

MINUTES OF THE HOUSE KANSAS 2000 SELECT COMMITTEE.

The meeting was called to order by Chairperson Kenny Wilk at 1:30 p.m. on January 21, 1999 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Alan Conroy, Legislative Research Department
Paul West, Legislative Research Department
Gordon Self, Revisor of Statutes
Janet Mosser, Committee Secretary

Conferees appearing before the committee: Kathy Porter, Office of Judicial Administration
Judge Terry Bullock, Third Judicial District (Shawnee County)
Judge Michael Malone, Seventh Judicial District (Douglas County)
Judge Larry McClain, Tenth Judicial District (Johnson County)
Judge John White, 31st Judicial District (Allen County)
Terry L. Knowles, Deputy Director, Kansas Bureau of Investigation
Paul K. Wilson, Executive Director, Kansas Association of Public Employees (KAPE)
Don Rezac, State Employees Association of Kansas
Mike Auchard, University of Kansas Classified Senate
Cheryl Grice, Kansas State University Classified Senate

Others attending: See attached list

Ms. Kathy Porter addressed the committee. Ms. Porter summarized the problems the Judicial Branch has had in recent years with the existing pay plan (**Attachment 1**).

Judge Terry Bullock expressed to the committee his concern that the court system is unraveling due to low salaries for court clerks, understaffing, and an inability to compete with the market.

Judge Michael Malone reiterated Judge Bullock's comments that court clerks are underpaid and overworked and provided salary comparisons for court clerks in similar positions at the state and county level to support his concerns (**Attachment 2**).

Judge Larry McClain expressed his concern about high staff turnover rates and the inability to fill positions with qualified staff (**Attachment 3**). In addition to his position as a District Judge, he stated that he serves as President of the Kansas District Judges Association. The Association has formed a committee to draft a proposal to address the staffing problem that will be presented to the Legislature next year.

Judge John White informed the committee that what is happening in other districts is happening on a smaller scale in his small, rural district. While he is concerned with the pay for non-judicial employees, he is also concerned with judicial compensation. In addition to his position as a District Judge, he serves as Chair of the Kansas Judicial Compensation Committee and provided information on Kansas judicial salaries (**Attachment 4**).

Mr. Terry Knowles summarized for the committee the inability of the Kansas Bureau of Investigation to retain forensic scientists due to low salary and benefits in comparison to other forensic laboratories (**Attachment 5**).

CONTINUATION SHEET

MINUTES OF THE HOUSE KANSAS 2000 SELECT COMMITTEE, Room 526-S Statehouse, at 1:30 p.m. on January 21, 1999.

Mr. Paul Wilson summarized for the committee the Kansas Association of Public Employees position on pay for performance, changes to the KPERS retirement plan, and the need to retain civil service protections in a political workplace (**Attachment 6**).

Mr. Don Rezac, representing the State Employees Association of Kansas, urged caution in making changes to the current state pay plan (**Attachment 7**).

Mr. Mike Auchard, representing the University of Kansas Classified Senate, outlined for the committee desirable components of a new compensation plan (**Attachment 8**).

Ms. Cheryl Grice summarized information received from classified employees throughout the state as well as from Kansas State University and provided the committee with a copy of the Kansas Council of Classified Senates position paper on salary, retirement, and benefits (**Attachment 9**).

Vice Chairperson Horst adjourned the meeting at 3:18 p.m.

The next meeting is scheduled for January 25, 1999.

KANSAS 2000 SELECT COMMITTEE GUEST LIST

DATE: 1-21-99

NAME	TITLE	REPRESENTING
Don Ryan	Lobbyist	SEAK
Don Whitten	Member - SEAK	SEAK
Keith Haxton	Lobbyist	SEAK
John A. Pritchard		KU CLASSIFIED SENATE
Jerome Hanson	President	KU Classified Senate
Maha Panchard		KY Classified Senate
Terry Knowles		KBI
Marsha Pappas		KBI
Louis Chabala		Div. of the Budget
Jon Josselyn		KU
Mark Pickerson		SRS
Judy Berisa		Doc
Dick Koerth		KDWP
Les Hughes		DoA
Scott Miller		DoA
Alex Christman		DoA
LARRY McCRAW	Asst. Judge	Jo Co KDJA
Mike Malone	Admin Judge	Douglas County
Linda Kroster-Vogelsohn	Court Administrator	Douglas County
Karen Watney		DoA / DPS
D. Kint		DoA / DPS
B. Mariani	Asst. Dir.	DPS / DoA
Martin Rein		KU
PAUL WILSON	EXEC. DIR.	KAPE

Kathy Parker

John W. White
Ronald Seeber

District Judge

OJA
Judicial Branch
Dept of Admin

Testimony on State Pay Plan Issues to the Kansas 2000 Select Committee

Kathy Porter
Office of Judicial Administration
January 21, 1999

Pursuant to K.S.A. 20-162, enacted in 1978, the Supreme Court has authority to establish a judicial personnel classification system prescribing the pay for all nonjudicial personnel. The statute asks that, in determining pay rates, the Court take into consideration three factors: 1) the compensation for court personnel prior to unification; 2) the compensation of executive branch personnel with comparable duties, and 3) the compensation of similar court personnel in comparable states.

