

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR.

The meeting was called to order by Chairman Al Lane at 9:08 a.m. on March 9, 1995 in Room 526-S of the Capitol.

All members were present except: Rep. Barbara Ballard - excused  
Rep. Jill Grant - excused  
Rep. Candy Ruff - excused

Committee staff present: Jerry Donaldson, Legislative Research Department  
Bob Nugent, Revisor of Statutes  
Bev Adams, Committee Secretary

Conferees appearing before the committee:  
Bob Nugent, Revisor  
Bobbi Mariani, Division of Personnel Services, Dept. of Administration

Others attending: See attached list

Rep. Geringer made a motion to approve the minutes of February 21-24. Rep Boston seconded the motion. The minutes were approved as written.

A letter and outline of the presentation made to the committee on January 25, 1995, by Kathleen Sebelius, Commissioner of Insurance, were passed out to the committee members (see Attachment 1).

Hearing on: SB 175--State officers and employees; selection, appointment and layoff

Bob Nugent, Revisor, passed out a balloon of SB 175, showing all the amendments and changes in the bill (see Attachment 2). He went through the bill for the committee and explained the changes.

Bobbi Mariani, Assistant Director of the Division of Personnel Service, representing the Department of Administration, testified as a proponent on SB 175. The bill was written to facilitate the change from the KIPPS personnel and payroll system to the SHARP personnel and payroll system. Some of their present terminology and processes need to be updated to coincide with new SHARP functions. The amendments will also simplify the application process for candidates for state positions. The state hiring system would be based on agency requirements for specific skills. The agencies would get a pool of candidates uniquely suited for a particular position. It also establishes statewide reemployment pools for employees who are laid off. They remain on the list for three years for the agency from which they were laid off, and one year for other agencies who have not had a layoff. In addition, the veterans preference will be changed. It also includes recommendations made by a K-Goal Audit of the Division of Personnel Services done in January of 1994 (see Attachment 3). The bill also changes position types. A number of other technical or clean-up changes are included in the bill.

Bill McGlasson, Assistant Director, Division of Personnel Service, seated in the audience, answered Rep. Pauls' question about affirmative actions goals. He stated that employment reflects current census data.

On the question asked about combining several bills that have been introduced about the SHARP system and the cost of setting up and implementing the system, Gloria Timmer, Director of the Budget, stated that budgets of all agencies except SRS have been set. A Post Audit report is due today. This report will give them a better handle on the costs.

Jerry Magnuson, State Project Director for SHARP, explained that the Committee on Computers and Telecommunications had reviewed the request for the proposed SHARP system in November of 1993. He talked about the money already budgeted and spent.

Chairman Lane asked the others who wanted to testify if they could return tomorrow, March 10. The hearing on SB 175 will be continued at that time.

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

The next meeting is scheduled for March 10, 1995.



  
**Kathleen Sebelius**  
Commissioner of Insurance  
**Kansas Insurance Department**

MEMORANDUM

**TO:** Honorable Al Lane, Kansas Representative  
Chairman & Members  
House Committee on Business, Commerce and Labor

**FROM:** Kathleen Sebelius *KS*  
Commissioner of Insurance

**DATE:** March 7, 1995

**RE:** Outline of Presentation on Kansas Insurance Department

This is an outline of the presentation I made to the House Committee on Business, Commerce and Labor outlining the mission and functions of the Kansas Insurance Department. I appreciate the opportunity to spend a few days with the Committee, and welcome visits, input and ideas from Committee members.

420 SW 9th Street  
Topeka, Kansas 66612-1678  
913 296-3071  
Fax 913 296-2283

**Consumer Assistance**  
Toll Free  
1 800 432-2484

*Business, Commerce  
& Labor  
3/9/95  
Attachment 1*

## Kansas Insurance Department

- \*established 1871 - the oldest regulatory agency in state
- \*sole supervision, control and regulation of insurance in Kansas
- \*1993 premiums \$ 5.9 billion
- \*insurance industry generates \$94.5 million in taxes and fees FY'95 (\$99.9 million estimate FY'96)
- \*fee agency with operation budget of \$5.3 million FY'94
- \*1531 insurance companies in Kansas (66 domestic; 1465 foreign)
- \*26,000 insurance agents

### **KEY DUTIES:**

- \*admits companies to do business in Kansas
- \*perform financial exams of insurance companies doing business
- \*approves policy forms and rates which are charged
- \*reviews claim settlement practices
- \*licensing and supervision of insurance agents in Kansas
- \*penalizing agencies and agents who engage in unfair practices
- \*maintain security deposits of insurance companies
- \*collecting taxes and fees from insurance companies
- \*serving process on any company named in law suits

### **KEY DIVISIONS:**

Consumers: Responds to over 13,000 complaints and inquiries each year. Service in Topeka, Wichita office and toll-free line.

Accident & Health: Reviews and approves all insurance policies and rates for products in accident and health area. Monitors HMO's.

Life: Reviews and approves all life insurance policies, annuity products.

Financial Surveillance: Ensures financial solvency of companies admitted to sell insurance in Kansas. Conducts financial reviews prior to admission, and on regular basis once approved, monitors securities on deposit.

Property/Casualty: Reviews rates, policy forms and products for auto insurance, professional liability, workers compensation, crop insurance, homeowners and other lines.

Market Conduct: Responsible for performance audits of insurance companies to ensure compliance with underwriting guidelines, legislative mandates and advertising practices.

Agents and Brokers: Licenses, certifies continuing education and fee collections from 26,000 agents and brokers in Kansas.

