

In addition, there is demographic proof that the elderly population is the fastest growing segment of the American population. In other committees within the Kansas Legislature, there is an ongoing struggle over the cost of long term care for the elderly, how it is impacting the state budget, and the cost of insurance. If there is no way to care for an ill elderly relative in the home - because of the lack of time off, the family is often backed into a corner to place their loved one into a long term care facility. How many could have been cared for at home if there were a mechanism to allow the family member to stay at home as a care giver (perhaps with minimum supports) and be assured they would have their job back when they were able to return to work, with their accrued benefits in place?

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KANSAS NASW

National Association of Social Workers, Inc.
Chapter Office
817 West Sixth Street
Topeka, Kansas 66603

Telephone: 913-354-4804

In the business world, how much does it cost an employer to train new workers to replace the seasoned, experienced workers that have left for maternity leave, to care for a child, or care for an ill elderly family member? It is well known that the training of a new employee is more expensive than the maintenance of current staff. Yet, there is no provision for necessary leaves in the cases addressed, and provided for, in HB2076.

In June, 1990, the Families and Work Institute released the "Preliminary Study Results from Family and Work Institute's 4 State Study." The Institute surveyed employers in four states where this type of legislation currently exists. The states surveyed were: Oregon, Wisconsin, Minnesota, and Rhode Island. The results show without question that there was limited impact on businesses with the enactment of the law, and a strong positive impact on the family. Information on several questions is listed on the next page for your information. However, for purposes of testimony brevity, a thumb nail summary of their findings are:

EMPLOYER RESPONSES:

1. No difficulty in implementing the program:
88% - 95% replied there was no difficulty
2. No increase in health benefit costs:
66% - 73% replied there was no increase
3. No change in administrative costs:
56% - 66% replied there was no change
4. No change in training costs:
74% - 77% replied there was no change

Parents were also surveyed, and asked if the provision for family has made a positive impact on their family life. There was an overwhelming positive response to this law. In the three states surveyed (Rhode Island apparently was not surveyed) positive responses ranged from 92% - 95%. The exact numbers are on the next page as well.

NOTE: This study is being sent to me, if you'd like a copy, I'd be glad to provide it. My information was gathered from Helen Norton at the Women's Legal Defense Fund in Washington D.C. (202) 986-2600. She would welcome any calls on this study.

KANSAS NASW

National Association of Social Workers, Inc.
Chapter Office
817 West Sixth Street
Topeka, Kansas 66603

Telephone: 913-354-4804

"PRELIMINARY SURVEY RESULTS FROM FAMILY AND WORK INSTITUTE'S FOUR STATE STUDY"

EMPLOYER RESPONSES:

1. There was no difficulty in implementing the program:

Oregon:	88%
Wisconsin:	91%
Minnesota:	92%
Rhode Island:	95%

2. there was no change in administrative costs:

Oregon:	66%
Wisconsin:	60%
Minnesota:	64%
Rhode Island:	56%

3. There was no forced increase in health benefit costs:

Oregon:	72%
Wisconsin:	71%
Minnesota:	73%
Rhode Island:	66%

4. There were no change in training costs:

Oregon:	77%
Wisconsin:	74%
Minnesota:	74%
Rhode Island:	75%

PARENTAL RESPONSES:

	YES	NO	NO OPINION
Wisconsin	94%	4%	2%
Oregon	94%	3%	3%
Minnesota	92%	6%	2%
Rhode Island	--	--	--



September, 1990

FAMILY AND MEDICAL LEAVE

Social workers have traditionally been concerned with the well-being of the American family. The Family and Medical Leave Act of 1990, if enacted, will not only help strengthen and preserve the American family, but will also contribute to the economic health of the nation.

Our current system fails to take into account the new realities families are now facing. Fifty-one percent of the workforce in 1988 were working mothers. An estimated 80% of working women will become pregnant in 1990, and most will encounter problems when attempting to take maternal leave. Only four out of ten working women in America have maternity leave from their jobs, and, for those who do, the average length of leave is six to eight weeks. Clearly, there is a need for new federal standard setting laws that would allow parents throughout the United States the flexibility to both work and meet basic parental responsibilities.

In addition, the elderly is the fastest growing segment of the American population, and many of them have health problems requiring special care which is often provided by a family member. Forty percent of caregivers of the elderly in 1982 were either working while caregiving or resigned work to become caregivers -- yet employment policies have not changed to reflect the needs of these workers.

The lack of adequate parental and other medical leave for workers leads to serious stress on the families involved, stress which cannot help but adversely affect our nation's businesses. Indeed, it has been estimated that worker stress cost businesses as much as \$5,000 annually in diminished job performance, increased use of health benefits, absenteeism, and loss of trained workers. Implementing new state family leave laws have apparently not created hardships for business. According to a recent article published in the Wall Street Journal, the Family and Work Institute found that a majority of employers in the four states surveyed said "they were experiencing neither serious increases in costs...nor difficulty in administering and implementing" parental leave laws. Presently, twenty-six states have laws or regulations guaranteeing employees their jobs if they must be out of work temporarily for family or personal medical reasons.

It is ironic that in a country in which we often speak of our commitment to families, we have allowed ourselves to fall behind other industrialized nations. All other industrialized nations, as well as many developing nations, provide for job-protected maternity leave and some wage replacement. It is now time for us to treat our families as they would be treated in most of the rest of the world. We cannot continue to underestimate the value of balancing work and family responsibilities. Family and medical leave makes good sense for individuals, families, and businesses.

Kansas AFL-CIO

110 W. 6th St.

Topeka, KS 66603

(913)357-0396



President
Dale Moore

Executive Secretary
Treasurer
Jim DeHoff

Executive Vice
President
Wayne Maichel

Executive Board

*Eugene Burrell
Jim Dickson
Garold Good
Jack Gray
David Han
Jim Hastings
John Hoover
Mike Krasovec
Kenneith Miller
Roger Naylor
John Rider
Wallace Scott
Debbie Snow
Art Veach
Russell Ward
John Weber
Wayne Wianecki*

Presented to the House Labor & Industry Committee on February 7, 1991, by
Wayne Maichel, Executive Vice President, Kansas AFL-CIO.

The family is the key to social stability, community progress and national strength. To strengthen the family is at the heart of the AFL-CIO's long struggle to raise wages and living standards to broaden individual opportunity and secure dignity in old age.

In the conviction that work and the rewards of work are the foundations of the stable, hopeful family life that engenders self-reliance, self-respect and respect for others, unions have sought to advance the welfare of working people and their families through collective bargaining and the political process.

Changes are underway that make work and family issues more vital than ever to the health of our state and country.

We have to all be impressed by the revolutionary change in the labor force and the profound implications of that change for families. The percentage of women entering the labor force has increased dramatically. In terms of its significance for social policy, the most striking feature of the increase in female labor force participation has been the increase in the participation rates for women with young children, including women with infants under the age of one.



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The growth of the two-wage earner families and the rapid rise in the number of single parents are making it more and more difficult for parents to have the kind of interaction with their young children that is so important to good child development. Child care experts contend the time immediately after childbirth is the most important to the future growth and development of a child. The bonding that takes place during this time is crucial to both child and parent. Yet, too often, parents are denied the option of spending this important time with their children because to do so will endanger their employment.

Mr. Chairman, we support H.B. 2076 because it moves us in the right direction of solidifying the importance of the American family and will combine the three elements that will make this possible: workers, business and government.

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS



5401 S. W. 7th Avenue Topeka, Kansas 66606
913-273-3600

Testimony on H.B. 2076
before the
House Committee on Labor and Industry

by

NORMAN D. WILKS, DIRECTOR OF LABOR RELATIONS
KANSAS ASSOCIATION OF SCHOOL BOARDS

February 5, 1991

Mr. Chairman and Members of the Committee, on behalf of the 292 of 304 Unified School Boards of Education which are members of The Kansas Association of School Boards, we wish to express our opposition to the passage of H.B. 2076.

Kansas school districts now provide a significant number of paid leave opportunities to protect employees against the loss of income. In 275 of the 302 districts reporting 1989-90 negotiations information, paid sick leave was allowed for other leave purposes, the most common being bereavement leave and family illness leave. The member districts allowing sick leave to be used for other purposes is increasing.

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attachment # 6-1*

The mandated leave as required by H.B. 2076 is an unnecessary extension of the leave provisions allowed in the vast majority of Kansas school districts. Additional leave should not be mandated but should be determined by discussions between employees and employers. The additional period of leave may adversely affect the educational program of many districts because of the loss of service provided by trained and knowledgeable employees.

The median contract period for a majority of school district employees is 185 days per year. Significant breaks in service are provided for holidays, spring break, winter break and summer vacation because of the traditional school schedule.

The bill as drafted allows the employee to determine the beginning and ending of leave after reasonably considering needs of the employer. The employer is still subject to the employee's determination of the needs of the employees. The employer is left without an opportunity to challenge or modify the employee's determination. To deny the leave request or the time of leave, subjects the employer to the penalties of Section 13(d), even if the granting of leave may significantly disrupt the school operation.

We urge you to recommend H.B. 2076 unfavorably for passage.

Kansas Unified School Districts
Sick Leave and Other Available Leave
From KASB Research Department
1989-90 School Year

Certified Employees

Sick Leave - 302 districts reported availability of sick leave ranging from 5 to 40 days per year. The median annual allowance was 10 days per year.

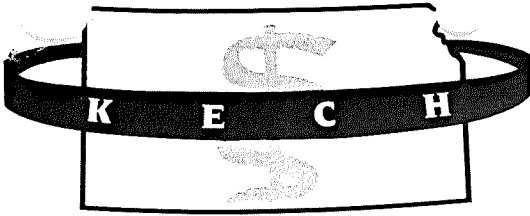
Accumulation of sick leave was reported in 298 districts. The accumulation ranged from 20 days to 180 days. The median accumulation was 60 days.

In addition a sick leave bank was reported by 121 districts. The leave bank is to provide additional paid sick leave when the employee's leave is exhausted.