The Court relied upon these factors, perhaps placing most importance on the salaries of similarly situated executive branch employees. Again, during the comprehensive salary study of the early to mid-eighties, the Supreme Court linked its classifications with those of the executive branch. For nearly two decades, this system worked; the Judicial Branch was able to attract and keep good employees.

However, it has become clear to the Judicial Branch in recent years that our current pay plan is costing us good employees, and may eventually reduce court efficiency. We are losing trained employees not only to private employment, but to municipalities and counties because they can pay our experienced people more than we can. Every week, we hear from our administrative judges that they cannot hire people, or cannot hire the caliber of people they need, because of the inadequate pay.

During interviews for the position of Clerk of the District Court of Johnson County, a municipal clerk told the interviewers she would have to take a pay cut to take the job. As municipal court clerk, she supervised three people. The Clerk of the Court of Johnson County supervises ten times that number. Our clerks continually tell us about losing employees they have just trained to more lucrative employment.

In order to preserve and improve what is an excellent judicial system, we believe we must take steps to deal with this problem. As we are required to consider the pay of executive branch employees in developing our pay plan, we would prefer to have this issue reviewed on a statewide basis for all state government. If this is not possible, the Judicial Branch must attempt to address this problem ourselves. As you know, this year we seek to increase judicial salaries and to reclassify the clerks of the district court. We will continue to ask for salary increases for our people until we are sure we can attract, retain, and adequately reward the sort of employees you want to staff the state's courts.

Today, four administrative judges will testify about their experiences within their judicial districts. They are Judge Terry Bullock, from the Third Judicial District (Shawnee County); Judge Michael Malone, from the Seventh Judicial District (Douglas County); Judge Larry McClain, from the Tenth Judicial District (Johnson County); and Judge John White, from the 31st Judicial District (Allen County).

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Attachment 1

Salary Comparison 1999

Clerk of the District Court and County Clerk

Position:	Salary Range:
Trial Court Clerk I (DC)* <u>Recording Clerk I (CO)**</u>	\$15,059 - \$21,174 \$16,786 - \$24,731
Trial Court Clerk II (DC) <u>Recording Clerk II (CO)</u>	\$16,598 - \$23,358 \$20,342 - \$29,910
Trial Court Clerk III (DC) <u>Registration/Tax Clerk III (CO)</u>	\$18,325 - \$25,771 \$21,341 - \$31,325
Trial Court Clerk IV (DC) <u>Deputy Treasurer (CO)</u>	\$21,174 - \$29,806 \$28,330 - \$41,621
Records Clerk II (DC) <u>Recording Clerk II (CO)</u>	\$15,059 - \$21,174 \$20,342 - \$29,910
Account Technician (DC) <u>Account Clerk III (CO)</u>	\$18,325 - \$25,771 \$23,462 - \$34,445
Clerk of the Court III (DC) <u>County Clerk (CO)</u>	\$27,040 - \$38,043 \$42,411 - \$62,067
Administrative Assistant (DC) <u>Administrative Secretary (CO)</u>	\$20,176 - \$28,413 \$21,341 - \$31,325

Court Service and Community Corrections

Position:	Salary Range:
Court Services Officer (CSO) I (DC) <u>Intensive Supervised Probation (ISP) I (CO)</u>	\$24,523 - \$34,507 \$28,330 - \$41,621
CSO II (DC) <u>ISP II (CO)</u>	\$27,040 - \$38,043 \$31,179 - \$45,718
Chief CSO (DC) <u>Director of Community Corrections (CO)</u>	\$29,806 - \$41,954 \$46,779 - \$68,453

* (DC) - District Court
** (CO) - County

form/salcomp

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Attachment 2

Court County Supervision Breakdown

<u>Office</u>	<u>Employees Supervised</u>	
	<u>Full Time</u>	<u>Part Time</u>
District Court and County Offices:		
Clerk of the District Court	13	1
County Treasurer	17	2
County Clerk	6	4
Register of Deeds	4	2
Community Corrections and Court Services:		
Community Corrections	8	0
Court Services	7	1

Form/crtcosup

PAY COMPARISONS

COUNTY STAFF

Salary Range - \$42, 411 - \$62, 067

POSITION	LENGTH OF SERVICE	PAY
County Clerk – Patty Jaimes	Jan. 81 -	\$62,067
County Treasurer – Pat Wells	Oct. 97 -	\$52,749
Register of Deeds – Sue Neustifter	Jan. 73 -	\$62,067

CLERK OF THE DISTRICT COURT

Kansas Salary Range - \$26, 376 - \$37,104 (As of Sherlyn's departure June 1997)
Colorado Salary Range - \$49,416 - \$66,216 (Sherlyn started July 97 at \$51,888, now \$63,072)

POSITION – Sherlyn Sampson	LENGTH OF SERVICE	PAY
Clerk of the District Court	Jan. 75 - June 97	\$37, 104
Colorado – Clerk Combined Courts	July 97 -	\$63,072