## Special Funds:

Workers Compensation 2nd Injury: After W.W.II Fund establis to encourage employers to hire veterans who were disabled from 1945 to 1960. Fund payed if these workers were permanently and totally disabled.

1961 expanded for all pre-existing conditions. Expanded again in 1974 to cover insolvent employers. Switched to Insurance Department. Costs paid from assesment on insurance carriers, self funded and group pools. 1993 Legislature recommended discontinuation;no liability after 7/1994. 9,317 open cases, 1990-1995 - \$124,729,176 awards, \$18,178,234 legal fees.

Health Care - State Fund Passed by Legislature in 1976 to assure availability of professional liability insurance for health care providers; mandatory insurance fund for excess coverage. 1994 Legislature: as of January 1, 1995, separate agency. As of July 1, 1995 totally separate.

Fire Fighters Relief Fund - In 1895 established fund for injured or disabled fire fighters - 553 associates, 17,000 paid and volunteer fire fighters - 2% of fire premium.

Group Funded Pools - 1983 legislation, amended in 1993 creating statutory framework for administration and regulations of pools. Designed to be more cost effective for workers' compensation coverage. Original five same or similar businesses. Now five heterogeneous businesses can belong.

Permit municipalities to pool liability for personal property, auto, work comp., accident and life.

SENATE BILL No. 175

By Committee on Ways and Means

2-1

12 AN ACT concerning state officers and employees; relating to the selec-  
13 tion, appointment and layoff; amending K.S.A. 75-711, 75-2925, 75-  
14 2926, 75-2936, 75-2939, 75-2940, 75-2942, 75-2944, 75-2945, 75-2947,  
15 75-2948 and 75-5605 and K.S.A. 1994 Supp. 75-2943 and 75-2955 and  
16 repealing the existing sections.

17  
18 *Be it enacted by the Legislature of the State of Kansas:*

19 Section 1. K.S.A. 75-711 is hereby amended to read as follows: 75-  
20 711. There is hereby established, under the jurisdiction of the attorney  
21 general, a division to be known as the Kansas bureau of investigation. The  
22 director of the bureau shall be appointed by the attorney general, subject  
23 to confirmation by the senate as provided in K.S.A. 75-4315b, and amend-  
24 ments thereto, and shall have special training and qualifications for such  
25 position. In accordance with appropriation acts, the director shall appoint  
26 agents who shall be trained in the detection and apprehension of crimi-  
27 nals. The director shall appoint an assistant director who shall have the  
28 qualifications of an agent. The director ~~may~~ also *may* appoint a special  
29 assistant and, in accordance with appropriation acts, such administrative  
30 employees as are necessary for the efficient operation of the bureau. In  
31 addition to such agents and administrative employees and in accordance  
32 with appropriation acts, the director may appoint additional agents who  
33 are trained and assigned only for the investigation of organized crime and  
34 the compensation for such agents shall be paid from federal funds, if such  
35 funds are made available for that purpose. If federal funds are not avail-  
36 able, the compensation of such agents shall be paid from any other funds  
37 made available for that purpose. No person shall be appointed to a po-  
38 sition within the Kansas bureau of investigation if the person has been  
39 convicted of a felony.

40 The director, special assistant and any assistant attorneys general as-  
41 signed to the bureau shall be within the unclassified service under the  
42 Kansas civil service act. The assistant director and all other agents and  
43 employees of the bureau shall be in the classified service under the Kansas

----- Grammatical

*Business, Commerce  
& Labor  
3/9/95  
Attachment 2*

1 civil service act and their compensation shall be determined as provided  
2 in the Kansas civil service act and shall receive actual and necessary ex-  
3 penses. Narcotics violation investigators shall have the classified position  
4 of special agent under the Kansas civil service act.

5 If a person who is appointed as director was a member of the bureau  
6 at the time of appointment as director, the person, upon the expiration  
7 of the term as director, shall be returned to the permanent regular clas-  
8 sified position under the Kansas civil service act that the person held at  
9 the time of appointment as director. If the position is filled at that time,  
10 a temporary additional position shall be created for the person until a  
11 vacancy exists in the position. While serving in the temporary additional  
12 position, the former director shall continue to be a contributing member  
13 of the retirement system for the agents of the Kansas bureau of investi-  
14 gation under which the former director was covered while serving as  
15 director.

---- Reflects change in terminology required by  
SHaRP payroll system

16 Each agent of the bureau shall subscribe to an oath to faithfully dis-  
17 charge the duties of such agent's office, as is required of other public  
18 officials.

19 Sec. 2. K.S.A. 75-2925 is hereby amended to read as follows: 75-  
20 2925 The general purpose of this act is to establish a system of personnel  
21 administration that meets the social, economic and program needs of the  
22 people of the state of Kansas as these needs now or in the future may be  
23 established. This system shall provide means to recruit, select, develop  
24 and maintain an effective and responsible work force and shall include  
25 policies and procedures for employee hiring and advancement, training  
26 and career development, job classification, salary administration, retire-  
27 ment, fringe benefits, discipline, discharge and other related activities.  
28 All personnel administration actions regarding employees in the state clas-  
29 sified service shall be made without regard to race, national origin or  
30 ancestry, religion, political affiliation, or other nonmerit factors; and shall  
31 not be based on sex, age or physical disability except where sex, age or  
32 physical requirements constitute a bona fide occupational qualification  
33 necessary to proper and efficient administration. Personnel administra-  
34 tion actions shall be based on merit principles and fitness to perform the  
35 work required and shall provide fair and equal opportunity for public  
36 service.