In 275 districts, sick leave may be used for purposes other than the employee's illness. Use of sick leave for bereavement leave exists in 245 districts. Use of sick leave for family illness exists in 268 districts. Other uses of sick leave includes business leave, emergency leave, legal or jury leave, personal leave, professional leave, extended or sabbatical leave, association business leave and other.

Classified Employees

Sick leave is also available for classified employees with the median annual allowance of 10 days and the ability to accumulate unused days to a median of 60 days. Districts also reported personal leave, bereavement leave, emergency leave, business leave, other leaves and paid vacation leave.



Kansas Employer Coalition on Health, Inc.

1271 S.W. Harrison • Topeka, Kansas 66612 • (913) 233-0351

Testimony to House Committee on Labor and Industry (HB 2076: Family and Medical Leave Act)

by James P. Schwartz Jr.
Consulting Director
February 7, 1991

The Kansas Employer Coalition on Health is 100 employers across Kansas who share concerns about the cost-effectiveness of health benefits provided to our 300,000 Kansas employees and dependents.

When government mandates a particular employee benefit, several questionable results are likely to happen:

- 1) The process of quid-pro-quo between labor and management is distorted.

The amount and type of compensation for labor are issues of delicate balance in an employment contract. For companies affected HB 2076, the mandates would shift the balance in favor of labor without offsetting advantages for management. What's more, the effects of HB 2076 would apply unevenly to employers, depending on which ones already had such benefits and on size of employer. This unevenness has disruptive implications for competitiveness between firms, especially those involved in interstate commerce.

- 2) The process of having various benefits compete for inclusion in the benefits package is sidestepped.

Considering all the wonderful health-related benefits available today, we realize, as you do, that no employer can offer every benefit that employees could possibly want. Instead, companies try to select a package that offers the most desirable benefits for its members. This is a delicate process, especially in negotiated labor contracts.

Family and medical leave is an employee benefit, just like medical insurance, vision services, dental insurance, legal coverage, child care, pharmacy coverage, long-term disability, and so forth. Family and medical leave is a valuable benefit, but who's to say it's more valuable than those other benefits? We believe that in our system of voluntary benefits, which includes health benefits, employers

*Labor & Industry
2-7-91
Attachment #7-1*

8

Christian Science Committee on Publication For Kansas

820 Quincy Suite K
Topeka, Kansas 66612

Office Phone
913/233-7483

To: House Committee on Labor and Industry

Re: Proposed amendments to HB 2076

1. Capitalize "Christian Science" in page 1, line 21; page 3, lines 29 and 37-38.
2. Capitalize "The Christian Science Journal" in page 1, line 23.
3. Delete "residing in this state" in page 1, line 22.
4. Add after page 2, line 9, "or Christian Science practitioner."

Items 1 and 2 above request capitalization of the names of our established, century-old religion and its trademarked, copyrighted monthly periodical which includes listings of Christian Science practitioners throughout the world.

Like many health care providers, who are not required in this bill to be residents of the state, our practitioners practice across state lines. In Kansas, this is especially true in the Kansas City area where our practitioners sometimes move their offices, homes or both from one state to the other, treating patients in both states. Adoption of item 3 will be helpful to them.

This bill permits certification of illness by a Christian Science practitioner but does not specify that treatment by a Christian Science practitioner is allowed as a reason to be away from work. Item 4 clarifies this point.

We are grateful that Christian Science practitioners have been included in the bill and believe that these recommended "technical" amendments will carry out the intent of the bill's authors.

Thank you for your consideration of this request.



Keith R. Landis
Committee on Publication
for Kansas

Labor & Industry
2-7-91

attachment #8

and employees are the best judges of what goes into the package.

- 3) By requiring maintenance of health insurance for employees on leave, a de-facto tax is imposed, without government accountability normally associated with legitimate taxes.

Maybe some day we'll have state or national health insurance. It's arguable whether that might be a good thing. But if it happens, one good thing is certain, the taxes to fund it will have to compete head-to-head with other societal needs, like education, defense and infrastructure. That competition will be acted out in legislatures, in full view of the public, so the tradeoffs can be brought to light.

HB 2076 does not deal openly with tradeoffs. It essentially creates a tax in the name of the public welfare, without recognition of the costs. And it doesn't even apply the tax uniformly.

We commend the intent of the bill: to create a healthier, less-stressed society. The provisions of the bill are already evolving naturally in the workplace. As care-giving roles in society continue to change, we would expect to see more companies reorder their benefit packages to include family and medical leave. We don't however, believe that such changes ought to be demanded by government.

House Bill No. 2076
House Labor and Industry Committee
February 6, 1991

Testimony of Paul Shelby
Assistant Judicial Administrator
Office of Judicial Administration

Mr. Chairman:

I appreciate the opportunity to appear today to discuss House Bill No. 2076. This bill would establish the family and medical leave act, providing for unpaid leaves of absence from employment for certain employees for births, adoptions and family illness.

In 1972, the people of this state adopted, by an overwhelming majority, a new judicial article of the State's Constitution which had been placed before them by resolution of the Legislature. It included the basic recommendations of the Citizens Committee on Constitutional Revision which was established by the Legislature in 1968. The model judicial article designed to be the forerunner of judicial reform in the various states embraced the concept of "one court of justice" or a unified judicial system in the state.

Therefore, the authority of the Supreme Court to administer the unified court system is specifically set forth in Article 3, Section 1 of the the Kansas Constitution. One of its main provisions states that the supreme court shall have general administrative authority over all courts in this state.

One of the main administrative functions of the supreme court, and one that was mandated by the legislature, is contained in K.S.A. 20-161. This statute says that the court shall establish for its nonjudicial personnel, a formal pay plan, a personnel plan and an affirmative action plan for the hiring of minority persons. Such pay plan and personnel plan shall include, but not be limited to, job descriptions, qualifications of employees, salary ranges, vacation, sick and other authorized leave policies. All of the above has been established.

One of the provisions of House Bill No. 2076, page 6, lines 3 and 4, would allow our nonjudicial employess to file a complaint with the civil service board, which we oppose as a separation of powers issue. Our court employees have never been under the authority of the civil service board. We have our own administrative appeal system, which is parallel to the one in the Executive Branch's civil service.

*Labor & Industry
2-7-91
attachment # 9-1*

We have compared our personnel rules concerning family and medical leave with this bill. Our rules provide comparable benefits; in fact, in some cases the Judicial Branch rules are more generous in granting this type of leave. For example, our rules provide for family leave for foster care placements which this bill does not.

We have provided the committee with proposed amendments which include; page 1, lines 31 and 32 by striking the language "including the legislature and the courts".

On page 2, line 11, insert language " (a) The legislature and judicial branch shall provide family and medical leave benefits no less comprehensive than those provided by this act". We would then have to change present paragraph (a) to (b), (b) to (c) and (c) to (d).

On page 5, line 40, strike the language "including the legislature and the courts".

We respectfully urge the committee to consider our concerns and proposed amendments to this proposal.

HOUSE BILL No. 2076

By Committee on Labor and Industry

1-30

8 AN ACT enacting the family and medical leave act; providing for
9 unpaid leaves of absence from employment for certain employees
10 for births, adoptions and family illnesses.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. This act may be cited as the family and medical leave
14 act.

15 Sec. 2. As used in this act:

16 (a) "Child" means a birth child, adopted child, foster child, step-
17 child or legal ward to whom any of the following applies:

- 18 (1) The individual is less than 18 years of age.
- 19 (2) The individual is 18 years of age or older and cannot care
20 for the individual's self because of a serious health condition.

21 (b) "Christian science practitioner" means a christian science
22 practitioner residing in this state who is listed as a practitioner in
23 the christian science journal.

24 (c) "Employee" means an individual employed in this state by
25 an employer, except the employer's parent, spouse or child.

26 (d) "Employer" means a person engaging in any activity, enter-
27 prise or business in this state employing at least 50 individuals on
28 a permanent basis. Employer includes the state and any office, de-
29 partment, independent agency, authority, institution, association, so-
30 ciety or other body in state government created or authorized to be
31 created by the constitution or any law, ~~including the legislature and~~
32 ~~the courts.~~

33 (e) "Employment benefit" means an insurance, leave or retire-
34 ment benefit which an employer makes available to an employee.

35 (f) "Health care provider" means a person licensed to practice a
36 branch of the healing arts, a licensed dentist, a certified advanced
37 registered nurse practitioner, a licensed professional nurse, a licensed
38 practical nurse, a licensed optometrist, a licensed psychologist, a
39 licensed podiatrist, a registered physical therapist or a registered
40 occupational therapist.

41 (g) "Parent" means a birth parent, foster parent, adoptive parent,
42 stepparent or legal guardian of an employee or an employee's spouse.

43 (h) "Serious health condition" means a disabling physical or men-

1 tal illness, injury, impairment or condition involving any of the
2 following:

3 (1) Inpatient care in a medical care facility, as defined in K.S.A.
4 65-425 and amendments thereto; adult care home, as defined in
5 K.S.A. 39-923 and amendments thereto; psychiatric hospital or men-
6 tal health center licensed pursuant to K.S.A. 65-3307b and amend-
7 ments thereto; or hospice.

8 (2) Outpatient care that requires continuing treatment or super-
9 vision by a health care provider.

10 (i) "Spouse" means an employee's legal husband or wife.

11 Sec. 3. ~~(a) Nothing in this act prohibits an employer from pro-~~
12 ~~viding employees with rights to family leave or medical leave which~~
13 ~~are more generous to the employee than the rights provided under~~
14 ~~this act.~~

(a) The legislature and judicial branch shall provide family and medical leave benefits no less comprehensive than those provided by this act.

b

15 ~~(b) This act does not limit or diminish an employee's rights or~~
16 ~~benefits under the workers compensation act.~~

c

17 ~~(c) This act only applies to an employee who has been employed~~
18 ~~by the same employer for more than 52 consecutive weeks and who~~
19 ~~worked for the employer for an average of 20 hours per week during~~
20 ~~the preceding 52-week period.~~

d

21 Sec. 4. (a) An employee may take family leave for any of the
22 following reasons:

23 (1) The birth of the employee's birth child, if the leave begins
24 within 16 weeks of the child's birth.