COURT ADMINISTRATION

State of Kansas
Tenth Judicial District
100 North Kansas
Olathe, Kansas 66061

(913) 764-8484 Ext. 5468
FAX (913) 791-5826
Michael.McLain@jocoks.com

January 20, 1999

Honorable Larry McClain
Administrative Judge
Tenth Judicial District
Johnson County Court House
Olathe, Kansas 66061

Re: 1998 Personnel Turnover

Dear Judge McClain:

A review of 1998 turnovers of the Clerk of the District Court offices, Court Services, and Court Administration/Judges' staff reveal the following:

Clerk of the District Court - Nineteen position became vacant in 1998. Eleven of these were resignations, one was a retirement, six were dismissals, and one person failed to return to work. The dismissals were primarily terminations due to poor performances during the probationary period. Supervisors contribute this limited applicant pools upon which to draw new employees, and a certain amount of "risk taking" hoping new recruits would "workout". Positions were offered to fourteen individuals who declined to accept the offer of employment because the salary was too low. The total F.T.E. employees since July 1998 (two new positions were added) is 51.5. **The turnover is 36%.**

Court Services - Thirteen CSO positions turned over in 1998. None were due to retirement. One was a supervisory CSO II, and the remainder were CSO I(s). There are 38.5 F.T.E. CSO positions. **The turnover rate is 33%.**

Court Reporters - three vacancies occurred in 1998. Two have been filled, while the third (1/2 time court reporter) remains open without a candidate. We have nineteen F.T.E. Court Reporter positions. **This would constitute a 13% turnover rate in court reporters.**

Court Administration/Court Staff - one Administrative Assistant was terminated. This judicial district has 22 administrative assistant positions. **This breaks out to a 4% turnover in administrative assistant positions.**

Sincerely,

Kansas 2000 Select Committee

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Attachment 3

**Summary of
Report on Kansas Judicial Salaries**

In the past ten years major case filings in the Kansas courts have increased by 59%. As increasing numbers of Kansans turn to the courts for resolution of disputes, it is imperative that the executive, legislative and judicial branches provide Kansas citizens a quality system of justice. Judicial compensation must be set at a level that able and experienced attorneys will be attracted to the bench, and competent, experienced judges will be retained. The judge should not be the lowest paid lawyer in the courtroom.

Kansas Attorneys Income

In 1997, the Kansas Bar Association published the results of a study of Kansas attorneys' income. The study shows that in 1996:

- the average income of Kansas attorneys with 15-19 years experience was \$92,820.
- the median income of Kansas attorneys with twenty or more years experience was \$98,500 and the average income was \$109,867.

Very nearly 50% of Kansas judges are over 54 years of age and almost 70% are over 50 years of age. The Bar Association study indicates that in 1996 the average income of attorneys with 25-30 years of experience was nearly \$110,000, approximately \$30,000 more than the salary of a district judge.

Judicial Salaries-National and Regional

A study of judicial salaries published by the National Center for State Courts shows that as of January 1, 1998:

- Judges in thirty-nine states were paid higher salaries than Kansas judges; only ten states paid their judges less than the annual salary of a Kansas judge;
- Kansas judges were paid \$83,883, \$10,158 less than the national average salary of \$94,041, and \$10,511 less than the national median salary of \$94,394;
- Kansas Supreme Court justices were paid \$96,489, compared to the national average salary of \$105,058, and the national median of \$106,110; Kansas justices salaries ranked 35th nationally;
- Kansas judges are paid lower salaries than the judges in any of six nearby states, Missouri, Nebraska, Oklahoma, Colorado, Iowa, and Arkansas.

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- Kansas district judges received \$8100 per year less than the average of salaries paid to judges in the six nearby states and \$15,000 per year less than the highest salary paid (Arkansas-\$98,828) to general jurisdiction judges in the region.

Judicial Salaries in States with Comparable Per Capita Income

In a comparison of 1996 per capita income Kansas ranked 23rd nationally. The comparison shows:

- Of the six nearby states only Colorado has a higher per capita income than Kansas; Kansas judges are paid less than judges in those states.
- From 1992 through 1996, Kansas per capita income increased 18.47%; Kansas judges salaries increased 13.68%.
- Of ten states having a comparable per capita income, five states ranking 18-22 and five states ranking 24-28 nationally, Kansas judges are paid less than judges in any of those ten states.
- In 1996, the average salary for judges in the ten states having a comparable per capita income was \$94,612.

Kansas State Officials and Other Government Employees

During the past fiscal year:

- the salary of one professor at the KU Law School was \$169,795, \$70,633 more than the salary of the Chief Justice of the Kansas Supreme Court.
- the Dean of the KU Law School was paid \$57,148 per year more than the Chief Justice.
- the Executive Director of the Kansas Lottery received a salary that exceeded the salary of a district judge by \$7114.
- the City attorney of Overland Park, Kansas was paid \$1,700 more than the Chief Justice of the Kansas Supreme Court and \$17,000 more than a Johnson County District Judge.