-----ADA compliance

----- State hiring system will be based on agency requirements for  
specific skills rather than the existing "rule of five" testing  
program.

37 Sec. 3. K.S.A. 75-2926 is hereby amended to read as follows: 75-  
38 2926 As used in the Kansas civil service act, unless the context otherwise  
39 indicates:

- 40 (a) "Board" means the state civil service board.
- 41 (b) "Director" means the director of personnel services.
- 42 (c) "Eligible" includes a person who is on an employment list  
43 and qualified for appointment, promotion, reinstatement or reem-

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ployment under this act.

(4) (d) "Employees of courts" includes all officers and employees appointed by or pursuant to the recommendation of a court, or any members thereof; and all officers and employees appointed or employed by any such appointee.

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

(6) "Status eligible" means a person having a right to employment based on service in a permanent classified position within the previous year.

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

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

Sec. 4. K.S.A. 75-2936 is hereby amended to read as follows: 75-2936. (a) Except as otherwise provided in the Kansas civil service act, the director of personnel services, after consultation with the heads of state agencies or persons designated by them, shall assign each position in the classified service to a class according to the duties and responsibilities thereof. Titles shall be specified by the director for each such class for use in examining and certifying the names of persons for appointment under this act. A description of the duties and responsibilities with suitable qualifications required for satisfactory performance in each class shall be specified by the director. The classes and titles so specified and described shall be used for (a): (1) Original appointments; (b): (2) promotions; (c): (3) payrolls and (d): and (4) all other records affecting the status of persons in the classified service. Each class when approved or modified and approved as modified by the governor shall take effect on a date or dates specified by the governor. After consultation with the director of the budget and the heads of state agencies or persons designated by them, the director shall recommend changes in classes from time to time, and such changes, when approved or modified and approved as modified by the governor, shall take effect on a date or dates specified by the governor.

(b) The director of personnel services shall recommend to the governor the assignment, and from time to time the reassignment, of each

-----This definition contains no reference in the act or implementing rules.

-----Candidates would no longer be tested, but would be subject to a new certification pool system provided infra.

-----ADA

----- Internal consistency

----- LCC form change



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1 class to a specified range approved or modified and approved as modified  
2 by the governor, the same shall become effective on a date or dates spec-  
3 ified by the governor. In adopting or revising any plans, the governor shall  
4 give consideration to pertinent rates in other public and private employ-  
5 ment in the appropriate labor markets, and for this purpose the director  
6 shall have made periodic wage and salary surveys with one survey to be  
7 conducted each year. The results of such survey and recommendations  
8 for revisions in the pay plan are to be forwarded to the governor, the  
9 secretary of administration, the director of the budget and the legislature.  
10 The recommendations shall give consideration and weight to survey re-  
11 sults, to changes in the cost-of-living and to proper internal alignment of  
12 the various job classes. The director may use the results of other appro-  
13 priate surveys conducted by public or private agencies in lieu of or in  
14 addition to surveys authorized to be conducted under this subsection (2).

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

28 (4) (d) After consultation with the director of the budget and the  
29 secretary of administration, the director of personnel services shall pre-  
30 pare a pay plan which shall contain a schedule of salary and wage ranges  
31 and steps, and from time to time changes therein. When such pay plan  
32 or any change therein is approved or modified and approved as modified  
33 by the governor, the same shall become effective on a date or dates spec-  
34 ified by the governor and any such modification, change of date shall be  
35 in accordance with any enactments of the legislature applicable thereto.

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

39 (6) (f) Whenever any appropriation or other act specifies any pay plan  
40 or any change, limitation or condition upon the pay plan, personnel or  
41 policies of the state or any state agency, such appropriation act or other  
42 act shall control the provisions of this section to the extent of their ap-  
43 plication thereto.

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Sec. 5. K.S.A. 75-2939 is hereby amended to read as follows: 75-2939. (a) All competitive examinations for positions in the classified service shall relate to those matters which will fairly test the capacity and fitness of the persons examined to efficiently discharge the duties of the class in which employment is sought.

----- Competitive testing system abolished and replaced with candidate pools. (Candidate pools consist of persons meeting basic preliminary criteria established by DOA)

(b) The competitive examinations shall, after published notice, be open to all applicants who meet with reasonable

(a) To the extent required by rules and regulations of the secretary of administration, public notice shall be given of all vacancies to be filled. Each person who registers for state employment and applies for the vacancy shall be considered for certification to the pool of eligible candidates if the person meets reasonable minimum standards or requirements fixed by the director with regard to experience, character, age, education, physical condition, and such other factors which directly relate to the knowledge, skills and ability of the candidates to perform with reasonable efficiency the duties of the position. No standards or requirements shall be fixed with reference to education, age or physical condition except such as relate directly to the duties of the office or employment to be filled. Persons under such physical disability as not to make them ineligible by reason thereof, shall be examined in such manner as will fairly test their ability to perform the duties of the position, notwithstanding such physical disability.

----- ADA

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

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

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

----- State agencies may require candidate pool members to possess specific skills in addition to the minimum qualifications established by DOA. Candidates may be assessed to determine if they possess required skills, but the rule of five testing is abolished. (Agencies can choose from all candidates with the required skills)

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

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1 ing of assessment instruments.

2 (e) The director may also require candidates to undergo an exami-  
3 nation at designated places in the state, in cases where oral tests or tests  
4 for manual skill or the use of instruments in construction work may be  
5 necessary to determine the fitness of such candidates.