25 (2) The placement of a child with the employee for adoption or
26 as a precondition to adoption but not both, if the leave begins within
27 16 weeks of the child's placement.

28 (3) To care for the employee's child, spouse or parent, if the
29 child, spouse or parent has a serious health condition.

30 (b) This act does not entitle an employee to take more than 10
31 weeks of family leave in a 24-month period for any combination of
32 reasons specified under subsection (a).

33 (c) Except as provided in subsection (d), an employee shall sched-
34 ule family leave after reasonably considering the needs of the em-
35 ployee's employer.

36 (d) An employee may take family leave as partial absence from
37 employment. An employee who does so shall schedule all partial
38 absence so it does not unduly disrupt the employer's operations.

39 Sec. 5. (a) Subject to subsections (b) and (c), an employee who
40 has a serious health condition which makes the employee unable to
41 perform the employee's employment duties may take medical leave
42 for the period during which the employee is unable to perform those
43 duties.

1 (b) This act does not entitle an employee to take more than 6
2 weeks of medical leave during a 12-month period.

3 (c) An employee may schedule medical leave as medically
4 necessary.

5 Sec. 6. (a) This act does not entitle an employee to receive wages
6 or salary while taking family leave or medical leave.

7 (b) An employee may substitute, for portions of family leave or
8 medical leave, paid or unpaid leave of any other type provided by
9 the employer.

10 Sec. 7. (a) If an employee intends to take family leave for the
11 reason specified in subsection (a)(1) or (2) of section 4, the employee
12 shall, in a reasonable and practicable manner, give the employer
13 advance notice of the expected birth or placement.

14 (b) If an employee intends to take family leave because of the
15 planned medical treatment or supervision of a child, spouse or parent
16 or intends to take medical leave because of the planned medical
17 treatment or supervision of the employee, the employee shall do all
18 of the following:

19 (1) Make a reasonable effort to schedule the medical treatment
20 or supervision so that it does not unduly disrupt the employer's
21 operations, subject to the approval of the health care provider of
22 the child, spouse, parent or employee.

23 (2) Give the employer advance notice of the medical treatment
24 or supervision in a reasonable and practicable manner.

25 Sec. 8. (a) If an employee requests family leave for a reason
26 described in subsection (a)(3) of section 4 or requests medical leave,
27 the employer may require the employee to provide certification, as
28 described in subsection (b), issued by the health care provider or
29 christian science practitioner of the child, spouse, parent or em-
30 ployee, whichever is appropriate.

31 (b) No employer may require certification stating more than the
32 following:

33 (1) That the child, spouse, parent or employee has a serious
34 health condition.

35 (2) The date the serious health condition commenced and its
36 probable duration.

37 (3) Within the knowledge of the health care provider or christian
38 science practitioner, the medical facts regarding the serious health
39 condition.

40 (4) If the employee requests medical leave, an explanation of the
41 extent to which the employee is unable to perform the employee's
42 employment duties.

43 (c) The employer may require the employee to obtain the opinion

1 of a second health care provider, chosen and paid for by the em-
2 ployer, concerning any information certified under subsection (b).

3 Sec. 9. (a) Subject to subsection (c), when an employee returns
4 from family leave or medical leave, the employee's employer shall
5 immediately place the employee in an employment position as fol-
6 lows:

7 (1) If the employment position which the employee held im-
8 mediately before the family leave or medical leave began is vacant
9 when the employee returns, in that position.

10 (2) If the employment position which the employee held im-
11 mediately before the family leave or medical leave began is not
12 vacant when the employee returns, in an equivalent employment
13 position having equivalent compensation, benefits, working shift,
14 hours of employment and other terms and conditions of employment.

15 (b) No employer may, because an employee received family leave
16 or medical leave, reduce or deny an employment benefit which
17 accrued to the employee before the employee's leave began or,
18 consistent with section 10, accrued after the employee's leave began.

19 (c) Notwithstanding subsection (a), if an employee on a medical
20 or family leave wishes to return to work before the end of the leave
21 as scheduled, the employer shall place the employee in an employ-
22 ment position of the type described in subsection (a)(1) or (2) within
23 a reasonable time not exceeding the duration of the leave as
24 scheduled.

25 Sec. 10. (a) Except as provided in subsection (b), nothing in this
26 act entitles a returning employee to a right, employment benefit or
27 employment position to which the employee would not have been
28 entitled had the employee not taken family leave or medical leave
29 or to the accrual of any seniority or employment benefit during a
30 period of family leave or medical leave.

31 (b) Subject to subsection (c), during a period an employee takes
32 family leave or medical leave, the employee's employer shall maintain
33 group health insurance coverage under the conditions that applied
34 immediately before the family leave or medical leave began. If the
35 employee continues making any contribution required for partici-
36 pation in the group health insurance plan, the employer shall con-
37 tinue making group health insurance premium contributions as if the
38 employee had not taken the family leave or medical leave.

39 (c) (1) An employer may require an employee to have in escrow
40 with the employer an amount equal to the entire premium or similar
41 expense for eight weeks of the employee's group health insurance
42 coverage, if coverage is required under subsection (b).

43 (2) An employee may pay the amount required under subsection

1 (c)(1) in equal installments at regular intervals over at least a 12-
2 month period. An employer shall deposit the payments at a financial
3 institution in an interest-bearing account.

4 (3) Subject to subsection (c)(4), an employer shall return to the
5 employee any payments made under subsection (c)(1), plus interest,
6 when the employee ends employment with the employer.

7 (4) If an employee ends employment with an employer during
8 or within 30 days after a period of family leave or medical leave,
9 the employer may deduct from the amount returned to the employee
10 under subsection (c)(3) any premium or similar expense paid by the
11 employer for the employee's group health insurance coverage while
12 the employee was on family or medical leave.

13 (d) If an employee ends employment with an employer during
14 or at the end of a period of family leave or medical leave, the time
15 period for conversion to individual coverage shall be calculated as
16 beginning on the day that the employee began the period of family
17 leave or medical leave.

18 Sec. 11. Nothing in this act prohibits an employer and an em-
19 ployee with a serious health condition from mutually agreeing to
20 alternative employment for the employee while the serious health
21 condition lasts. No period of alternative employment, with the same
22 employer, reduces the employee's right to family leave or medical
23 leave.

24 Sec. 12. (a) No person may interfere with, restrain or deny the
25 exercise of any right provided under this act.

26 (b) No person may discharge or in any other manner discriminate
27 against any individual for doing any of the following:

28 (1) Opposing a practice prohibited under this act.

29 (2) Filing a charge or instituting or causing to be instituted any
30 proceeding under or related to this act.

31 (3) Assisting or intending to assist in an investigation or pro-
32 ceeding relating to a right under this act.

33 (4) Testifying or intending to testify in an investigation or pro-
34 ceeding relating to a right under this act.

35 Sec. 13. (a) As used in this section, "department" means:

36 (1) The civil service board, if the employee is employed by the
37 state or any office, department, independent agency, authority, in-
38 stitution, association, society or other body in state government cre-
39 ated or authorized to be created by the constitution or any law,
40 ~~including the legislature and the courts.~~

41 (2) The department of human resources, if the employee is em-
42 ployed by an employer other than one described in subsection (a)(1).

43 (b) An employee who believes the employee's employer has vi-



1 olated section 12 may, within 30 days after the violation occurs or
2 the employee should reasonably have known that the violation oc-
3 curred, whichever is later, file a complaint with the department
4 alleging the violation. The department shall investigate the complaint
5 and shall attempt to resolve the complaint by conference, conciliation
6 or persuasion. If the complaint is not resolved and the department
7 finds probable cause to believe a violation has occurred, the de-
8 partment shall proceed in accordance with the Kansas administrative
9 procedure act.

10 (c) If two or more health care providers disagree about any of
11 the information required to be certified under subsection (b) of sec-
12 tion 8, the department may appoint another health care provider to
13 examine the child, spouse, parent or employee and render an opinion
14 as soon as possible. The department shall promptly notify the em-
15 ployee and the employer of the appointment. The employer and the
16 employee shall each pay 50% of the cost of the examination and
17 opinion.

18 (d) The department shall issue its decision and order within 30
19 days after the hearing. If the department finds that an employer
20 violated section 12, it may order the employer to take action to
21 remedy the violation, including providing requested family leave or
22 medical leave, reinstating an employee, providing back pay accrued
23 not more than two years before the complaint was filed and paying
24 reasonable actual attorney fees to the complainant.

25 Sec. 14. (a) An employee or the department may bring an action
26 in district court against an employer to recover damages caused by
27 a violation of section 12 after the completion of an administrative
28 proceeding, including judicial review, under section 13 concerning
29 the same violation.

30 (b) An action under subsection (a) shall be commenced with the
31 later of the following periods, or be barred:

32 (1) Within 60 days from the completion of an administrative pro-
33 ceeding, including judicial review, under section 13 concerning the
34 same violation.

35 (2) Within 12 months after the violation occurred, or the de-
36 partment or employee should reasonably have known that the vio-
37 lation occurred.

38 Sec. 15. (a) Each employer shall post, in one or more conspic-
39 uous places where notices to employees are customarily posted, a
40 notice in a form approved by the department setting forth employees'
41 rights under this act. Violation of this section is a misdemeanor
42 punishable by a fine of not more \$100 for each offense.

43 (b) Any person employing 25 or more individuals shall post, in

1 one or more conspicuous places where notices to employees are
2 customarily posted, a notice describing the employer's policy with
3 respect to leave for the reasons described in subsection (b) of section
4 4 and subsection (a) of section 5.
5 Sec. 16. This act shall take effect and be in force from and after
6 its publication in the statute book.

