Approved: <u>March 8, 1999</u>
Date

MINUTES OF THE HOUSE KANSAS 2000 SELECT COMMITTEE.

The meeting was called to order by Chairperson Kenny Wilk at 1:30 p.m. on February 22, 1999 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Leah Robinson, Legislative Research Department
Jim Wilson, Revisor of Statutes
Janet Mosser, Committee Secretary

Conferees appearing before the committee: James Douglas, Vermont State Treasurer

Others attending: See attached list

Chairperson Wilk noted that as requested, Paul Wilson, Executive Director, Kansas Association of Public Employees (KAPE), has provided each Committee member a copy of the Kansas 2000 handout requested at the February 18, 1999 Committee meeting (<u>**Attachment 1**</u>). Chairperson Wilk pointed out to the Committee that KAPE prepared the handout based on the bill explainer and is working on an update now that there is a bill out.

James Douglas, Vermont State Treasurer, gave a presentation on Vermont's experience in offering an optional defined contribution retirement plan to a group of State employees. Vermont has three separate retirement systems (one for State employees, one for teachers, and one for municipal employees) and the focus of this presentation is the State employee retirement system for exempt employees which account for about 12 percent of employees who are not civil servants in the classified system (<u>**Attachment 2**</u>).

Rep. Carmody announced that there would be a meeting of the KPERS subcommittee at noon on Tuesday (February 23) and Wednesday (February 24) in Room 423-S.

<u>Minutes for February 1, 2, and 4 were distributed. Representative Horst moved to approve the minutes. The motion was seconded by Representative Gatewood. The motion carried.</u>

Chairperson Wilk adjourned the meeting at 2:15 p.m.

The next meeting is scheduled for February 23, 1999.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

KANSAS 2000 SELECT COMMITTEE GUEST LIST

DATE: 2-22-99

NAME	TITLE	REPRESENTING
Erin Rooney	Dir. of Policy Studies	Kansas Public Policy Institute
Don Reyor	Lobbyist	S.E.A.K
Keith Haxton	Lobbyist	S.E.A.K.
Bob Corkins	President	Ks Public Policy Institute
Scott Schneider	Lobbyist	McGill, Gaches & Assoc.
Craig Grant	Lobbyist	KNEA
John Peterson		Ks Governmental Consulting
David Brennan		" " "
Roger Viola	Sr. V.P.	SBG
Ted Kennedy	Sr. Counsel	VALIC
Katrina Kosmala	HRP	SRS Personnel
B. Manani	Asst Dir. DPS	Dept of Adm.
[illegible]	CIO	KPERS
Leland C Breedlove	CFO	KPERS

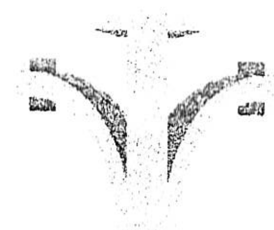
Kansas 2000 Select Committee
Meeting Date 2-22-99
Attachment 1

Kansas 2000

The State of Kansas' proposed pay plan

Pay-for-Performance

Major retirement changes



Redefining Civil Service

As explained by

Kansas Association of Public Employees

KAPE/AFT, AFL-CIO

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Kansas 2000 (also referred to as Kansas Performance 2000, KP 2000 or K- 2000) is an overall wage and benefit package philosophy the State of Kansas has under consideration for the purpose of recruiting and retaining personnel. The proposed plans address the following issues:

- ☐ **Performance based pay**
- ☐ **Major changes to the retirement system**
- ☐ **Redefining or dismantling the civil service system**

The K-2000 Committee of the legislature is hearing testimony *every single day* looking for a resolution they feel will be most effective and beneficial for the state. The plan will most likely come into effect July 1, 1999--just a few short months away. KAPE has been and will continue to be in daily contact with key decision makers ensuring that state employees best interests are being represented. KAPE's aim is to keep all state employees educated, informed and updated on all the most recent discussions and recommendations of the committee.