6 (d) Agencies may request authority from the secretary of administra-  
7 tion, through the division of personnel services, to administer competitive  
8 examinations. Only examinations prepared and validated by the division  
9 of personnel services will be used. Specific agreements between the  
10 agency and the division of personnel services will be established regarding  
11 the security and processing of examinations.

----- Current testing system abolished

12 (f) Agency examining selection programs will be subject to periodic  
13 audit, at least annually, by the division of personnel services with a report  
14 to be made to the secretary of administration.

15 Sec. 6. K.S.A. 75-2940 is hereby amended to read as follows: 75-  
16 2940. (a) The director may refuse to examine an applicant, or after ex-  
17 amination may refuse to certify an applicant a candidate as eligible, who  
18 or may remove from consideration a candidate who previously has reg-  
19 istered for employment with the state when the candidate:

20 (1) Is found to lack any of the preliminary requirements established  
21 for the examination for the position or employment for which the appli-  
22 cant candidate applies;

-----Updated terminology

23 (2) is physically so disabled as to be, due to a qualifying disability,  
24 unable to properly perform the duties essential functions of the position  
25 to which the applicant seeks appointment with reasonable accommoda-  
26 tion;

-----ADA

27 (3) has a recent history of excessive or habitual use of alcohol; uses  
28 illegal narcotics or other drugs which may affect job performance or  
29 whose use of alcohol will adversely affect job performance or conduct to  
30 the extent that the candidate is not qualified;

-----ADA

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

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

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

37 (7) gives, renders or pays directly or indirectly any money, service or  
38 other valuable thing to any person for, or on account of, or in connection  
39 with, the applicant's test, appointment or proposed appointment the ap-  
40 plication, selection or appointment process;

41 (8) has practiced, or attempted to practice, any deception or fraud in  
42 the application, certificate, examination or in securing the applicant's el-  
43 igibility selection or appointment process; or

-----Updated terminology and internal consistency

2-7

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

3 (b) Whenever the director ~~refuses to examine an applicant, or after~~  
4 ~~an examination~~ refuses to certify ~~an applicant a candidate as eligible, or~~  
5 ~~removes from consideration a candidate who has registered for employ-~~  
6 ~~ment with the state,~~ as provided in this section, the director shall furnish  
7 to the ~~applicant with candidate~~ a statement of the reasons for such ~~refusal~~  
8 ~~to examine or refusal to certify, or removal from consideration as the case~~  
9 may be. In the case of any such refusal ~~or removal~~ an appeal may be taken  
10 to the board in accordance with rules and regulations adopted as provided  
11 in K.S.A. 75-3706, and amendments thereto.

-----Updated terminology

12 Sec. 7. K.S.A. 75-2942 is hereby amended to read as follows: 75-  
13 2942. (a) Appointments, ~~and~~ promotions ~~and~~ reinstatements to all posi-  
14 tions in the classified service under the provisions of this act, and rules  
15 and regulations adopted as provided in K.S.A. 75-3706 and amendments  
16 thereto, shall be made from among those certified to the appointing of-  
17 ficer.

18 (b) The term of eligibility of applicants on original entrance lists shall  
19 be determined by the director of personnel services and applicants shall  
20 be notified thereof at the time the examination is announced. If a list is  
21 canceled prior to the announced termination date for the list, all candi-  
22 dates on the active list of eligible persons for the class of positions shall  
23 be notified. The term of eligibility of applicants on reinstatement lists and  
24 promotion lists shall be determined by the director of personnel services.  
25 The term of eligibility of applicants for original entrance ~~and~~ reinstate-  
26 ment lists and promotion lists may be extended by the director.

-----Appointments and promotions taken from certified pool

27 (c) Appointments shall be made from the appropriate eligible list, but  
28 if no such list exists then the director of personnel services may certify  
29 from such other list as the director deems the next most nearly appro-  
30 priate. A new and separate list shall be created for a stated position only  
31 when there is no satisfactory list. The director may establish separate  
32 eligible lists applicable to various localities.

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

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

40 (e)(d) During the period of a national emergency, so proclaimed by  
41 the president of the United States, the director of personnel services,  
42 with the approval of the secretary of administration, may certify persons  
43 not so previously qualified to temporarily fill positions in the classified

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ervice in any agency, but no such temporary appointment shall continue after a qualified person is eligible for certification or after such national emergency shall end ends, whichever period of time is the shorter; unless prior to such time the person so temporarily appointed shall have taken the examination prescribed for such position and been certified as eligible.

-----Updated terminology

Sec. 6. K.S.A. 1994 Supp. 75-2943 is hereby amended to read as follows: 75-2943. (a) Except as provided by subsection (b); Appointing authorities shall give notice to the director of personnel services of their intention to establish new positions and of the existence of any vacancy to be filled in any office or employment in the classified service in the manner provided by the director. The director shall certify, from the list of eligible persons which is appropriate for the class of the position, the names of all eligible persons who hold the top five scores on the list. If fewer than five names appear thereon, the appointing authority is not required to appoint from the eligible list, may assume joint recruiting authority and may request certification of a maximum of five names. Examinations shall be conducted until such designated number of names are certified.

-----Abolishes choice of 5 test system

(b) The secretary of administration, upon recommendation of the director of personnel services, may establish alternative procedures for the certification of names from the list of eligible persons if such procedures can be demonstrated to improve the department of administration's ability to provide qualified candidates to appointing authorities.