In 1998, the salary of the Johnson County District Attorney is \$96,000, approximately \$10,000 more than the salary of a district judge, and only slightly less than the salary of a Court of Appeals judge.

Table 2.
Kansas Attorneys' Income by Years in Practice

Years in Practice	Percentile 25	Median	Mean	Percentile 75
<5	31750	38500	41244	49250
5-9	40000	52000	57989	70000
10-14	50000	74000	84338	114250
15-19	50000	80000	92820	120000
20-29	65000	98500	109867	134500
30-39	72000	90000	112433	140000

Table 5
1996 Per Capita Income and Judicial Salaries Ranking

State	Per Capita Income	National Rank (PCI)	Judge Salary	National Rank (Judge \$)
Rhode Island	24,572	18	96,817	16
Alaska	24,398	19	101,628	12
Florida	24,226	20	107,758	5
Ohio	23,457	21	80,800	40
Wisconsin	23,320	22	90,661	25
<i>Kansas</i>	<i>23,165</i>	<i>23</i>	<i>81,046</i>	<i>39</i>
Oregon	23,074	24	81,600	37
Missouri	23,022	25	91,463	23
Georgia	22,977	26	103,782	10
Nebraska	22,917	27	87,775	29
Indiana	22,601	28	85,000	32

By July 1, 1997, Ohio judicial salaries surpassed Kansas salaries. Kansas judges now receive a salary that is the lowest of judicial salaries in the states compared. The median salary was \$91,950 (national median-\$91,433) and the average salary was \$94,612 (national average-\$93,041). Table 6 shows the national rankings for judicial salaries in the states having a similar per capita income to Kansas per capita income.

Table 6.
July 1, 1997 Judicial Salaries

State	Per Capita Income	National Rank (PCI)	Judge Salary	National Rank (Judge \$)
Florida	24,226	20	107758	6
			<i>\$110,754</i>	<i>5</i>
Georgia	22,977	26	103782	10
			<i>\$106,664</i>	<i>11</i>
Alaska	24,398	19	103152	12
Rhode Island	24,572	18	99722	16
Missouri	23,022	25	94115	23
			<i>\$94,235</i>	<i>26</i>
Ohio	23,457	21	91950	25
			<i>\$94,700</i>	<i>24</i>
Wisconsin	23,320	22	90661	28
			<i>\$95,199</i>	<i>22</i>
Nebraska	22,917	27	90408	30
				<i>31</i>
Indiana	22,601	28	90000	31
				<i>32</i>
Oregon	23,074	24	85300	36
				<i>38</i>
<i>Kansas</i>	<i>23,165</i>	<i>23</i>	<i>83883</i>	<i>38</i>
				<i>40</i>

Table 7.
Salaries of State Officials and Employees

Highest Paid Professor-KU Law School	\$169795
Dean-KU Law School	\$156310
Department of Education-Agency Head	\$107625
Chief Justice-Supreme Court	\$ 99162
Justice-Supreme Court	\$ 96489
Corporation Commission-Member	\$ 93044
Chief Judge-Court of Appeals	\$ 95581
Judge-Court of Appeals	\$ 93044
Executive Director-Kansas Lottery	\$ 90997
Secretary-SRS	\$ 85638
Governor	\$ 85225
Board of Tax Appeals-Agency Head	\$ 84839
District Administrative Judge	\$ 84839
District Judge	\$ 83883
Board of Tax Appeals-Member	\$ 82374
Member-Parole Board	\$ 82374
Director-KBI	\$ 79935
Attorney General	\$ 76144



Kansas Bureau of Investigation

Larry Welch
Director

Carla J. Stovall
Attorney General

TESTIMONY
TERRY L. KNOWLES, DEPUTY DIRECTOR
KANSAS BUREAU OF INVESTIGATION
BEFORE THE KANSAS 2000 COMMITTEE (HOUSE)
CONCERNING COMPENSATION FOR FORENSIC SCIENTISTS

January 21, 1999

Mr. Chairman and Members of the Kansas 2000 Committee:

I appear today on behalf of the Kansas Bureau of Investigation (KBI) for the purpose of presenting information concerning compensation for KBI Forensic Scientists. Director Larry Welch wanted to testify today, however he is in Augusta attending a funeral of a KBI family member.

As you may know, shortage of KBI Forensic Scientists is a *critical* issue with Kansas law enforcement and Kansas prosecutors. Simply stated, we are not able to keep pace with the influx of criminal cases, and the demands for forensic service throughout our state. We receive some 55 new cases every business day.

One of the *critical* issues that we are confronted with is retaining our well-trained, experienced KBI Forensic Scientists. We are very proud of the fact that the KBI Forensic Laboratory is one of only 22 state accredited laboratories in the United States. As such, our scientists are a highly-sought after once they are trained and have gained their status as an expert in their discipline. It costs the state of Kansas approximately \$93,000 and two years time to train

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and to develop an applicant with a science degree into court-certified expert chemist or biologist or fingerprint examiner or firearms examiner or toxicologist or document examiner.