Performance based pay

History

During the 1996 Interim, the Legislative Budget Committee studied the Kansas pay plan in response to a number of concerns from agency managers (hiring concerns), employees (higher salaries), and legislators.

The consulting firm of Fox Lawson and Associates was retained for $80,000 to address these concerns and to examine civil service goals, objectives, and priorities for a state pay plan. Their report suggested a plan that utilizes the existing pay matrix, recommends all job classifications be brought to 85% of the average market based wage, performance based increases for anything above mid-point and elimination of civil service.

Originally it was believed the Legislature would vote on this package during the 1998 session. However, due to the overwhelming response from KAPE members to call their legislators to vote against KP 2000, the package was removed for consideration. KAPE informed its membership we did not feel it was gone for good -- simply "moved" so as to not interfere with the November elections. Six weeks after the elections it was not only back but being supported by the new House Leader, Robin Jennison. He appointed a special House committee to study this plan and others and be prepared to suggest a plan to the full House before the end of session.

Current

Dan Stanley, Secretary of Administration, recently presented another proposal to the Kansas 2000 Select Committee. His proposal is to eliminate the pay matrix completely to get employees off the "step mentality." (KAPE translates step mentality as the idea that for every year of service an employee expects to move one step closer to the maximum of their pay grade.) Stanley proposed a three step system consisting of the entry level, mid-point , and maximum. New employees would be hired in anywhere from the entry level to the mid-point. If hired below mid-point, the employee could be moved there after one year. Or maybe four or five. That number has yet to be determined. The vast majority of the employees would always be grouped at mid-point. To receive pay above mid-point, you would need to be deemed "exceptional" by your manager on your evaluation. Your manager would then determine what percentage bonus you would receive. When questioned, Secretary Stanley stated the bonus may or may not be base building. In other words, your manager might give you a 5% bonus for one year only then to be returned to mid-point the following year.

Secretary Stanley also testified to the committee there was already a form of pay-for-performance used in state government. When employees receive a satisfactory or better evaluation, they move a step on the pay matrix. The Secretary was forced to admit that even though the state's managers have been trained on how to use the evaluation instrument, it is not being used appropriately. At least one member of the committee asked how Stanley felt they would be any better at administering a new system than they had with the old. Stanley admitted the only way for any of the plans to work would be for extensive training to occur. This response did not appease many committee members.

As you can see, there are several different plans floating around and to date, the committee has not announced if they favor one plan over another. KAPE understands the significance of the wage and benefit package and how it would effect state employees. And we will continue to urge the legislators to consider this philosophy without haste. After all, it would be more difficult to return to the current system a few years down the road if a new practice failed because all matters were not considered. Which was the case in Colorado. The State of Colorado recently passed legislation for their Peak Performance package which provides for pay-for-performance. While Colorado legislators were repeatedly reminded they would need to properly fund the new law in order ensure its success, they still severely underfunded it, leaving the majority of the employees without <u>any</u> financial increases.

Current (con't)

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In 1993 the National Commission of State and Public Service, also known as the Winter Commission states:

> *"The best available research suggests that pay-for-performance in the public sector has been a disappointment, and that states and localities should be exceedingly cautious about overselling what are likely to be small performance bonuses allocated through a cumbersome and potentially political process. The Commission recommends that such plans be dropped if they are not perceived by employees as fair or if they are underfunded."*

KAPE will be working towards the following beliefs for its members, potential members and future state employees:

✓ KAPE is not opposed to employees receiving additional pay if they are producing outstanding work as long as their pay is based on measurable performance and not on personalities or any other criteria. KAPE knows the majority of state jobs are professional or technical in nature and do not lend themselves to quantitative, objective measures. Subjective measures allow supervisors to insert their own opinions and, therefore allow favoritism or special treatment. For that reason, KAPE insists that any pay for performance plan must exclude subjective judgements and contain true measures of performance rather than personalities.

✓ KAPE insists that the increased money for outstanding performance must not be "taken" away from standard or above standard employees. The program must be fully funded, and there must be some assurance that it will be funded in the future. To do otherwise places employees in competition with each other for their raises, and destroys the incentive for employees to function in teams or as team players helping each other on the overall agency mission.