-----DOA establishes minimum qualifications for pool eligibility

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

-----Internal consistency

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

(d) After consultation with appointing authorities and other supervising officials, the director shall establish, and from time to time amend, a system of performance ratings which shall provide for general categories of performance levels and such other criteria as the director may prescribe for each class of positions in the classified service or for groups of classes. In accordance with K.S.A. 75-3706 and amendments thereto, the secretary of administration shall adopt rules and regulations in respect to such performance ratings, and such performance ratings shall be considered in determining the advisability of transfers, the promotion of an

employee to a higher class, the questions of reduction or dismissal of any employee, increases and decreases in salary of an employee within the salary range established under this act, and in all other decisions relating to the status of employees. In accordance with K.S.A. 75-3706 and amendments thereto, the secretary of administration shall adopt rules and regulations prescribing the extent to which such ratings and the reports upon which they are based shall be open to public inspection by the public and by the affected employees.

Sec. 9. K.S.A. 75-2944 is hereby amended to read as follows: 75-2944. (1) (a) Vacancies in positions shall be filled, so far as practicable, by promotions or transfers of persons holding positions in the classified service and in accordance with K.S.A. 75-2942, and amendments thereto. Promotions shall be based upon merit and fitness to be ascertained by competitive or noncompetitive examination in which principles which shall include as factors the employee's efficiency, character, conduct and length of service shall all constitute a factor. Upon request of an appointing authority, the secretary of administration may make exceptions to one or more of these factors where such exceptions can be demonstrated to improve the availability of qualified candidates. Subject to the approval of the secretary of administration, the director of personnel services may provide, in specific areas, for competitive promotional examinations among employees of departments other than that in which a particular vacancy in a higher classification may exist, or for noncompetitive examinations for promotion of an employee within a department or from one department to another assessments.

(2) (b) An employee in the classified service with permanent status who is promoted with probationary status to a higher position, who is dismissed or could be dismissed for cause other than misconduct or delinquency on the employee's part from the position to which the employee was promoted, either during the probationary period or at the conclusion thereof by reason of the failure of the appointing authority to file a request for the employee's continuance in the position, shall be demoted with permanent status to a position in the class from which the employee was promoted, or to a position in another class in the same salary range as the class from which the employee was promoted, or in a class in the next lower salary range. If the employee was promoted from one agency to another agency, the demotion shall be to a position in the agency to which the employee was promoted, unless the agency from which the employee was promoted agrees to the demotion of the employee in that agency. If the employee was dismissed for misconduct or delinquency from the position to which the employee was promoted, and for that reason is not entitled to be demoted to a lower position, the employee shall have a right to appeal the dismissal to the state civil service board. If an employee

6-9  
 -----Vacancies filled by transfer or promotion are based upon skills assessment unless pool size is too small in which case DOA may make exceptions

1 who is dismissed and who is entitled to demotion pursuant to this sub-  
 2 section, is not given the opportunity to be demoted, the employee shall  
 3 have a right to appeal the dismissal to the state civil service board. The  
 4 secretary of administration may prescribe by rules and regulations con-  
 5 ditions under which a break in service between separation from one  
 6 agency and promotion to a position in that agency or another agency  
 7 renders inapplicable the right of demotion to a lower position as provided  
 8 in this subsection.

9 Sec. 10. K.S.A. 75-2945 is hereby amended to read as follows: 75-  
 10 2945. Subject to limitations imposed by rules and regulations adopted  
 11 pursuant to K.S.A. 75-3706 and amendments thereto, positions in the  
 12 classified service may be filled without utilizing certified pool of eligible  
 13 lists candidates only as follows:

-----Exceptions to certification pool process

- ✓ Conditional employment exception abolished
- ✓ Emergency employment exception abolished
- ✓ Peculiar skills exception abolished
- ✓ (Exceptions remain for temporary hires and interns)

14 (a) Whenever there are urgent reasons for filling a vacancy in any  
 15 position in the classified service and the director of personnel services is  
 16 unable to certify from any appropriate eligible list for the vacancy, the  
 17 director may issue a conditional permit or certify a suitable person to fill  
 18 such vacancy conditionally only until a selection and appointment can be  
 19 made after competitive examination, but no person shall serve more than  
 20 six months within a twelve-month period in one agency as a conditional  
 21 appointee.

22 (b) In case of an emergency, an emergency appointment may be  
 23 made without regard to the provisions of the Kansas civil service act, but  
 24 in no case shall a person serve in one agency on one or more emergency  
 25 appointments more than 30 working days within a twelve-month period.

26 (c) In case of a vacancy in a position where peculiar and exceptional  
 27 qualifications of a scientific, professional or expert character are required,  
 28 and upon satisfactory evidence that for specified reasons competition in  
 29 such special case is impracticable and that the position can best be filled  
 30 by the selection of some designated person of high and recognized at-  
 31 tainments in such qualities, the secretary of administration upon recom-  
 32 mendation of the director of personnel services may suspend the requi-  
 33 rements of competition in such case, but no suspension shall be general  
 34 in its application to such position, and all such cases of suspension shall  
 35 be reported at least annually to the state finance council with the reasons  
 36 therefor.

37 (d) (a) Where the services to be performed will require less than  
 38 1,000 hours of work within a twelve-month period, the director may au-  
 39 thorize an agency to make a temporary appointment of a person who  
 40 meets the qualifications for the position. The director may establish pro-  
 41 cedures for making temporary appointments. A person may have more  
 42 than one temporary appointment in an agency within a twelve-month  
 43 period, if the person works on such appointments for less than 1,000

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1 hours within the twelve-month period. The acceptance or refusal by an  
2 eligible person of a temporary appointment shall not affect such person's  
3 standing on any eligible list or certification for permanent employment;  
4 nor shall The period of temporary service shall not be counted as a part  
5 of the probationary period in case of subsequent appointment to a per-  
6 manent regular position.