10
P.

400 West 15th
Hays, KS 67601
(913)628-2803

BPW kansas

February 5, 1991

The Kansas Federation of Business and
Professional Women's Clubs, Inc.

Representative Anthony Hensley
Chairman, House Labor and Industry Committee
State Capitol
Topeka, KS 66612

Dear Representative Hensley:

This letter on behalf of the over 2200 members of the Kansas Federation of Business and Professional Women's Clubs(BPW/Kansas) supports **House Bill 2076**, The Family and Medical Leave Act.

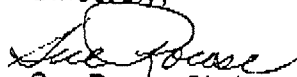
The lack of employment policies to accommodate workers means that many Kansans find that their work and family lives come into conflict forcing choices between job security and family responsibilities. This need must be addressed by public policy as company-by-company improvements won't do. Society cannot afford the forced choice of "love your job or love your family".

The Institute for Women's Policy Research estimates that 41 percent of female and 50 percent of male employees in Kansas would be impacted by this new policy. Only four percent of Kansas employers would be effected by the law. Any cost to business must be weighed against the cost to Kansas families. The lack of a leave policy costs Kansas families income and places additional strain on the social support systems.

Family and Medical Leave is good public policy. It is good for business; it is good for the employee. It is an investment in the future of American children and a way to build a productive work force.

The members of BPW/Kansas urge the Labor and Industry Committee to report favorable **House Bill 2076** to the Kansas House of Representatives for immediate passage.

Sincerely,


Sue Rouse, Chairman
Legislation Committee
BPW/Kansas

*Lab & Industry
2-7-91
attachment # 10*

February 6, 1991

Erik E. Berggren
8134 N.W. Topeka Blvd.
Topeka, Kansas 66617
Phone: 246-2208 (home)
296-2266 (work)

Rep. Anthony Hensley, Chairperson
Committee on Labor and Industry
State Capital Bldg.
Room 278 W
Topeka, Kansas 66612

RE: H.B. 2076; Family and Medical Leave Act

Dear Representative Hensley:

The purpose of this letter is to relay my outlook on the captioned Bill to you and each member of the Committee on Labor and industry. Work schedules have not accommodated my direct participation in any hearings or meetings on this Bill. It is my hope that you or this letter can express my position to the necessary individuals.

On one hand, I am in strong support of the Bill in question as a direct result of a personal situation involving my employer, the State of Kansas, and how personnel regulations were enforced in my individual situation. The regulation in question is K.A.R. 1-9-5.

This regulation can be interpreted to accommodate, I believe, almost all of the scenarios contained in H.B. 2076. However, the present regulation for State employees leaves the test of "reasonableness" to the full discretion of the "appointed authority". The decision can only be rendered by the appointed authority and the employee has no recourse other than through the legal system, which would most generally be severely limited by the costs associated with such an endeavor.

H.B. 2076 appropriately contains provisions for an employee's grievance with such decisions to be taken to a third entity. This is not presently an option under K.A.R. 1-9-5. Had I been granted access to the civil service board, I believe my grievance would have been satisfactorily resolved.

On the other hand, H.B. 2076 conveys a more restrictive position in respect to the maximum number of days/weeks that can be utilized for family leave. K.A.R. 1-9-5 was recently revised to eliminate a 5-day annual limit on family sick leave. Presently, there is no restriction on the number of days that can be allocated to family sick leave. H.B. 2076 appears to be overly restrictive by limiting the use of family sick leave to 10 weeks over a 24-month period, especially from the viewpoint of working mothers who are allowed a full 6 weeks of maternity leave upon the birth of a child. While I understand that accumulated and paid vacation time or sick leave can be substituted, a woman potentially experiencing two births in a 2-year period may be hard-pressed to stay within the 10-week restriction even if only normal conditions persist with that or other family members, as defined. Undoubtedly, the size of one's family would also impact flexibility.

- more -

Labour Industry
2-7-91
attachment # 11-1

While the Bill does not prohibit an employer from offering supplemental options to its employees, it does not guaranty compassion and respect for employees' family situations either. It has been my personal experience that I was not allowed to utilize 8 days of my accumulated and paid family sick leave to assist my wife (a homemaker) in recovering from childbirth. Bear in mind that we had a 3 year old child at home that required my attendance for 3 of the 8 days requested that my wife was hospitalized. Two medical "recommendations" were submitted in support of my request and a two-month prior notice was provided. Historically, my use of sick leave averaged 5 days per year. The decision was rendered by the appointed authority to grant me 6 days, all in the apparent interest of "productivity"; not mine personally, but that of the Banking Department as a whole. The appointed authority pointedly refused to put the basis for his decision in written form, using the "full discretion" aspect as his sole defense.

In closing, I urge you to consider my viewpoint(s) in whatever meetings or hearings transpire on this Bill. Additionally, if there is any method by which I can further convey my position, short of testimony, please advise.

Sincerely,



Erik E. Berggren

EEB/eeb



MODINE

February 4, 1991

The Honorable Anthony Hensley
C/O Statehouse
Topeka, KS 66612

Dear Representative Hensley:

I am writing you as chairman of the House Labor and Industry Committee to express my views on HB2076, the Family and Medical Leave Act. In my review of the basic provisions of this bill, I find that my plant's current benefit package is already more generous to my employees. In today's environment, a company needs to have the ability to determine what wage and benefit package is required to attract the type of worker they desire. As we see the need for good, quality workers expand, the marketplace will manage, and in many cases already has, the items being addressed in this bill.

However, each company must have the freedom to decide its own benefit package and not have it mandated by the state government. A company must be able to decide what benefit package it can afford and still remain competitive. This proposed bill is counterproductive in today's global economy where most American business must compete on an international basis. For example, in Emporia most of the manufacturing sector competes internationally, which includes most of our small firms.

With the current economy in Kansas, we cannot afford legislation that will place additional cost burdens on employers and possibly cause some of them to close. As chairman of the Emporia Area Chamber of Commerce, I have worked with two firms within the past month that probably could not afford the provisions in this proposed legislation. One company is an existing Kansas business employing over 100 people but has a current cash flow problem. The second company is looking at moving to Kansas with a potential employment of over 200 people. However, cash flow will be critical during the startup of this new business. Each business must be able to decide on its own what it can afford in the way of overtime, lost productivity and training costs to cover for an employee on a leave of absence. There are no provisions in this proposed bill to offset any of these costs along with the potential increase in unemployment cost if a replacement worker is hired and then terminated when the absent worker returns.

Modine Manufacturing Company Telephone 316/343-1120
1401 Industrial Street Fax 316/343-7480
Emporia, Kansas 66801

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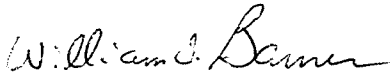
*Labor & Industry
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I urge you to consider the reality of today's economy. Do not pass a piece of legislation that could harm Kansas business and ultimately harm the workers you are trying to help. An unemployed worker does not need to worry about a leave of absence. History has proven that the free market economy is the best answer to this type of situation. From all I have read, there is currently a shortage of trained workers, which means this issue will be addressed as companies compete for those workers.

Thank you for the opportunity to express my views on this important piece of legislation.

Sincerely,



William O. Barnes
Plant Manager

CC: Representative Jeff Freeman
Representative James Lowther
Representative Don Rezac
Representative Elaine Wells
Representative Steve Wiard

Kansas Chamber of Commerce and Industry
Topeka, KS

Emporia Area Chamber of Commerce
Emporia, KS

copy of the program to the director. Agencies that do not have a supervisory training program may request a copy of the director's program.

(c) No employee shall be granted permanent status in a supervisory position to which appointed or promoted until the employee has successfully completed a supervisory training program. Each person appointed or promoted into a supervisory position shall complete the prescribed program within six months of the date of appointment or promotion. This time period for training may be extended to 12 months from the date of appointment or promotion if the training cannot be completed within six months. If a person has received prior supervisory training, the courses shall be approved by the appointing authority prior to exemption from the required training course. These courses shall be consistent with the agency training plan.

(d) A supervisor shall be defined in accordance with K.A.R. 1-2-84. (Authorized by K.S.A. 75-3747; implementing K.S.A. 75-3746; effective May 1, 1979; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

1-8-7. Trainee programs. The director shall be responsible for assisting agency heads in determining the need for, and developing programs to provide, a reservoir of required skills for anticipated agency needs. This shall include programs for:

(a) Entry level management, administrative, and professional personnel;

(b) Apprentices and other technical and craft type personnel;

(c) Cooperative workstudy and college level training for technical, scientific, professional, and administrative personnel;

(d) Student trainees;

(e) Female, minority, and handicapped individuals, and members of other protected groups.

The director shall be responsible for determining that the training and development provided for these employees are appropriate, well planned, and effectively executed. (Authorized by K.S.A. 1982 Supp. 75-3747; implementing K.S.A. 1982 Supp. 75-3746; effective May 1, 1979; amended May 1, 1983.)

Article 9.—HOURS; LEAVES; EMPLOYEE-MANAGEMENT RELATIONS

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

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

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

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

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

(b) The governor may designate, in a particular year, additional days on which state offices are to be closed in observance of a holiday or a holiday season. For the

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purpose of this regulation, such a day is termed a legal holiday.

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

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

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

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

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

(h) Employees on emergency appoint-

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

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

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

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

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

(b) Use of unauthorized leave shall be entered into the employee's personnel and time records in the agency. Habitual or flagrant use of unauthorized leave shall be grounds for disciplinary action, including dismissal.

(c) When an employee takes unauthorized leave, the appointing authority shall determine whether use of accumulated

leave credits shall be allowed, whether leave without pay shall be granted, or, in a case of habitual or flagrant use of unauthorized leave, whether a salary decrease, suspension, demotion, dismissal, or other disciplinary action shall be proposed or taken. (Authorized by K.S.A. 75-3747; effective May 1, 1979.)