The KBI has a total of some 40 forensic scientists in our three laboratories --- Topeka, Great Bend, and Pittsburg. Just in the past five years, we have lost 19 scientists and only three of the 19 were lost to retirement. The primary reason for loss of the remaining 16 was to receive higher compensation and benefits in other forensic laboratories.

Our greatest source of loss is to the Johnson County Crime Laboratory where we had three of our very best scientists leave for higher pay since 1995. For example, earlier this month (January 4, 1999) we lost an outstanding firearms examiner to Johnson County. When he left the KBI, he was making \$48,500, and when he reported to the Johnson County Crime Lab a week later, he was making \$55,000. The top salary he would have been able to make at the KBI would have been approximately \$52,000, compared to the top salary that he will reach in five years at the Johnson County Crime Lab which will be in excess of \$74,000. There are only **four** expert firearms examiners in Kansas --- two in the KBI, one in Johnson County and one in Sedgwick County. We can not afford to lose another.

A second example comes from our Biology Section where currently our DNA Lead Scientist makes \$38,000 per year. The DNA Lead Scientist in Oklahoma earns \$44,250, in Illinois \$52,000, and in Florida \$56,000. As you would expect, the DNA Lead Scientist plays a major role in our processing of evidence from violent crimes around the state of Kansas. Again, this is an expertise that we can not afford to lose to another laboratory because of compensation. The time and expense for re-training a replacement is a devastating blow, not just to the KBI, but to Kansas law enforcement.

A salary comparison chart for eight laboratories in the immediate area is attached for your review. The KBI's starting salary for forensic scientists ranks *sixth* among the eight laboratories, and for the top salary we rank fifth out of the seven laboratories. One of the states, Oklahoma, does not compute its top salary in the same manner as the other state laboratories.

On behalf of the KBI, I appreciate very much the opportunity to present this compensation information to your Committee for your consideration. I understand that this is not an issue or problem that can be easily solved. We would appreciate the opportunity to seek creative, innovative, and flexible solutions so that the KBI can compete with other laboratories in retaining our well-trained and experienced scientists.

Compensation is an issue that needs to be reviewed, and we appreciate this opportunity to present this important issue.

Thank you.



Kansas Bureau of Investigation

Larry Welch
Director

Carla J. Stovall
Attorney General

January 21, 1999

Dear Kansas 2000 Committee:

Only a funeral in our KBI family, at Augusta, Kansas, could prevent my appearance before you today.

I have no doubt that KBI Deputy Director Terry Knowles will ably represent me and will, in fact, speak with more eloquence than I would have.

Nonetheless, I regret very much that circumstances do not permit me to take advantage of this opportunity to discuss with you personally the subject of retaining our forensic scientists.

Without a doubt, our inability to retain forensic scientists is the primary reason the KBI cannot provide the Kansas criminal justice system with the level of support needed to best protect and best serve the citizens of our state.

The KBI Laboratory has turned into a highly-regarded training ground for forensic crime laboratories of other county, state and federal law enforcement agencies.

We are simply losing our people to other crime laboratories. And we are losing them because of salaries and benefits.

Deputy Director Knowles will explain. Thank you for listening. And please forgive me for my absence.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Welch", is written over the typed name and title.

Larry Welch
Director

ANNUAL SALARY COMPARISON

KBI FORENSIC SCIENTIST II
JANUARY 1999

Agency	Starting Salary	Maximum Salary
Kansas Bureau of Investigation	\$32,868	\$46,236
Johnson County Crime Laboratory	\$44,907	\$64,230
Colorado Bureau of Investigation	\$48,240	\$69,960
Missouri State Highway Patrol	\$27,744	\$42,732
Nebraska State Patrol	\$29,319	\$41,046
Oklahoma State Bureau of Investigation	\$37,250	\$37,250*
Iowa Division of Criminal Investigation	\$39,062	\$53,206
Colorado Springs Police Department Crime Laboratory	\$43,000	\$51,000

*Salary increases are based on longevity and cost of living adjustments as granted by the legislature.



The Kansas Association of Public Employees
1300 SW Topeka Blvd., Topeka, KS 66612
(785) 235-0262 or (800) 232-KAPE / Fax (785) 235-3920
FPE / AFT / AFL-CIO

Testimony of Paul K. Wilson, Executive Director
Kansas Association of Public Employees, KAPE/AFT, AFL-CIO
Before the House Select Committee on KP-2000

Delivered January 21, 1999

Good afternoon Chairman Wilk and members of the committee. My name is Paul Wilson and I am the Executive Director of KAPE. I'm here today to talk to you about the provisions of Kansas Performance 2000 and the concerns those provisions raise among your employees. More specifically I want to talk a little bit about the three issues of pay for performance, changes to the KPERS retirement plan, and the need to retain civil service protections in a political workplace. Those are all very complex issues but I have tried to briefly summarize KAPE's positions on each.

The first issue I want to address is pay for performance. KAPE is aware that the public demands accountability on the part of their government. When the public does come to its government for services, they want to be treated like people and not like numbers. A year and a half ago, KAPE initiated a program to recognize quality public employees who provide quality public services. Now pay for performance has been suggested as a means for the state to reward public employees who provide outstanding services to the public they serve.