✓ KAPE insists there must be some assurance that the performance standards established be "across the board." For example, suppose there are two shifts of computer operators, each supervised by their own shift supervisor. The performance measures for each shift must be the same or what is judged by one supervisor as outstanding performance may only be judged to be average performance by the other.

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Retirement System Changes

Defined Benefits vs. Defined Contributions

Under *defined benefits*, you are guaranteed a certain level of retirement income whether the financial markets do well or lose money. Under *defined contributions* your retirement income security depends on market performance and your ability to predict which investments will go up and which ones will go down.

Under defined benefits your account is managed by KPERS' professional investors who estimate an overall return on their investments of 8%. To have a better retirement income under defined contributions, you would have to see a net return on your investment predictions of at least 10%. And if your investments hit rough times, you could draw less in retirement than the money you originally put in, not to mention any interest growth. Unless you are a professional investor, or can outguess the market, your benefits may be far less than you had hoped or planned for.

With defined contributions there is no guarantee that you will even have any retirement income or any level of fixed return on your investments. Under defined benefits, and depending on how long you have been employed by the state, your retirement income is guaranteed and your return on investment is fixed at 8% for longer term employees and 4% for shorter term employees. That means that if you take money out of KPERS, the fixed return is added to that amount you put in.

Recent performance of the investment markets has been good but 10 years ago it was in a down period. Under defined benefits your retirement is known but under defined contributions, if you are ready for retirement and the markets are down, you won't have the ability to work another 10 or 15 years to wait for them to come back up.

While there is legislation that protects current employees from having their retirement switched over to defined contributions, KAPE wonders if the state may not try to "sweeten the pot" to encourage them to voluntarily switch. For example, if you have been with the state for 15 years and have $20,000 in your retirement fund, would they offer to perhaps give you $8,000 to add to your fund if you would agree to switch? Again, this is only one of the many unanswered questions we have. KAPE will continue to seek these answers on your behalf and notify you of any updates.

Dismantling of Civil Service

K-2000 seeks to change nearly every aspect of civil service employment within the state service. Besides the restructuring of the wage system and retirement, it would abolish the "due process" and "just cause" provisions of civil service and replace them with "employment at will."

Just cause is a term that is applied to disciplinary actions in the workplace. It is management's responsibility to demonstrate that "just cause" exists when disciplining an employee. Several questions need to be answered before "just cause" exists such as was the employee forewarned of the consequences, was there an investigations before initiating discipline, and was that investigation fair and objective. Due process is an established course designed to protect the legal rights of the individuals. For Kansas state employees that course of action for disciplinary matters is the Civil Service Board. All individuals who have received a discipline, suspensions, demotions, and terminations can appeal the decision through the Civil Service Board.

In short K-2000 seeks to return public service employment to the days of political spoils. That translates to keeping your job if you are a favored employee and losing it if you are not. It translates to keeping your job if you supported the right candidate and losing it if you didn't. To keeping your job if you contributed enough to the right political party and losing it if you didn't. To getting the promotion if you are the boss' pet or losing it if you aren't. To being used like a pad of paper and tossed in the trash can when your sheets are all used up.

Frequently asked Questions and Answers

Q: Under K-2000 couldn't the raise I get be even bigger than a step increase under the current system?

A: Yes it could but it could also be nothing. In addition, the raise you get this year may not be paid next year if it is included as purely a bonus and not as a "base building" step as it is now. Under that possibility, each year would stand on its own

Q: How can they change the rules just like that? Are they breaking the law?

A: The legislature makes state law so they can change state law and civil service is a state law. Therefore, the pay plan and civil service system may be legally changed. The only part of K-2000 covered in Federal law is retirement, and they can change that of NEW employees and any current employees who voluntarily change over.