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

12 Sec. 11. K.S.A. 75-2947 is hereby amended to read as follows: 75-  
13 2947. ~~(a)~~ (a) In a manner consistent with rules and regulations adopted  
14 by the secretary of administration, transfers in the classified service may  
15 be made from a position in one grade and class to a position in another  
16 grade and class when the duties and compensation are similar and when  
17 such action is specifically approved by the director.

-----Transfer procedures are established by rule and reg.

18 ~~(b)~~ (b) Any person holding a permanent regular position in the clas-  
19 sified service of this state may be granted a leave of absence on the  
20 grounds of sickness, disability or other good or sufficient reason. ~~Provided,~~  
21 ~~however, That~~ No leave shall exceed one year, except as provided in  
22 subsection ~~(4)~~ of this section necessary to comply with other laws and as  
23 approved by the secretary of administration.

-----Updated terminology

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

27 ~~(4)~~ Any person who has held a position by permanent appointment  
28 in the classified service under the civil service law and rules and who has  
29 been separated from the service without any delinquency or misconduct  
30 on his or her part or who has been granted a leave of absence under  
31 subsection ~~(2)~~ of this section may be reinstated within one year from the  
32 date of such separation or within one year from the expiration of an  
33 approved leave of absence, to a position in the same or similar grade or  
34 class in the classified service, but such action shall be subject to the ap-  
35 proval of the director.

-----Reinstatement provision abolished

36 Sec. 12. K.S.A. 75-2948 is hereby amended to read as follows: 75-  
37 2948. (a) In accordance with rules and regulations adopted therefor, an  
38 appointing authority, with the approval of the secretary of administration,  
39 may lay off an employee in the classified service whenever the appointing  
40 authority deems it necessary by reason of shortage of work or funds, the  
41 reinstatement return of an employee returning from authorized leave, or  
42 the abolition of a position or other material change in duties or organi-  
43 zation.

20  
21

4  
4r



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

(b) The appointing authority shall give written notice to the director with a copy to the affected employee or employees of every proposed layoff and the reason therefor at least 30 calendar days before the effective date thereof, and the director shall make such orders relating thereto as the director considers necessary to secure compliance with the rules and regulations. ~~The name of~~ Every permanent employee so laid off shall be placed ~~on~~ in the appropriate reemployment list ~~for that agency pool~~, and the secretary of administration shall adopt rules and regulations pursuant to K.S.A. 75-3706 and amendments thereto detailing what preference is to be given persons ~~on~~ in the reemployment list if, at the time of the layoff, the agency has classified positions filled by employees without permanent status, or if, during the life of the reemployment list, the agency has vacancies in the class in which a layoff was made pool, including assistance relating to job search and placement, skill identification and employment counselling.

Reinstatement preferences subject to rule and reg since test system is abolished

Sec. 13. K.S.A. 1994 Supp. 75-2955 is hereby amended to read as follows: 75-2955. (a) In all examinations establishing certified pools of eligible candidates under this act, veterans' preference shall be given to:

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

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

(3) any person who separated from the armed services under honorable conditions and has a disability certified by the United States department of veterans affairs as being service connected, has been issued the purple heart by the United States government or has been released from active service with a service-connected disability; and

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

Veteran's preferences weighted subject to rule and reg since test system abolished.

~~(1) Veterans' preference points and dates shall be applicable only to~~

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1 examinations given on and after the effective date of this act and shall not  
2 be applied retroactively.

3 (e) To the final earned rating of each person who is described in  
4 subsection (a) and who has attained a passing rating on any open com-  
5 petitive examination, there shall be added a credit of five points; except  
6 that, in the case of a person described in subsection (a)(3), there shall be  
7 added a total credit of 10 points.

8 (b) To qualify for the veterans' preference, a person described in sub-  
9 section (a) also shall meet the requirements of the vacant position. The  
10 secretary of administration ~~may~~ [shall] adopt rules and regulations nec-  
11 essary to implement the provisions of this section.

-----Updated terminology

12 Sec. 14. K.S.A. 75-5605 is hereby amended to read as follows: 75-  
13 5605. There is hereby established within and as a part of the department  
14 of health and environment a division of environment, the head of which  
15 shall be the director of the division of environment. Under the supervision  
16 of the secretary of health and environment, the director of the division  
17 of environment shall administer the division of environment. The director  
18 shall have experience and educational training in the field of environment.  
19 The secretary of health and environment shall appoint the director of the  
20 division of environment who shall serve at the pleasure of the secretary;  
21 ~~and he or she.~~ The director shall be in the unclassified service and shall  
22 receive an annual salary fixed by the secretary and approved by the state  
23 finance council. If a director was an employee of the state of Kansas in a  
24 permanent regular classified position under the Kansas civil service act  
25 at the time of selection as director, ~~he or she shall such person,~~ upon the  
26 conclusion of service as director, shall be returned to the permanent  
27 regular classified position under the Kansas civil service act ~~he or she~~  
28 ~~such person~~ held at the time of appointment as director, and if such  
29 position be filled at that time, a temporary additional position shall be  
30 created for ~~him or her such person~~ until such time as a vacancy exists in  
31 such position. While serving in such temporary additional position ~~said~~  
32 the former director shall continue to be a contributing member of the  
33 retirement system under which ~~he or she such person~~ was covered while  
34 serving as director.