To most members of the public, pay for performance sounds like a reasonable way to insure productivity and proper compensation within the work force. Indeed, in some types of work it may well be. The unions are not opposed to pay plans which reward employees on some measurable, quantifiable basis. Many manufacturing plants negotiate quotas with their employees and then pay a premium for production in excess of the quota. The State of Kansas tried the rapid implementation of an expansive performance based pay plan in approximately 1980. Under that plan top producers could receive up to three step increases for outstanding performance, but because of its hasty implementation before the questions inherent in such a major change could be answered, it was a dismal failure and discarded one year later.

One major problem is that the professional and technical services provided by government do not lend themselves well to measurable quotas or standards. Pay for performance has been tried in many professional workplaces and has failed time after time. For example, how do you quantify the work of a social worker or lawyer or administrative officer or accountant or lab technician or conservation officer or nurse or engineer or any of the hundreds of other state jobs that rely on independent judgement to be performed properly? Look at your own professions. Do they rely on the sheer numbers you produce, or do they rely on the results you achieve through the

QUALITY Government Doesn't Just Happen • It depends on **QUALITY** Public Employees

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application of your experience and judgement? And would your results be as good if your judgement were sacrificed by the need to meet quotas? Probably not, but without true quantifiable measures of performance, such a plan allows tremendous opportunities for favoritism and abuse. Since the measures are by nature subjective, raises can be manipulated and soon become the product of popularity rather than productivity. Worse yet, they can be founded in any number of non meritorious reasons including political patronage which no one wants, and which civil service was instituted to prevent.

The state currently has a very limited merit pay plan that rewards satisfactory performance. If an employee is less than satisfactory, they receive nothing, and in most cases face termination or some other form of discipline. The current pay plan may need some modification but it isn't useless. It is the product of many years of refinement and alteration designed to make it better. While this plan may not be perfect, it also does not contain built in opportunities for financial favoritism and abuse. Managers have no means to reward their friends or penalize their detractors, so evaluations need not be inflated or minimized. The rewards for top performers become available when opportunities for promotion arise. At that point, subjective judgements are permitted by supervisors during interviews to determine the most suitable candidate for promotion. It is extremely difficult to prevent favoritism in the promotion process but we certainly don't want to expand that possibility into the pay plan.

Many of the same questions and problems KAPE faces in our Quality Employee program arise in the current state evaluation system, and will also surface in a pay for performance pay plan. Questions such as how many employees in the state can qualify as outstanding? How many in a work unit? Will adequate funding be provided if 50% of the state work force is judged to be outstanding? Will it be provided in the future? Will supervisors be judged on their own merits or on the performance of the unit they supervise? Will classified supervisors be evaluated by unclassified political appointees? Can we insure that all supervisors will be evaluating like work under like performance expectations? Can average performance be judged to be outstanding in one work unit while outstanding work can be judged to be average in another? How do we establish measures for the qualities we desire in public employees such as professional judgement, compassion, competence, reason, fairness, logic, and care? How do we retain our core of standard employees in the state service if they are consistently bypassed at raise time? How do we insure fairness on the part of supervisors who evaluate their subordinates on subjective measures? How do we alter the thinking of supervisors who don't believe in, and never give outstanding evaluations? How do we deal with supervisors who want to be popular with their subordinates and give everyone outstanding evaluations? Can a pay for performance plan cause some employees to make everyone around them look bad so they look good? And possibly worst of all, how do we encourage work place team efforts when we force employees to compete with one another for their livelihood? Where is the incentive for an employee to be a "team player"? These are very real questions which must be answered before we dismantle the current pay plan which has evolved over many, many years. How can we presume to develop its replacement in a year or two without addressing all of the questions and potential hazards accompanying such an action?

In summary, KAPE is not opposed to pay for performance. The state programs that have been reviewed by the Privatization Review Board have been determined to be doing a better job than their private sector counterparts. As a result, that board has recommended that those programs be retained as state run programs. There were lots of expressed concerns that state programs were not being run efficiently which triggered those reviews. Those reviews, however, are demonstrating that the concerns expressed were unfounded. On the other hand, SRS chose to privatize foster care to save money and provide better service than the state employees who previously performed that function. If you haven't heard yet, SRS privatized foster care is now costing the state \$20 to \$30 million more per year than when it was staffed with state employees. Another example that state employees are performing efficiently and effectively. So where is the problem? KAPE encourages you to satisfy yourselves that there is a problem in need of resolution. We don't believe you will find one, but if you chose to make changes, just make sure that the proposed cure is not worse than the perceived problem. If the state is destined to move to more expansive pay for performance, the legislature must make absolutely sure the plan measures performance and leaves no room for abuse based on anything else. To do otherwise is a major step backward to the mistakes of yesteryear. It will result in a system which will be worse than the one you are trying to fix, and will severely damage the services provided to the taxpayers of Kansas. KAPE urges caution in the consideration of a more expansive pay for performance plan and believes you deserve answers to the questions I have posed today before you are asked to pass any such significant program changes.