1-9-4. Vacations. (a) (1) Each permanent, probationary, and conditional employee in the classified service, excluding those who are on temporary or emergency appointments, shall be entitled to vacation with pay which shall be earned and accumulated in accordance with this regulation. The maximum vacation credits earned each payroll period and the maximum amount of vacation credits that may be accumulated are as follows:

TABLE A
Vacation Leave Earnings Schedule for Employees Paid Monthly or Semi-Monthly

Length of Service	Maximum Monthly Vacation Credits	Maximum Accumulation
Less than 5 years	8 hrs. per payroll period*	144 hours (18 working days)
5 years and less than 10 years	10 hrs. per payroll period*	176 hours (22 working days)
10 years and less than 15 years	12 hrs. per payroll period*	208 hours (26 working days)
15 years and over	14 hrs. per payroll period*	240 hours (30 working days)

* An employee paid semi-monthly shall earn 1/2 the time indicated in the above table for employees paid monthly. An employee working a fraction of full time (for example, half-time) shall receive proportional credit. Overtime worked is not counted in determining vacation leave earned.

TABLE B
Vacation Leave Earnings Schedule for Employees Paid Biweekly

Length of Service	Maximum Biweekly Vacation Credits	Maximum Accumulation
Less than 5 years	3.7 hrs. per payroll period*	144 hours (18 working days)
5 years and less than 10 years	4.7 hrs. per payroll period*	176 hours (22 working days)
10 years and less than 15 years	5.6 hrs. per payroll period*	208 hours (26 working days)
15 years and over	6.5 hrs. per payroll period*	240 hours (30 working days)

* An employee working less than full time shall receive proportional credit and shall have a proportional maximum accumulation limit. Overtime worked shall not be counted in determining vacation leave earned. An agency may prepare, subject to approval of division of personnel services, a table showing proportional credit given employees working less than full time.

(2) The maximum accumulations of vacation leave shown in tables A and B shall be

enforced the last day of the last payroll period that starts in December.

(3) Each employee who at some date prior to the end of the last day of the last payroll period that starts in December reaches or exceeds the maximum accumulation of vacation leave which the employee is permitted, shall have until the end of the last payroll period that starts in December to use vacation leave credits that are in excess of the employee's maximum accumulation permitted. On the last day of the last payroll period that starts in December, any employee with more than the maximum accumulation of vacation leave to which the employee is permitted shall forfeit the excess vacation leave credits.

(4) Forfeited excess vacation leave credits may be restored by the appointing authority, upon written request of the employee, if the employee had received, on or before December 1, written approval by the agency to use the excess vacation leave credits by the last day of the last payroll period that starts in December, but was prevented from using the leave because of unavoidable circumstances, including illness or operational demands of the agency. If the appointing authority approves restoration of the excess vacation leave credits, it shall be with the written understanding between the appointing authority and the employee that the restored credits shall be used by the end of the last day of the last payroll period that starts in April. If the vacation credits are not so used, the restored credits shall be permanently forfeited.

(5) If an employee terminates from the service, and if at time of termination, the employee has more than the maximum accumulation of vacation leave to which the employee is permitted in table A or B, the employee shall not be paid for any vacation leave in excess of the maximum accumulation to which the employee is entitled.

(b) Increased rates of vacation leave earnings based on length of service shall not be retroactive. Length of service shall be calculated in accordance with K.A.R. 1-2-46.

(c) An employee shall request approval to use vacation leave, as required by K.A.R. 1-9-3(a). The appointing authority shall not be arbitrary in approving or rejecting vacation leave requests. The appointing authority shall not unreasonably defer the taking

of vacations so that for all practical purposes the employee is deprived of vacation rights.

(d) An employee wishing to use vacation leave any time after accrual shall request its use in the form and at the time prescribed by the appointing authority.

(e) Vacation leave credit earned by an employee during a pay period shall be credited to the employee on the first day of the following pay period. When an employee is not in pay status for an entire payroll period, Tables C and D shall be utilized to compute the number of hours of vacation leave to be credited for each payroll period.

TABLE C
Vacation Leave Earnings Schedule
for Employees Paid Monthly and
Semi-Monthly

Hours Worked Per Pay Period*	Hours Earned Per Pay Period Based on Length of Service			
	0-5 yrs.	5-10 yrs.	10-15 yrs.	over 15
0- 19	0.00	0.00	0.00	0.00
20- 39	1.00	1.25	1.50	1.75
40- 59	2.00	2.50	3.00	3.50
60- 79	3.00	3.75	4.50	5.25
80- 99	4.00	5.00	6.00	7.00
100-119	5.00	6.25	7.50	8.75
120-139	6.00	7.50	9.00	10.50
140-159	7.00	8.75	10.50	12.25
160-	8.00	10.00	12.00	14.00

* "Hours worked" means hours in pay status except that overtime worked and additional payment for holidays worked are not counted in determining vacation leave earned.

TABLE D
Vacation Leave Earnings Schedule
for Employees Paid Biweekly

Hours Worked Per Pay Period	Hours Earned Per Pay Period Based on Length of Service			
	0-5 yrs.	5-10 yrs.	10-15 yrs.	15 + yrs.
0- 7	0.0	0.0	0.0	0.0
8-15	0.4	0.5	0.6	0.7
16-23	0.8	1.0	1.2	1.4
24-31	1.2	1.5	1.8	2.1
32-39	1.6	2.0	2.4	2.8
40-47	2.0	2.5	3.0	3.5
48-55	2.4	3.0	3.6	4.2
56-63	2.8	3.5	4.2	4.9
64-71	3.2	4.0	4.8	5.6
72-79	3.6	4.5	5.4	6.3
80-	3.7	4.7	5.6	6.5
Annual Limit	96	120	144	168

* "Hours worked" means hours in pay status except that overtime worked and additional payment for holidays worked are not counted in determining vacation leave earned.

If the employee resigns or is otherwise separated from the service during the pay period, the vacation leave credit earned in that pay period shall be credited to the employee and payment made to the employee for that leave as provided in K.A.R. 1-9-13.

(f) Holidays on which state offices are closed, occurring within the period of an employee's vacation, shall not be charged against the employee's vacation credits.

(g) Vacation leave for school employees. Any classified employee in a school institution having scheduled vacation periods at stated times, including Thanksgiving or Christmas, when school is not in session, and who does not work during the scheduled vacation periods because the employee's services are not required, may be granted leave without pay for such periods or may have as many working days charged to the employee's vacation leave as the employee is on leave. Such vacation leave may be charged against vacation credits that have been accrued or against those vacation credits that will be accrued during the school term for which the employee is employed. Any classified employee at a school institution that is separated from the service before the end of the school term for which the employee is employed shall be charged on the final pay voucher for any days of vacation leave used in excess of days accrued. (Authorized by K.S.A. 75-3747; implementing K.S.A. 75-3746; effective May 1, 1979; amended, E-81-23, Aug. 27, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985.)

1-9-5. Sick leave. (a) Each permanent, probationary, and conditional employee in the classified service, excluding those who are on temporary or emergency appointments, shall be credited and accumulate sick leave as provided in this regulation.

(b) The maximum sick leave credit an employee is entitled to for any payroll period shall be as follows:

(1) Eight hours for employees paid on a monthly basis;

(2) Four hours for employees paid on a semi-monthly basis; and

(3) Three and seven-tenths hours for employees paid on a bi-weekly basis.

Each employee working a fraction of full

time shall be credited sick leave in accordance with tables A or B.

TABLE A
Sick Leave Earnings Schedule
for Employees Paid Monthly and Semi-Monthly

Hours Worked Per Pay Period *	Hours Earned Per Pay Period
0- 19	0.00
20- 39	1.00
40- 59	2.00
60- 79	3.00
80- 99	4.00
100-119	5.00
120-139	6.00
140-159	7.00
160-	8.00

* "Hours worked" means hours in pay status except that overtime worked and additional payment for holidays worked are not counted in determining sick leave earned.

TABLE B
Sick Leave Earnings Schedule
for Employees Paid Biweekly

Hours Worked Per Pay Period *	Hours Earned Per Pay Period
0- 7	0.0
8-15	0.4
16-23	0.8
24-31	1.2
32-39	1.6
40-47	2.0
48-55	2.4
56-63	2.8
64-71	3.2
72-79	3.6
80-	3.7

* "Hours worked" means hours in pay status except that overtime worked and additional payment for holidays worked are not counted in determining sick leave earned.

(c) On the first day following each payroll period, the sick leave accrued during the previous payroll period shall be credited to each employee. In no case shall overtime worked be counted in determining sick leave credited. Each eligible employee paid on a monthly or semi-monthly basis shall be credited sick leave credits at the rate of one hour for each 20 hours in pay status, excluding overtime worked and additional payment for holidays worked, up to the maximum set forth in subsection (b).

(d) Each employee wishing to use sick leave shall request its use in the form and at such time as prescribed by the appointing authority, as required by K.A.R. 1-9-3(a). Any employee may be required by the appointing authority or the director of personnel services to provide evidence necessary

to establish that the employee is entitled to use sick leave credits under the circumstances of the request. If the employee fails to provide this evidence, the use of requested sick leave may be denied by appointing authority or director. The appointing authority, with the director's approval, may require a physical examination of an employee by a physician designated by the agency at the agency's expense.

(e) Sick leave with pay shall be granted only for the following reasons:

(1) illness or disability of the employee including pregnancy, childbirth, miscarriage, abortion, and recovery therefrom;

(2) illness or disability, including pregnancy, childbirth, miscarriage, abortion, and recovery therefrom, of a member of the employee's family when the illness or disability reasonably requires the employee to be absent from work. "Employee's family" shall be limited to:

(A) persons related to the employee by blood, marriage or adoption; and

(B) minors residing in the employee's residence as a result of court proceedings pursuant to the Kansas code for care of children or the Kansas juvenile offenders code;

(3) the employee's personal appointments with a physician, dentist, or other recognized health practitioner; or

(4) legal quarantine of the employee.

