

**STATEWIDE
LAW ENFORCEMENT UNIT**

MEMORANDUM OF AGREEMENT

BETWEEN THE

STATE OF KANSAS

AND THE

**KANSAS ASSOCIATION OF
PUBLIC EMPLOYEES
AFT/AFL-CIO**

December 2006

MEMORANDUM OF AGREEMENT
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ARTICLE 1

PREAMBLE

SECTION 1. This agreement is entered into by and between the State of Kansas, hereinafter referred to as the employer or management, and the Kansas Association of Public Employees, AFT, AFL-CIO hereinafter referred to as the Association or KAPE.

SECTION 2. KAPE and the employer agree that the purpose and intent of this agreement is to contribute to the development of harmonious and cooperative relationships between government and its employees, to recognize mutual interests and to reduce to a minimum the causes of employee relations disputes.

SECTION 3. The employer and KAPE recognize that the public interest requires adherence to highest standards of employee performance through the continuing development and implementation of progressive work practices that facilitate continuous improvement in employee performance and efficiency.

ARTICLE 2

RECOGNITION

SECTION 1. The employer recognizes KAPE as the exclusive representative for the unit found appropriate and certified on November 22, 1995, by the Public Employee Relations Board in case number 75-UCA-3-1995.

SECTION 2. Employees included in the appropriate unit shall be those persons employed in the following classes:

Enforcement Agent
Fire Investigator
Securities Special Investigator I, II & III
Senior Special Agent-KBI
Special Agent-KBI

SECTION 3. Employees excluded from the appropriate unit shall be employees at regent institutions and all supervisory, administrative, classified temporary, confidential, elected officials and all classifications not specifically included in section 2 above. Probationary employees in the above classifications, while serving their "new hire" probationary period shall also be excluded from the unit.

ARTICLE 3

NO STRIKE OR LOCK OUT

KAPE agrees that during the life of this Agreement, neither the organization, its agents, nor its appropriate unit members will authorize, instigate, aid or engage in any organized work stoppage, organized slow-down, organized sick-out, illegal picket or organized strike against the employer.

The employer agrees not to lock out any employees during the term of the Agreement as a result of a labor dispute with KAPE.

ARTICLE 4

MANAGEMENT RIGHTS

This agreement is not intended to circumscribe or modify the existing right of the employer direct the work of its employees; hire, promote, demote, transfer, assign, and retain employees in positions with the employer; suspend or discharge employees for proper cause; maintain the efficiency of the governmental operation; relieve employees from duties because of lack of work or for other legitimate reasons; take actions as may be necessary to carry out the mission in emergencies of the employer, and to determine the methods, means, and personnel by which operations are to be carried on.

It is further specifically agreed that the foregoing enumeration of the rights of the employer shall not be determined to exclude other rights not specifically enumerated unless abridged and modified by provisions included within this agreement. It is also understood there may be other inherent rights of management which may be exercised during the term of this agreement.

Further, this Memorandum of Agreements is not intended to supersede any subject covered by federal or state law, or the authority and power of any civil service system, personnel agency or its agents established by statute, ordinance or special act to conduct and grade merit examinations and to rate candidates in the order of their relative excellence, from which appointments or promotions may be made to positions in the competitive division of the classified service of the employer served by such civil service system or personnel board.

ARTICLE 5

EMPLOYEE RIGHTS

SECTION 1. INHERENT RIGHTS Nothing contained in this agreement shall be construed to limit or deny employees any rights to which they are entitled as citizens of the United States or the State of Kansas.

SECTION 2. PERSONAL LIVES Employees in this unit are accountable for the performance of official duties and for compliance with standards of conduct for law enforcement employees of the State of Kansas. Assuming adherence to these standards, employees in this unit shall have the right to conduct their private lives as they deem fit (except as otherwise provided in Section 4.3 below) and further provided such conduct does not present a conflict with laws, regulations or policies adopted there under.