The second issue I want to address is a change in the state KPERS retirement system from one of defined benefits to one of defined contributions. In KAPE's view, this would be a major mistake and an injustice to your work force. A defined benefits retirement plan does exactly what its name suggests. It provides the employee with a defined retirement benefit based on a formula including their average earnings, their years of service and some percentage factor. While those factors are different from state to state, the plans all allow the employee to know exactly what they can depend on as a retirement income and plan accordingly.

A defined contribution plan, on the other hand, calls for a contribution from the employee and often from the employer. Those contributions are invested, and the final retirement benefit paid depends on how the investments have performed in the market place. In good times the benefit may be higher but in poor investment periods it can be lower. Recently, the return on investments has been good but historically the financial markets can fluctuate tremendously. According to the actuarial firms who reported to the interim committee on pensions, investments and benefits this summer, an employee would have to earn at least an overall 10% return on their investments to match or exceed the retirement benefits they currently achieve under KPERS. On the same day that information was provided, however, those same professional actuarials reported that they only anticipated an overall 8% return on their own investment predictions. The difference is that KPERS is a long term investor and can take advantage of the good times to offset the bad times and achieve that overall 8% return. The individual employee however, can't chose to work another 20 or 30 years past retirement to offset dips in the financial markets. If they retire when markets are good they win, but if they retire when markets are bad, they lose. The employees KAPE represents are not professional investors and do not want their retirement to be a gamble. Those who want to do so, may gamble in the deferred compensation plan available to them.

There they have the ability to risk a portion of their earnings on the uncertainties of the financial markets and to move that money from investment to investment vehicle. And while deferred compensation may provide them with an opportunity to prosper, it also contains the potential for losses and should not become a replacement for the security of the sound investment system provided by KPERS. There has been talk that the current retirement system provides nothing for employees who work less than ten years for the state. That is simply the product of a policy under which employees are not vested until they have ten years of service within the system. If that is a problem the legislature wishes to remedy, all that is needed is legislation to shorten the vesting period. There is no need to revamp the basic elements of a retirement plan which is embraced by the vast majority of its participants. If the need is to place more predictability into the contributions necessary to fully fund the system, that can be accomplished by maintaining actuarially sound contributions on the part of the state and the employees covered. It was demonstrated last summer that if the state had contributed the same 4% contributed by the employees, the KPERS system would be nearly one billion dollars larger than it is, and there would be no unfunded liabilities today. Before you can be asked to remedy a problem, you have the right to know what it is that needs remedy.

To summarize on this issue, KAPE again urges the legislature to fully study the alleged problem before they attempt to fashion a quick solution which has such major implications. KAPE believes the KPERS retirement system may need some attention but is not deserving of major changes which would turn the retirement security of your workers into a gamble on the stock markets. KPERS is recognized nationally as an extremely sound retirement system and KAPE discourages the legislature from fixing something that isn't broken.

My final comments are directed toward the elimination of basic civil service protections currently afforded to state employees. Those protections do not guarantee employees anything except due process when they are reviewed for possible termination or other disciplinary action. To those who think civil service employees are immune from discipline or termination I can only say, "nonsense". Civil service protections simply require a supervisor to make disciplinary decisions on a reasonable basis. If they can show that the employee is deserving of discipline, the civil service board will sustain the action. State employees are terminated frequently or allowed to resign in light of proposed termination. Those cases don't receive publicity and go ignored. Frequently, however, discipline is proposed on invalid grounds, or is more severe than justified. In those cases the board can modify the punishment or overturn the discipline, but only if the supervisor has acted inappropriately. Those disputed cases are the ones that go to the board and the ones we hear about where employees are reinstated.

In summary, KAPE believes civil service protections are an absolute necessity in the government workplace. Historically, the lack of civil service protection has led to tremendous problems of graft, corruption, political pay offs, and the destruction of accountable, responsive government. As moves are made to strengthen "whistleblower" protections it seems unthinkable that Kansas would consider jeopardizing those same employees by abolishing civil service protections. If anything, those protections should be increased. KAPE strongly discourages any action on the part of the legislature which would reduce the minimal safeguards against abuse contained in current civil service laws and regulations.

S *tate Employees Association of Kansas*

TESTIMONY OF THE STATE EMPLOYEES ASSOCIATION REGARDING THE STATE PAY PLAN

As the Department of Administration has noted, the State of Kansas has had the same basic pay plan since the beginning of World War II. It has been altered slightly over the years, adding or subtracting steps and changing the percentage amount between steps. The last substantial change occurred in 1989 when two steps were added and the longevity plan introduced.

From an employee perspective, the plan is far from perfect. Kansas is at the low end of the pay scale relative to other states. As the Division of Personnel's material points out, only half of state employee salary levels are at the market level. Nearly forty percent of state jobs are paid below market level. This type of disparity could cost the State of Kansas dearly in a competitive labor market.

Efforts to make corrections in the system have sometimes proven too little too late. The last classification study was begun in 1984 and took ten years to complete. By the time employees affected were reclassified, the passage of time had exacerbated the problems the study was designed to correct. Those employees who were left out of the plan or who received nothing more than the equivalent of a step increase did not receive the study with great enthusiasm.