(f) If an appointing authority has evidence that an employee cannot perform the employee's duties because of illness or disability, if the employee has accumulated sick leave, and if the employee refuses or fails to apply for sick leave, the appointing authority may require the employee to use sick leave, and upon exhaustion of the employee's sick leave, may require use of any accumulated vacation leave or compensatory credits. An appointing authority may request a written release by a physician before the employee is allowed to return to work. If the employee has exhausted all sick leave, accumulated vacation leave, or compensatory credit, the appointing authority may grant the employee leave without pay as provided in K.A.R. 1-9-6(c).

(g) If an employee taking vacation leave becomes ill, and for all intents and purposes, is deprived of all or a significant portion of the vacation due to the illness, the appointing authority, upon request of the employee, may charge to sick leave

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some or all of the time the employee was ill while on vacation.

(h) Each employee who is injured on the job and awarded workers' compensation shall be granted use of accumulated leave. The compensation for accumulated leave used each payroll period shall be that amount which, together with workers' compensation pay, equals the regular salary for the employee. Unless the employee requests otherwise, vacation leave credits and compensatory time credits shall be used only after sick leave credits have been exhausted. Workers' compensation days credited back to the employee shall be in multiples of half days only.

(i) Each former employee who had unused sick leave at time of separation, and who returns to the service to a permanent position within a year, shall have the unused sick leave returned to the employee's credit. This provision shall not apply to a person who has retired from the state service.

(j) Persons retiring from the classified or unclassified service who have completed eight or more years of service and who have accumulated 800 hours or more of sick leave shall be compensated for a portion of the accumulation pursuant to the provisions of K.S.A. 75-5517. (Authorized by K.S.A. 1987 Supp. 75-3747; implementing K.S.A. 75-3707, K.S.A. 1987 Supp. 75-3746; effective May 1, 1979; amended, E-81-23, Aug. 27, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended T-1-6-13-88, July 1, 1988; amended Oct. 1, 1988.)

1-9-6. Leave without pay. (a) Requests for leave without pay shall be made to the appointing authority in such form and at such time as prescribed by the appointing authority. The appointing authority shall determine whether approval of each request is for the good of the service, and shall approve or disapprove the request. The appointing authority may require use of accumulated vacation leave and compensatory time credits, and if appropriate, accumulated sick leave, before approval of leave without pay.

(b) Any probationary or conditional employee, excluding an employee on a tempo-

rary or emergency appointment, may be granted leave without pay for a period not to exceed 60 calendar days for childbearing, illness, temporary disabilities, the birth of the employee's child, the adoption of a child by the employee, the initial placement of a foster child in the home of the employee, in order to care for a family member who has a serious health condition, or other good and sufficient reason, when the appointing authority deems leave to be in the best interest of the service. When an appointing authority determines that granting a longer leave of absence without pay than prescribed in this subsection is in the best interest of the service, the appointing authority may request the director of personnel services to approve a longer leave, or an extension of a leave, provided the total duration of the leave shall not exceed six months. Any leave granted under this subsection that exceeds 30 calendar days shall be reported to the director of personnel services.

(c) Any permanent employee may be granted leave without pay for a reasonable period of time consistent with the effective fulfillment of the agency's duties, but not to exceed one year, for childbearing, illness, temporary disabilities, the birth of the employee's child, the adoption of a child by the employee, the initial placement of a foster child in the home of the employee, in order to care for a family member who has a serious health condition, or other good and sufficient reason, when the appointing authority deems such leave to be in the best interest of the service. Any leave that exceeds 30 calendar days shall be reported to the director of personnel services.

(d) Any permanent employee may be granted leave of absence without pay from the employee's classified position to enable the employee to take an appointive position in the unclassified service, if the granting of this leave is considered by the appointing authority to be in the best interest of the service. Leave for this purpose shall not exceed one year, but the appointing authority may grant one or more extensions of up to one year, and the appointing authority may determine the number of extensions.

Any leave, days shall personnel s

(e) Desir employment n considered insufficient absence wit circumstanc

(f) If the necessary, terminate a giving writ least two v date. With authority, a leave on a scheduled.

(g) When piration of a upon notice a leave wit the employ in the same employee l granted, or salary rang the qualific

(h) Failu ration of an upon notice a leave ha deemed a shall be reg ity to the d the manner terminating turn from shall make : employee, a to try to cor mitted to th with the re

(i) An en bationary p cation or leave with tions as a p ployee had which the e the employ reinstateme ary period s

Any leave, or extension, that exceeds 30 days shall be reported to the director of personnel services.

(e) Desire of an employee to accept employment not in the state service shall be considered by the appointing authority as insufficient reason for approval of a leave of absence without pay, except under unusual circumstances.

(f) If the interests of the service make it necessary, the appointing authority may terminate a leave of absence without pay by giving written notice to the employee at least two weeks prior to the termination date. With the approval of the appointing authority, an employee may return from leave on an earlier date than originally scheduled.

(g) When an employee returns at the expiration of an approved leave without pay or upon notice by the appointing authority that a leave without pay has been terminated, the employee shall be returned to a position in the same class as the position which the employee held at the time the leave was granted, or in another class in the same salary range for which the employee meets the qualifications.

(h) Failure to return to work at the expiration of an authorized leave of absence, or upon notice by the appointing authority that a leave has been terminated, shall be deemed a resignation. Such resignation shall be reported by the appointing authority to the director of personnel services in the manner provided by the director. Before terminating an employee for failure to return from leave, the appointing authority shall make a reasonable effort to contact the employee, and a summary of the steps taken to try to contact the employee shall be submitted to the director of personnel services with the resignation.

(i) An employee currently serving a probationary period from a promotional certification or reinstatement may be granted leave without pay under the same conditions as a permanent employee, if the employee had permanent status in the class in which the employee was employed prior to the employee's promotional appointment or reinstatement. The employee's probationary period shall be continued effective with

the employee's return from leave until the total probation time actually served equals the time required under K.A.R. 1-7-4. (Authorized by K.S.A. 1987 Supp. 75-3747; implementing K.S.A. 75-2947; effective May 1, 1979; amended, E-81-14, June 12, 1980; amended May 1, 1981; amended May 1, 1983; amended T-88-9, April 21, 1987; amended, T-89-1, May 1, 1988; amended Oct. 1, 1988.)

1-9-7. (Authorized by K.S.A. 75-3747; effective May 1, 1979; revoked May 1, 1985.)

1-9-7a. Military leave; voluntary or involuntary service in the Armed Forces. (a) (1) Subject to the additional requirements and limitations of Title 38, U.S. Code, Chapter 43, each permanent, probationary, or conditional employee in the classified service, excluding any employee on a temporary or emergency appointment, who enlists or is drafted into the armed forces of the United States shall be granted military leave without pay when the request includes an appropriate military order to cover the length of the employee's active service.

Any person on military leave as mentioned above, who applies to the appointing authority for permission to return to the classified service within 90 days after receiving a discharge from the military service under honorable conditions, or from hospitalization, shall:

(A) if the person is qualified to perform the duties of the former position, be restored to that position or to similar position with like status and salary, as determined pursuant to K.A.R. 1-5-11;

(B) if the person is not qualified to perform the duties of the former position by reason of disability sustained during such service, but is qualified to perform the duties of any other position, be offered employment in a position comparable in status and salary to the former position; or

(C) if the agency's circumstances have so changed as to make it unreasonable to offer the person a position under either paragraph (A) or (B) above, appeal to the secretary of administration for appropriate placement.

(b) Military leave shall be counted as part

of the employee's length of service as prescribed in K.A.R. 1-2-46. Sick leave and vacation leave shall not be earned or accrued during a period of military leave without pay.

(c) Reenlistment or continuation of active duty beyond the time prescribed by Title 38, U.S. Code, Chapter 43, shall be considered a voluntary resignation from military leave status. (Authorized by and implementing K.S.A. 75-3747; effective May 1, 1985.)

1-9-7b. Military leave; voluntary or involuntary service with reserve component of the Armed Forces. (a) (1) Subject to the additional requirements and limitations of Title 38, U.S. Code, Chapter 43, each employee in the classified service, excluding any employee on a temporary or emergency appointment, who is a member of a reserve component of the military service of the United States shall be granted a maximum of 12 working days per calendar year of military leave with pay for active duty for training purposes as defined in paragraph (a)(2). Any active duty for training purposes in excess of 12 working days in a calendar year shall be charged to military leave without pay or, at the employee's request, to accrued vacation leave.

(2) "Active duty for training purposes" means:

(A) the initial period of full-time, active duty required by federal law for newly-enlisted members;

(B) annual training on active duty which is normally conducted for 15 consecutive days. Such annual training may also be conducted on an intermittent schedule totaling 15 days in a calendar year; or

(C) periodic individual military training or schooling that offers the employee an opportunity to retain his or her reserve component membership or receive a promotion.

(b) Each permanent, probationary or conditional employee in the classified service, excluding any employee on a temporary or emergency appointment, who is a member of a reserve component of the military reserve of the United States shall be granted military leave without pay or, at the

employee's request, accrued vacation leave for the purpose of performing inactive duty for training.

(c) Requests for military leave shall be made to the appointing authority with an appropriate military order or duty training document at least:

(1) One month before the start of any inactive or active duty for training, except initial active duty for training; or

(2) Two weeks before the start of any initial active duty for training.

Leave that is not requested as prescribed in this subsection shall not be approved unless the employee furnishes the appointing authority with evidence which is satisfactory to the appointing authority and which demonstrates that, due to extenuating circumstances, the leave should be granted.

(d) Each employee who works rotating shifts or on weekends shall be granted military leave as set forth above when proper notice is provided. The appointing authority shall reschedule the employee's work if similar assistance in rescheduling other employees' work for other reasons is a usual practice within that agency.

(e) Each employee in the classified service, excluding any employee on a temporary or emergency appointment, shall be granted military leave without pay or, at the employee's request, accrued vacation leave for the purpose of induction, entrance or examination for entrance into a reserve component. Notice to the appointing authority must be provided as prescribed by the appointing authority. Upon completion of such examination, the employee shall return to state employment as prescribed in subsection (f).