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Other Frequently asked Questions and Answers

Q: Will I be better off under this system in 5 or 10 years?
A: Almost certainly not. It appears that each classification will be assigned to a base salary regardless of years of service, and how much above the base you make in any one year will depend on how you have been evaluated for that particular year.
Q: Will Kansas 2000 effect my retirement?
A: Yes. Yearly step increases are proposed for abolishment under K-2000. Your retirement benefit is calculated on your final average salary (FAS), so unless you are picked to receive an incentive bonus, it may never go up again like it does now with step increases. Even if you do get an increase, it may be viewed purely as a bonus and not be included in your base salary in the following years or in your final average salary for retirement calculations.
Q: Will I still receive Cost of Living Allowance (COLA) increases?
A: No. Current proposals eliminate all steps after July 1, 1999. Future raises will be based each year on your performance for that year. COLAs as we know them will cease to exist.
Q: Is it possible I may never get another raise working for the state?
A: Absolutely! The plan eliminates steps completely and all future raises will be given as a result of supervisor opinions.
Q: Isn't the ability to invest my money however I wish worth the risk?
A: Only if you can outguess the stock market. The professional KPERS actuarials study the markets daily, and even then only predict they will obtain an 8% long term return on KPERS investments. Those same people have said that the individual employee would need to have a 10% return to do as well or better than the benefit provided by KPERS. In addition, recent investment markets have been good but the system doesn't "grow" money. Money out is equal to money in so if you take more out than you put in, someone lost money so you could win. What if that loser is you at the time you want to retire?
Q: If they enact K-2000 maybe my taxes will be cut for a long time to come and that will help me in the long run, won't it?
A: Any tax savings they achieve from K-2000 will be minimal in relation to the total taxes paid by most citizens. The savings could be spent on other programs or returned to the public. If they are returned they will also be divided among all taxpayers in the state.

KAPE Related Questions:

Q: Isn't this a scare tactic KAPE uses over and over again to recruit new members?
A: **ABSOLUTELY NOT!** Performance pay systems are a national trend and have been implemented in a handful of states with disastrous results. Kansas is considering it now as the number one priority of the Speaker of the House of Representatives, and unless we can stop it, or alter it drastically, it will be implemented this year.
Q: Can KAPE stop K-2000 from becoming a reality?
A: It's difficult to say if we can stop it, but KAPE has certainly made every possible effort to inform legislators as to why these proposals will not work for state employees. If it cannot be stopped, KAPE will develop its own version of a pay plan proposal and present it to the committee. You can be assured the plan KAPE presents will be in the best interest of all state employees and will not be detrimental like those proposed to date.
Q: What can I do as a state employee?
A: There are several ways to help yourself and others such as:

Call or write your legislator today informing him or her the proposed plans are unacceptable to you. Encourage them to engage in talks with KAPE representatives on viable alternatives.

Join KAPE. If you are already a member then sign up a co-worker. Why? When the intent to change the current pay system first reared its ugly head in 1997, KAPE alerted its members to act fast by calling their legislators. During that time, there was also a large increase in KAPE membership of which leadership took note. Between the two events, the proposals were placed on the "back burner" until the 1998 elections for Governor and House of Representatives were over.

? Keep informed on the subject. Do not allow rumors or apathy to drive this issue. KAPE representatives are scheduling meetings throughout the state. If your area has not been notified of a meeting, contact the KAPE office to schedule a meeting at your worksite, or call to speak with a representative. Also, the committee is conducting focus groups in select cities. If called upon to participate, please do so but contact the KAPE office first for information and updates.

STATE OF KANSAS

Kansas Association of Public Employees/AFT Local 4565

AUTHORIZATION FOR PAYROLL DEDUCTION EMPLOYEE ORGANIZATION MEMBERSHIP DUES

Employee Name, Address and Job Title (Please print or type)

____

First Middle Initial Last

____

Street Address

____

City State Zip

Job Title: ____________________

Worksite Location: ____________________

Agency No. _______ Social Security No. ____________________

Organization No. (Office will complete): ____________________

E-Mail Address: ____________________ Work Hours: ____________________

Work Phone: ____________________ Home Phone: ____________________

AUTHORIZATION:

I hereby authorize the Director of Accounts and Reports to make regular payroll deductions from my earnings for the amount certified by the above employee organization for membership dues. This authorization-assignment shall remain effective for not less than 180 days and shall be terminated at any time thereafter upon 30 days prior written notice by me of termination of the authorization-assignment. Dues paid to KAPE may not be deductible for federal income tax purposes; however, under limited circumstances dues may qualify as a business expense. Not intended to solicit members of other AFL-CIO affiliates.