Nevertheless, despite the flaws in the current system, SEAK would urge the legislature to exercise caution in making any changes. Improperly implemented changes could

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have a deleterious effect upon both the morale of state employees and act as a negative incentive towards promoting the efficient use of resources and personnel. Our members who were employed by the state in the early 1980's can recall the unsuccessful attempt of the Carlin administration to implement its "merit pay" system. They tell us that it lead to favoritism and an environment where managers spent an inordinate amount of time defending their evaluations of the employees underneath them in appeal hearings.

Currently employees with anything less than an "exceptional" rating may appeal his or evaluation rating. Currently an employee with a "satisfactory" rating is entitled to a step increase. If the bar is raised to require an "exceptional" rating to get a raise, we can foresee managers, the employees they supervise and other agency employees spending a majority of their time in appeal hearings.

There is an obvious structural defect of the matrix system that can be easily corrected. Employees are caught in a pay range once the employee reaches the last step. Currently, the state penalizes its most senior employees by denying a step increase once he or she reaches the end of the pay range. There is no logic to designating a class of employees who are entitled to receive a step increase and a class who is not. That is especially true when the only basis for doing so is that one employee has been with the state longer than the other. SEAK has advocated in past sessions (HB 2212), and will continue to do so, a modification in the pay plan that would allow an employee to skip to the next higher range of the pay plan to a step that would provide the equivalent to a step increase. This is a common sense, relatively inexpensive means of fixing the most glaring problem within the state pay matrix.

In short, state employees know that the current system is far from perfect. At the same

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time, major structural changes may create additional problems unless they take into consideration the nature of state employment and its unique demands and problems. The best changes are often the simplest, and doing away with the cap on the pay ranges would benefit all state employees and is an expedient, uncomplicated way of resolving a major flaw in the current system.

Mike Auchard
University of Kansas
Classified Senate
864-3097

January 21, 1999

Desirable Components of a New Compensation Plan

1. Probably the most important single factor of any new pay plan is some sort of mechanism that automatically, or periodically adjusts pay rates to account for changes in market conditions such as, inflation, low unemployment, shifts in demands for specific types of workers, etc. This is the only way to keep whatever type of pay plan we wind up with viable and able to respond to market pressures.
2. Most employees are not overly impressed with KPERS as a retirement plan. In fairness, I should add that a lot of employees don't really understand how the plan works but even factoring in misunderstandings, I think many employees would prefer a fixed contribution plan over the current fixed benefit plan. In a comparison of fringe benefits of 18 central states that I received from the Legislative Research Department a couple of years ago, Kansas was listed as last in the amount the state contributed to the retirement plan. This frugality is also supported in testimony that DPS director William McGlasson delivered before the Joint Committee on Pensions, Investments, and Benefits on October 15, 1998. In his testimony Director McGlasson goes on to point out that Kansas also has the longest vesting period of any of our four neighboring states.
3. Many employees are frustrated by the lack of opportunities for advancement in the state civil service. A program of professional development with clear career paths indicated would not only alleviate this frustration but would develop a more skilled work force.
4. Middle and lower level management need to be given more authority but also more accountability. We need better supervisors and probably the only way to get them is by testing, training and better pay.
5. In the event that a merit system of some sort is adopted, a new evaluation system needs to be designed that is more manager-proof than the present one. Again, a lot of training will be necessary and better managers. There will need to be appeal rights and processes at least as strong as the current ones and probably stronger because the performance evaluations will be tied more directly to pay. The idea of employees also evaluating supervisors is worthy of consideration.
6. Many people think a geographical differential based upon regional differences in the costs of living might be an appropriate component of a competitive pay plan.
7. Most employees are fairly well satisfied with the benefits. The only suggestion I regularly hear is the desirability of being able to convert unused annual leave and sick leave to pay for those who can't use them. This is especially true for employees who work in areas where they are too busy to be able to take time off.

Kansas 2000 Select Committee

Meeting Date 1-21-99

Attachment 8

Kansas Council of Classified Senates

Representing over 5000 Board of Regents Classified Employees

Salary

- ✓ **Provide a 6 – 7.6% COLA to correct loss of purchasing power**
- ✓ **Continue funding of step increases**
- ✓ **Add steps to top of pay matrix**
- ✓ **Provide funding for longevity bonuses**
- ✓ **Conduct a comprehensive job rate and classification study**

Retirement

- ✓ **Total repeal of Article 68, KSA 75-6891 – Position Reductions Based on State Employee Retirements**
- ✓ **Subsidize insurance payments for those employees who opt to retire under the 85 point plan**

Benefits

- ✓ **Amend Article 55, KSA 75-5537 to include: “Each official state holiday which occurs within a regularly scheduled workweek shall be counted as time worked in determining the amount of overtime compensation for state employees.”**

October 1998

*Emporia State University – Ft. Hays State University – Kansas State University
Pittsburg State University – University of Kansas – Wichita State University*

Kansas 2000 Select Committee

Meeting Date 1-21-99

Attachment 9