(f) Upon each employee's release from a period of active or inactive duty for training, or upon each employee's discharge from hospitalization for injuries suffered during such training, the employee shall, if qualified, be permitted to return to a similar position with like status and salary that the employee would have had if the employee had not been absent for such purposes. If the employee is not qualified to perform the duties of the position by reason of disability sustained during training, but is qualified to

perform the duties of any other position, the employee shall be offered employment in a position comparable in status and salary to the former position.

(g) When returning from periods of inactive or active duty for training, except initial active duty for training, the employee shall report for work at the beginning of the next regularly scheduled working period or within a reasonable time thereafter if delayed return is due to factors beyond the employee's control and the employee has provided prior notice.

(h) When returning from performing initial active duty for training, each employee shall report back to work within:

(1) thirty-one days upon release from training or release from hospitalization for injuries suffered during training; or

(2) one year after the member's scheduled release from training, whichever is earlier.

(i) Military leave shall be counted as part of the employee's length of service as prescribed in K.A.R. 1-2-46. Sick leave, vacation leave, and holidays shall not be earned or accrued during a period of military training when leave without pay has been granted.

(j) For purposes of this regulation, any reference to the military reserve of the United States shall be considered to include members of the national guard. (Authorized by K.S.A. 75-3747; implementing K.S.A. 75-3746; effective May 1, 1985.)

1-9-7c. Military leave; state duty with Kansas national guard or state guard when organized. (a) Each employee in the classified service, excluding any employee on a temporary and emergency appointment, who is a member of the state or Kansas national guard shall be granted military leave with pay for the duration of any official call to state emergency duty.

(b) The appointing authority may grant military leave without pay or, at the employee's request, accrued vacation leave for the duration of any other type of state duty performed pursuant to K.S.A. 48-225.

(c) Each employee shall provide an appropriate state military order to the appointing authority before the processing of any pay reports or time and attendance re-

ports, or both. (Authorized by K.S.A. 75-3747; implementing K.S.A. 75-3746; effective May 1, 1985.)

1-9-8. Jury duty; other required appearance before a court or other public body. (a) (1) Each permanent, probationary, or conditional employee in the classified service, excluding employees appointed on a temporary or emergency basis, shall be granted leave of absence with pay by their appointing authority for:

(A) required jury duty; or

(B) in order to comply with a subpoena as a witness before the civil service board, the Kansas commission on civil rights, the United States equal employment opportunity commission, or a court.

(2) An employee shall not be entitled to leave of absence with pay in circumstances where the employee is called as a witness on the employee's own behalf in an action in which the employee is a party.

(b) Leave with pay may be granted to any permanent, probationary, or conditional employee for an appearance before a court, a legislative committee, or other public body, if the appointing authority considers the granting of leave with pay to be in the best interest of the state.

(c) When any employee travels in a state vehicle for a required appearance before a court, or a legislative committee, or other public body, the employee shall turn over to the state any mileage expense payments received.

(d) Each employee granted leave under this section who receives pay or fees for a required appearance, excluding jury duty, shall turn over to the state the pay or fees in excess of \$50.00. The employee may retain any amount paid to the employee for expenses in traveling to and from the place of the jury duty or required appearance, except as provided in subsection (c) of this regulation. (Authorized by K.S.A. 1987 Supp. 75-3747; implementing K.S.A. 1987 Supp. 75-3746; effective May 1, 1979; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended T-86-17, June 17, 1985; effective May 1, 1986; amended T-87-17, July 1, 1986; amended May 1, 1987; amended, T-89-1, May 1, 1988; amended Oct. 1, 1988.)

1-9-9. Official meetings and special assignments. The appointing authority may authorize leave with pay in order that an employee may attend an official meeting where the good of the state service is involved. Such leave also may be granted to allow an employee to engage in an officially directed task not ordinarily a part of a given position. (Authorized by K.S.A. 75-3747; effective May 1, 1979.)

1-9-10. (Authorized by K.S.A. 75-3747; implementing K.S.A. 75-3746; effective May 1, 1979; amended, E-82-14, July 1, 1981; amended May 1, 1982; revoked May 1, 1985.)

1-9-11. (Authorized by K.S.A. 75-3747; implementing K.S.A. 75-3746; effective May 1, 1979; amended, E-82-14, July 1, 1981; amended May 1, 1982; revoked May 1, 1985.)

1-9-12. Funeral or death leave. An appointing authority may grant leave with pay to an employee in the classified service, excluding an employee on an emergency appointment, upon the death of a close relative. Such leave shall in no case exceed six (6) working days. The employee's relationship to the deceased and necessary travel time shall be among the factors considered in determining whether to grant funeral or death leave, and, if so, the amount of leave to be granted. (Authorized by K.S.A. 1980 Supp. 75-3747; implementing K.S.A. 1980 Supp. 75-3746; effective May 1, 1979; amended May 1, 1981.)

1-9-13. Payment for accumulated vacation leave and compensatory time credits upon separation. (a) Except as provided in subsection (b), any employee who resigns or is otherwise separated from the service shall be paid for that employee's accumulated vacation leave and compensatory time credits at the same time the employee is paid for the last day at work. Pay for vacation leave or compensatory time to the employee's credit shall be calculated on the same basis as the pay for the days that the employee actually worked in the pay period that includes the last day worked, except as provided in K.A.R. 1-5-24(f). Pay for such vacation or compensatory time credit shall

be a lump sum addition to the employee's last paycheck.

(b) Each employee who retires from the service shall be paid for that employee's accumulated vacation leave and compensatory time credits. For the purpose of calculating the payment to any employee for leave credit earned as provided for in this regulation, the date of the employee's retirement from the service may be the employee's last day actually worked, or if the employee chooses, the last day in pay status.

(1) If the employee elects to use the last day actually worked, pay for vacation leave, holiday pay, or compensatory time to the employee's credit as of the date of retirement shall be calculated on the same basis as the pay for the hours actually worked in the pay period that includes the last day worked, except as provided in K.A.R. 1-5-24(f).

(2) If the employee elects to use the last day in pay status, the employee shall continue to accrue leave and holidays and shall be paid in the regular manner until all vacation leave, holiday pay, or compensatory time is exhausted. (Authorized by K.S.A. 1985 Supp. 75-3747; implementing K.S.A. 75-3746; effective May 1, 1979; amended May 1, 1984; amended May 1, 1985; amended, T-86-36, Dec. 11, 1985; amended, T-87-11, May 1, 1986; amended May 1, 1987.)

1-9-14. Transfer of leave credits. (a) When an employee transfers from one state agency to another, his or her accumulated vacation and sick leave credits shall be transferred with the employee. The new agency may require that the transferring employee work six (6) months in that agency before he or she uses vacation leave.

(b) When an employee separates from one agency and is appointed to another agency on the following working day (the separation and appointment being other than a transfer), the employee's accumulated vacation and sick leave shall be transferred with the employee.

(c) If the employee has any compensatory time credits at the time of the transfer or other separation, he or she shall be paid for

such credits by she is transfer 75-3747; effect

1-9-15. Em; rector, in coope trators, shall be tion, implemen program of emp provide job-rel ees. The couns limited to, info services, evalu and retirement cials and their on the official by K.S.A. 75-3

1-9-16. Em; monitoring of. with agency a sponsible for th tion, and maint itor and evalu morale. Such a at the request tration, an ap deemed necess ysis of the surv ommendations director to the be made availa ture, or appr (Authorized by May 1, 1979.)

1-9-17. Pers cial bulletin be be responsible bution, and ma personnel cor handbook, supc nel newsletter, personnel polic their distributic secretary of ad. nel publication: necessary by ti tion.

(b) Agencies designating bul letin boards" f administrative a interest to empl in areas easily

such credits by the agency from which he or she is transferring. (Authorized by K.S.A. 75-3747; effective May 1, 1979.)

1-9-15. Employee counseling. The director, in cooperation with agency administrators, shall be responsible for the preparation, implementation, and maintenance of a program of employee counseling which will provide job-related information for employees. The counseling will include, but not be limited to, information regarding benefits, services, evaluations, transfer, promotion, and retirement. Appropriate personnel officials and their locations shall be identified on the official bulletin boards. (Authorized by K.S.A. 75-3747; effective May 1, 1979.)

1-9-16. Employee attitudes and morale, monitoring of. The director, in cooperation with agency administrators, shall be responsible for the preparation, implementation, and maintenance of a program to monitor and evaluate employee attitudes and morale. Such a program shall be conducted at the request of the secretary of administration, an appointing authority, or as deemed necessary by the director. An analysis of the survey data and appropriate recommendations shall be submitted by the director to the requesting official, and shall be made available to the governor, legislature, or appropriate employee group. (Authorized by K.S.A. 75-3747; effective May 1, 1979.)

1-9-17. Personnel communications; official bulletin boards. (a) The director shall be responsible for the preparation, distribution, and maintenance of the following personnel communications: employee handbook, supervisor's handbook, personnel newsletter, personnel regulations, and personnel policies. Such publications and their distribution shall be approved by the secretary of administration. Other personnel publications shall be issued as deemed necessary by the secretary of administration.

(b) Agencies shall be responsible for designating bulletin boards as "official bulletin boards" for the display of pertinent administrative and personnel information of interest to employees. Such boards shall be in areas easily and regularly accessible to

employees. (Authorized by K.S.A. 75-3747; effective May 1, 1979.)

1-9-18. Equal employment opportunity; affirmative action; discrimination prohibited. (a) Equal employment opportunity is the right of all persons to work and to advance on the basis of merit and ability without regard to race, color, national origin, age, sex, physical handicap, or political or religious affiliation.