Date ____________________

Signature of Employee ____________________

Dues are based approximately equal to 1 hours pay plus $3.65 per month. The minimum amount is $11.00 and the maximum is $17.00.

For more information on dues or other benefits of membership, please contact the KAPE office at (785) 235-0262 or 1-800-232-KAPE (5273)

Please mail completed membership application to:

KAPE
1300 SW Topeka Blvd
Topeka, KS 66612

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"Quality government doesn't just happen.
It depends on Quality public employees!"

Kansas Association of Public Employees
AFT, AFL-CIO
1300 SW Topeka Boulevard
Topeka, KS 66612
(785) 235-0262 or
1-800-232-KAPE (5273)
or visit our web page at kape.org

1 # STATE OF VERMONT DEFINED CONTRIBUTION PLAN FOR EXEMPT EMPLOYEES

2 ## Overview Of The Defined Contribution Plan

- Goal of the Program
- Eligibility and Participation
- Election Results
- Employee and Employer Contributions
- Investment of Funds
- Vesting of Benefits

3 ## Goal of the Program

- The goal of the program is to attract a talented workforce in a very mobile society by offering a retirement package as flexible and mobile as the career path of the employee.

4 ## Eligibility and Participation

- On January 1, 1999 each of the existing 806 exempt State of Vermont employees had the opportunity to transfer from the current defined benefit plan to a new defined contribution pension plan. Exempt employees consist of all elected and appointed officials, judges, senior State employees and staff in sensitive positions.

5 ## Eligibility and Participation (Continued)

- For those existing exempt employees who opted for the new defined contribution plan the amount that was transferred to the new plan was based on the full actuarial value of the accrued benefit or the accumulated member's contributions with interest, whichever was greater.

6 ## Eligibility and Participation (Continued)

- Any new exempt employee will also have the option of electing either the defined benefit or defined contribution plan.
- Once a choice of retirement plans is made, it is irrevocable as long as the employee retains exempt status. If the employee changes to a classified position, the opportunity to "buy back" into the defined benefit plan will be available.

7 ## Election Results

- 349 out of an eligible pool of 806 State employees or 43% have elected to leave their present State retirement plan and instead opt for a new State defined contribution program.

8 ## Employee and Employer Contributions

- Both the employee and employer contributions will be deposited each pay period into an account that is maintained for each plan member by the State Treasurer. In addition, eligible "rollover" accounts will be allowed. The employee is furnished

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Attachment 2

with a statement of account balances on a quarterly basis.

9 ☐ Employee Contribution

- All exempt employees will be required to make a pre-tax contribution that is equal to the rate contributed under the existing defined benefit plan, currently at 2.85%.

10 ☐ Employer Contribution

- The State of Vermont will contribute to each individual account an amount equal to 7% of the employee's bi-weekly salary at each pay period. This rate has been determined to approximate current parity of payments to the defined benefit plan. As with the defined benefit plan, the State will assume the administrative costs of the defined contribution plan.

11 ☐ Guidelines for Investments

- While not required for governmental plans the State Treasurer followed the ERISA defined contribution requirements under the Internal Revenue Code, which requires that plan members have a minimum of three investment choices, each of which has differing risk and return characteristics.

12 ☐ Investment of Funds

- All defined contribution plan members have the responsibility for the investment of all employee and employer contributions among a group of Fidelity family of funds chosen by the State Treasurer.

13 ☐ Vesting of Benefits

- Under the current defined benefit plan, members are fully vested after completing five years of service with the State. Under the *NEW* plan a participant is fully vested after one year and eleven months service.