35 New Sec. 15. The period preceding the effective date of this act shall  
36 be a transition period during which the secretary of administration may  
37 vary the procedures and requirements of this act relating to the appoint-  
38 ment, selection and layoff of state officers and employees, in order to  
39 provide the orderly transition contemplated by this act.

-----Transition authority (flawed)

40 Sec. 16. K.S.A. 75-711, 75-2925, 75-2926, 75-2938, 75-2939, 75-  
41 2940, 75-2942, 75-2944, 75-2945, 75-2947, 75-2948 and 75-5605 and  
42 K.S.A. 1994 Supp. 75-2943 and 75-2955 are hereby repealed.

With the passage of this bill, "candidates" will initially register their basic skills with the state. Candidates will only have to register once, but may update their skills at any time. Candidates will then apply directly for actual vacancies. The SHARP system will screen candidates for specific vacancies to see if they meet the minimum qualifications. Candidates meeting those minimum qualifications will then be further screened for specific skills and characteristics required for that particular vacancy. Using this method, agencies will get a pool of candidates uniquely suited for a particular position.

The proposed bill also establishes statewide reemployment pools for employees who are laid off. In the current system, employees who are laid off are placed on a list for reemployment to a specific class. Employees remain on the reemployment list for three years for the agency from which they were laid off, and one year for other agencies who have not had a layoff. The new system will allow statewide placement for reemployment based on skill identification.

In addition, veterans' preference will be given when certifying the names of veterans to pools of eligible candidates. Currently, veterans' preference points are given on applicant examinations. Because there will normally not be any examinations as we currently know them under the new system, administrative rules and regulations will define what type of preference veterans will receive within the eligible pools.

A K-Goal Audit of the Division of Personnel Services done January, 1994 made the following specific recommendations:

*To improve the efficiency of the state's central hiring procedures, the State and the Division of Personnel Services should provide a more efficient way for state agencies to take into consideration their specific hiring needs when hiring from central applicant lists. Options in this area include:*

- ◆ *eliminating the requirement for centralized examinations and rankings of applicants*
- ◆ *allowing state agencies to adjust central applicant scores to take into account the agencies' individual needs (for example, Affirmative Action goals).*
- ◆ *revising or eliminating the "rule of five" so that state agencies could hire from a larger group of candidates.*

The new hiring process for SHaRP implements this recommendation.

The bill also changes position types. "Permanent" positions would be "regular" positions to again accommodate SHARP terminology. Also, position types will be reduced to regular and temporary. We will continue to use classified or unclassified and part-time or full-time designations. ~~Currently, conditional position types are used for appointments when applicant eligible lists are not available for a particular class.~~ With the proposed system, eligible candidate pools will provide agencies with more potential employees with the needed skills for specific positions so there will be no need for conditional appointments. Because of the nature of temporary and training appointments,

**Testimony To The**  
**HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE**

**By**  
**Bobbi Mariani**  
**Division of Personnel Services**

**Thursday, March 9, 1995**  
**RE: Senate Bill 175**

Mr. Chairperson and members of the committee, thank you for the opportunity to appear before you today in support of Senate Bill 175. My name is Bobbi Mariani, and I am the Assistant Director of the Division of Personnel Services. I would like to first briefly describe the SHARP project and then address the proposed legislation.

The SHARP project began in May 1994 as a result of the Kansas Personnel/Payroll Study requested by the Legislature in 1993. This study concluded that KIPPS, the State's current personnel and payroll system, is outdated and unable to meet our needs. SHARP will utilize "PeopleSoft" software to develop and implement a statewide human resource/benefits/payroll system that efficiently and effectively supports human resource service needs for agency management and legislative policymaking. SHARP will issue its first payroll warrants in January 1996. At that time SHARP will replace KIPPS and will move our state personnel functions from 1970's technology into the 21st century.

In order to facilitate the SHaRP transition, some of our present terminology and processes need to be updated to coincide with new SHARP functions which represent best human resource/payroll business practices throughout the public and private sectors.

One of these changes is the application and selection process. Terminology currently referred to as "applicants" and "lists" would change to "candidates" and "pools". The selection process will also become more timely and provide more specifically qualified candidates for agencies.

In addition, the amendments will simplify the application process for candidates for state positions. Currently, applicants complete an Application for Examination for each job class for which they want to apply. Applicants are then scored and placed on an eligible list for that class. Often, in this system, applicants believe they are applying for a vacant position. In reality, however, they are only being ranked for a list that will be used at a later time if and when there is a vacancy in that particular class.

*Business, Commerce  
& Labor  
3/9/95  
Attachment 3*

we will retain the ability to make these appointments without the use of a certified pool of eligible candidates.

A number of other technical or clean-up changes are included in the proposed bill:

- 1) Update language to ensure that it is consistent with the federal Americans with Disabilities Act (ADA) regarding reasonable accommodation.
- 2) Removes the definition of "status eligible" because it is not referenced in either statutes or administrative rules and regulations.
- 3) Allow employees to transfer between classes without the specific approval of the Director of Personnel Services. Administrative rules and regulations adopted by the Secretary of Administration will govern the method for transfers.

The Department of Administration would appreciate your support for passage of Senate Bill 175. Thank you for allowing me this time. I would be happy to answer any questions you may have.

# STATEWIDE HUMAN RESOURCE & PAYROLL SYSTEM PROJECT

## SHARP

January 30, 1995

**PROJECT MISSION:** Develop and implement a statewide human resource/benefits/payroll system that efficiently and effectively supports the human resource service needs of the State of Kansas. The SHARP Project will provide Kansas with systems, processes and prepared staff to support the State into the 21st century.