(b) Affirmative action is a deliberate and sustained effort to identify and eliminate artificial barriers to employment and advancement which may discriminate against various groups. Particular emphasis is focused on racial minorities, women, and handicapped persons; however, this does not imply preferential employment for racial minorities, women, or handicapped persons. The ultimate goal is to achieve, at all levels, a state government work force which is truly representative of the state resident available work force. Such a goal shall be an integral part of every aspect of personnel policy and is to be accomplished within accepted merit principles.

(1) A goal is considered a realistic objective which an agency endeavors to achieve on a timely basis within the context of the merit system of employment. This definition of goals shall not be inferred nor construed as permitting a quota system to be used to achieve equal employment opportunities.

(2) A plan of affirmative action shall be implemented in order to identify discriminatory practices and initiate programs designed to replace those practices with positive approaches to human and organizational development. All agencies are required to keep complete and accurate employment records and statistics which shall provide information for evaluation and analysis of current and past employment practices. Agencies shall provide such data in the manner and on the forms as required by the secretary of administration. The head of the agency shall also establish such goals and target dates as are necessary to effectuate an agency level and statewide affirmative action for equal employment opportunity.

(c) Discrimination against any applicant

for, or employee in, the classified service in recruitment, examination, appointment, training, promotion, retention, discipline, or any other aspect of personnel administration because of political or religious opinion or affiliation or because of race, national origin, ancestry, or any other non-merit factors is prohibited. Discrimination on the basis of age, sex, or physical disability is prohibited except where specific age, sex, or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration or are expressly authorized or permitted by law.

(d) Any applicant for, or any employee in, a position in the classified service who has reason to believe that he or she was discriminated against for any reason prohibited by (c) above, either by action of the director of personnel services, or a state agency may appeal within thirty (30) days of the alleged discriminatory action to the civil service board. (Authorized by K.S.A. 75-3747; effective May 1, 1979.)

1-9-19. Safety and health. The director, in cooperation with appropriate agency administrators, shall establish standards of health and safety in state agencies, and shall develop a comprehensive health and safety program for the state service. (Authorized by K.S.A. 75-3747; effective May 1, 1979.)

1-9-19a. Drug screening test for employees in safety-sensitive positions. (a) Any employee in a safety-sensitive position may be required to submit to a drug screening test in accordance with L. 1988, Chap. 325, Sec. 1 based upon reasonable suspicion of illegal drug use by that employee.

(b) Each employee required to submit to a drug screening test shall be notified of that requirement in writing.

(c) Procedures and testing personnel used in collecting, analyzing and evaluating test samples shall meet the standards established by the director.

(d) Individual results and medical information shall be considered confidential. This information shall be revealed only to persons authorized in writing by the director as having a proper interest and an established need in administering the drug

screening program. An employee shall be granted access to the employee's information upon written request to the director. (Authorized by and implementing L. 1988, Chap. 325, Sec. 1; effective T-1-10-28-88, Oct. 18, 1988; effective Dec. 19, 1988.)

1-9-20. Exit interview program. Each agency shall have an exit interview program, designed as a uniform procedure to obtain information to reduce employee turnover; to provide better selection of employees; and to improve working conditions. This program will indicate why an employee is resigning his or her position and what the individual work situation was that he or she experienced. The director shall provide assistance to agencies in developing, implementing, and maintaining an exit interview program. In conducting an exit interview, the supervisor or the personnel officer shall obtain, among other information, the following information: (a) Information on the terminating employee's impression of his or her job; (b) Accurate information on the duties, responsibilities, and working conditions of the position; (c) Upon analysis of the interview, identification of conditions or circumstances which contributed to the separation. (Authorized by K.S.A. 75-3747; effective May 1, 1979.)

1-9-21. Nepotism. Without specific approval by the appointing authority, no person shall be appointed, promoted, transferred, or otherwise employed in, any position in the classified service when, as a result, he or she would supervise, or receive supervision from, a member of his or her immediate family. For the purpose of this regulation, immediate family means spouse, parent, child, sister, or brother; and supervising means the authority to recommend or approve the individual's appointment, transfer, promotion, salary, evaluation, termination, or other similar personnel actions. (Authorized by K.S.A. 75-3747; effective May 1, 1979.)

1-9-22. Job injury leave. (a) Any classified or unclassified employee who sustains a qualifying job injury, as determined by the employee's appointing authority, shall be eligible for job injury leave in accordance with this regulation.

(b) (1) "Qualifying job injury which:

(A) renders the employee unable to perform the employment with the agency;

(B) arose out of the course of employment with the agency;

(C) (i) was sustained as a result of a shooting, stabbing, or other physical assault defined in K.S.A. 44-201 against the employee;

(ii) additional injury to the employee, or to a family member, was sustained as a result of the provisions of K.S.A. 44-201.

Qualifying job injury means a physical injury sustained as a result of the course of employment with the agency.

(2) "Fresh physical injury" means a physical injury sustained as a result of the course of employment with the agency which was not caused by a physical injury sustained as a result of the course of employment with the agency.

(c) Job injury leave means leave granted to an employee who has sustained a physical injury as defined in K.S.A. 44-201 while on the job.

While an employee is on job injury leave, the employee shall continue to receive compensation.

Compensation shall be the employee's regular rate of pay, including any shift differential, but shall not include any overtime pay, sick leave pay, or vacation pay.

Nothing herein shall be construed to require an employer to pay compensation to an employee who is on job injury leave for more than 90 days.

(d) The amount of compensation payable to an employee on job injury leave shall be determined by the appointing authority.

(e) Nothing herein shall be construed to require an employer to pay compensation to an employee who is on job injury leave for more than 90 days.

(f) Nothing herein shall be construed to require an employer to pay compensation to an employee who is on job injury leave for more than 90 days.

(g) Nothing herein shall be construed to require an employer to pay compensation to an employee who is on job injury leave for more than 90 days.

(h) Nothing herein shall be construed to require an employer to pay compensation to an employee who is on job injury leave for more than 90 days.

(i) Nothing herein shall be construed to require an employer to pay compensation to an employee who is on job injury leave for more than 90 days.

(j) Nothing herein shall be construed to require an employer to pay compensation to an employee who is on job injury leave for more than 90 days.

(k) Nothing herein shall be construed to require an employer to pay compensation to an employee who is on job injury leave for more than 90 days.

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(m) Nothing herein shall be construed to require an employer to pay compensation to an employee who is on job injury leave for more than 90 days.

(n) Nothing herein shall be construed to require an employer to pay compensation to an employee who is on job injury leave for more than 90 days.

(o) Nothing herein shall be construed to require an employer to pay compensation to an employee who is on job injury leave for more than 90 days.

(b) (1) "Qualifying job injury" means an injury which:

(A) renders the employee unable to perform the employee's regular job duties;

(B) arose out of and in the course of employment with the state; and

(C) (i) was sustained as a result of a shooting, stabbing or aggravated battery, as defined in K.S.A. 21-3414, by another against the employee; or

(ii) additionally for law enforcement officers, was sustained while in fresh pursuit of a person or while operating under the provisions of K.S.A. 8-1506.

Qualifying job injuries shall not include injuries sustained as a result of the intentional actions of a co-worker.

(2) "Fresh pursuit" means pursuit, without unnecessary delay, of a person who has committed a crime or who is reasonably suspected of having committed a crime.

(c) Job injury leave shall not exceed six months following the qualifying job injury. While an employee is on an approved job injury leave, the employing state agency shall continue to pay the employee's regular compensation. If the employee is awarded worker's compensation, such state agency shall pay the employee compensation in an amount which, together with worker's compensation pay, equals the regular salary of the employee. The employee shall not lose accrued sick leave or vacation leave credits. Nothing herein shall be construed as providing voluntary or granting compensation payments in addition to temporary total disability compensation payments pursuant to the worker's compensation laws.

(d) The appointing authority may require an employee on approved job injury leave to return to duty of a limited nature if the employee is physically able to perform the duty as determined by a physician selected by the appointing authority or selected by a representative of the state compensation self-insurance fund. However, any limited duty allowed shall not exceed six months from the date of the employee's return. If the employee remains unable to return to full duty, the agency head shall take such action as deemed to be in the best interest of the state.

(e) When an employee is on approved job

injury leave, the appointing authority may require the employee to be examined by a physician selected by the appointing authority to determine the capability of the employee to return to full or limited duty.

(f) Employees on approved job injury leave are prohibited from being gainfully employed by any other employer.

(g) Any sick leave or vacation leave credits utilized by a state employee between January 1, 1985 and the effective date of this regulation which were attributable to a qualifying job injury sustained on or after January 1, 1985, shall be restored to the employee. (Authorized by K.S.A. 75-3747, as amended by 1985 H.B. 2125; implementing K.S.A. 75-3746, as amended by 1985 H.B. 2125; effective, T-86-17, June 17, 1985; effective May 1, 1986.)

Article 10.—GUIDANCE AND DISCIPLINE

1-10-1 to 1-10-5. (Authorized by K.S.A. 1980 Supp. 75-3747; effective, May 1, 1979; revoked, E-82-14, July 1, 1981; revoked May 1, 1982.)

1-10-6. Dismissal, suspension or demotion of permanent classified employees. (a) On grounds of deficiencies in work performance. The dismissal, suspension or demotion of a permanent classified employee on grounds of deficiencies in work performance shall be in accordance with the provisions of K.S.A. 1980 Supp. 75-2949 and section 4 of chapter 334 of the 1981 Session Laws of Kansas (1981 S.B. 417, Sec. 4), and any amendments to such sections.

(b) On grounds of personal conduct. The dismissal, suspension or demotion of a permanent classified employee on grounds of personal conduct detrimental to the state service shall be in accordance with the provisions of K.S.A. 1980 Supp. 75-2949 and section 5 of chapter 334 of the 1981 Session Laws of Kansas (1981 S.B. 417, Sec. 5), and any amendments to such sections.

(c) Procedure on appeal to civil service board. When a permanent classified employee appeals a dismissal, suspension or demotion to the state civil service board, the appeal procedure shall be in accordance with the provisions of K.S.A. 1980 Supp.