### 1. PROJECT SCOPE

- a. Align people, processes and technology with the State's human resource and payroll strategies.
- b. Replace the current HR/PAY mission critical system (KIPPS). KIPPS is 15 years old, uses 1970's technology and is costly to operate.
- c. Joint acquisition and project effort with the University of Kansas and Kansas State University.
- d. Business Process Reengineering (BPR).
- e. A proven, forward looking software package (PeopleSoft, Inc.).
- f. Use of advanced technology (Client/Server).
- g. Vendor systems integration support (Andersen Consulting).
- h. Knowledge transfer for state personnel.

### 2. SYSTEM BENEFITS

- a. Reengineered and streamlined processes for human resource, benefits and payroll functions.
- b. Compliance with the provisions of the Fair Labor Standards Act (FLSA) and facilitates monitoring of accurate overtime payments to non-exempt employees.
- c. Provides timely, flexible, access to integrated statewide information for agency management and legislative policy-making.
- d. Timely response to federal and state requirements.
- e. Provides ease of use to a wide range of users.
- f. Is flexible and maintainable.
- g. Reduced administrative and operating costs.
- h. Enables timely, effective interfacing to other state systems.

### 3. PROJECT ORGANIZATION

- a. Seamless organization of state and vendor personnel
  - (1) 59 staff on the team
  - (2) 31 State, 28 Andersen Consulting
  - (3) State staff from DPS (7), A&R (8), DISC (3), CCSD (5), KDOT (1), SRS (1), KU (1), KSU (1), SHARP/DOA (4)

- b. Steering Committee
- c. User Acceptance Team from State Agencies
- d. Focus Groups Representing 1,500 state personnel
- e. Located in the Landon State Office Bldg., Rm 600N

4. **PROJECT SCHEDULE**

Open Enrollment (Benefits)	October 1995
Human Resource / Payroll	January 1996
Biweekly Pay Period	12/17/95 - 12/30/95
Pay Date	1/12/96
<u>On Schedule and Within Budget</u>	

5. **BIWEEKLY PAY**

As part of the implementation of the new SHARP System, the State will pay all of its employees on a biweekly basis. Pay periods will begin on Sunday and end two weeks later on Saturday. Paychecks will be issued two weeks later on Friday. If Friday (payday) is a holiday, paychecks will be issued on the closest preceding work day.

a. **Reason for This Decision**

There are a number of important reasons for the State to make this very significant change. As with most major operating policy decisions, the pros and cons are numerous and complex. In general, this decision was prompted by the fact that converting to the new SHARP System presented an opportunity to make significant changes in underlying business processes and policies. Also, the State's recent experience with FLSA related lawsuits illustrated the importance of structuring the State's payroll system in a manner that simplified compliance with the provision of the law and facilitated monitoring of accurate overtime payments to non-exempt employees.

Other major reasons for making the move to biweekly pay:

- There currently are five different pay cycles running each month: one biweekly, two semi-monthly and two monthly cycles; while the majority of employees are paid monthly, the effort required to run five pay cycles each month can be reduced significantly by consolidating all employees to the same pay cycle. Most large employers in the private sector limit the number of different pay cycles to the greatest extent possible.
- The efficiencies realized from running only one pay cycle also spread to other related payroll processes, such as eliminating salary advances, posting paychecks, using direct deposit and reconciliation/remittances.

- Biweekly pay periods allow the State, in most cases, to standardize work weeks and work periods for most employees, synchronize law enforcement work periods and the biweekly pay period; this enhances the State's ability to comply with the overtime pay requirements of FLSA.
- Standardized work schedules also make the administration of the SHARP System's new time and leave capture system simpler and more efficient.
- Having a standard number of hours in each pay period simplifies the process of accruing vacation, sick and other types of leave; this again allows the State to become more efficient administratively.
- Recruitment and retention of personnel is another benefit of biweekly pay. This pay cycle is consistent with private sector.
- Employees paid on an hourly basis produces fluctuating paychecks for any pay period other than biweekly. The State has therefore avoided this by implementing biweekly pay.

**b. Impacts on Employees**

From the employees' perspective, there are several benefits that will come with this change to biweekly pay:

- Employees will be paid more often: twenty-six times a year, rather than twelve.
- Employees will be paid more quickly for their work (every two weeks for the preceding two weeks, rather than every month, for the preceding month); new hires will not need to request salary advances.
- Pay dates will be standard (every other Friday) and will always fall on a work/banking day. Therefore, electronic fund transfer of warrants will occur consistently every pay period.
- For employees currently paid monthly, the conversion to the new SHARP System will create an "extra" paycheck in calendar year 1995, because pay for the November 18 to December 17, 1995 pay period will be paid December 29, 1995.
- For non-exempt employees, biweekly pay ensures a standard amount of gross wages in each paycheck, EXCLUDING shift differential or overtime.

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6. PROJECT BUDGET

Total Budget (FY 94 - 00) \$11,463,680  
Computer Services Recovery  
Fund (Fund 6163)

Vendor Contract  
(Andersen & PeopleSoft) \$ 8,130,098

Administration, Software  
Maintenance, Equipment, PC  
Software, Implementation Reserve,  
K DFA Interest, Office Expenditures,  
Staff (4) \$ 3,333,582

- a. Shadow Budget
- b. Agency Expenses for SHARP
- c. FY 96 Budget Request (\$2.77 million)

7. SHARP PROJECT ISSUES

- a. Funding
- b. Statutes
- c. Agency Readiness
- d. Regents' Readiness
- e. Training
- f. Time & Leave Reporting
- g. Technology Infrastructure

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