SECTION 3. REPRESENTATION Employees in this unit may be represented by a person of their choice as provided in and consistent with Article 7, KAPE Rights; Article 8, Personnel Record; Article 34, Discipline; Article 35, Grievance Procedure; and Article 36, Stewards and Representatives. The above representation, however, does not extend to persons who hold themselves out as a representative of any other employee organization.

SECTION 4. OUTSIDE EMPLOYMENT Consistent with the provisions of this article, employees in this unit may secure employment outside their State employment. Before accepting such outside employment, the employee shall submit a written request to the Appointing Authority in the agency in which they are employed, with a copy to the immediate supervisor. The Appointing Authority or his or her designee will respond in writing within ten (10) business days to the employee concerning the employee's request to accept outside employment. If the request is denied, the response shall provide specific reasons for the denial. The response shall not be grievable under the grievance procedure contained in this Memorandum of Agreement, however, the employee may submit his or her response to a denied request to the Kansas Commission on Governmental Standards and Conduct for an advisory opinion. The employee shall provide a copy of the request to the Appointing Authority at the same time the request is provided to the Kansas Commission on Governmental Standards and Conduct. The Appointing Authority of the agency in which the appeal was initiated or his or her designee shall take the advisory opinion under consideration and shall respond in writing concerning their determination, within five (5) business days of the receipt of the advisory opinion.

4.1 The State, as the employer, will not be required to adjust work schedules or make other arrangement for employees to accommodate their outside employment. If a conflict arises with an employee's duties, the employee will be expected to first perform or complete his or her duties and responsibilities for the State.

4.2 In adherence to K.S.A. 75-4301 and 75-4306, employees in this unit must avoid any conflict of interest in any outside employment. Employees who have questions concerning outside employment should contact their supervisor or Human Resource Director.

4.3 The decision to deny an employee's request will take into account various factors including but not limited to the following:

A) An employee in the unit shall not use their department employment or position for the purpose of promoting outside employment or business especially with anyone regulated or otherwise advised in the employee's normal course of duties.

B) An employee in the unit shall not engage in outside employment while in or using a State vehicle facilities or equipment.

C) An employee in the unit shall not engage in any outside employment when the employee's departmental duties, such as application review, approval or denial authority, enforcement responsibility, or operational duties, are directly associated with the outside employment.

SECTION 5. CITIZEN COMPLAINTS AGAINST EMPLOYEES The procedures outlined within this section shall be used by the employer to investigate and resolve citizen complaints against employees in this unit. This procedure is designed to formally define the complaint, identify the source of the complaint when possible, assess all significant facts related to the incident and to take appropriate and timely action to resolve the complaint. Component parts of this procedure include at a minimum:

5.1 The employer shall request that complaints against employees be submitted in written form and signed by the complainant. If the complainant agrees only to provide a verbal complaint, or if the written complaint appears incomplete, a supervisory level employee in the affected employee's agency assigned by the employer will interview the complainant, attempt to document any pertinent facts associated with the complaint and prepare a written summary of his or her findings. If the complainant refuses to be identified, the complaint will not be processed beyond this point unless the substance of the complaint can otherwise be documented. When a complaint is dropped at this point, the affected employee shall be notified and informed of the nature of the complaint and that the complaint, as presented, will not be processed further and no documentation in any form will be placed in the employee's official personnel file.

5.2 If the complaint is appropriately documented, it shall be forwarded to the employee's immediate supervisor for review and necessary action. A copy of the complaint and all appropriate documentation shall be provided to the employee if, in the opinion of the appropriate agency head or designee, that providing the information to the employee at this point will not hinder any additional investigation necessary to conclude the review.

5.3 Following notification of the complaint and receipt of a copy of the complaint investigation documents, the affected employee shall prepare a thorough description of the events leading to the complaint and forward that report to his or her immediate supervisor. The immediate supervisor will make a determination of the need for further inquiry and once satisfied will forward all documentation to the appropriate agency head or his or her designee.

5.4 If the complaint is found to have merit by the agency head or his or her designee, the employee will be informed in writing of those findings and provided an opportunity to discuss the findings with his or her immediate supervisor. If at any point in the review the complaint is found to be unsubstantiated, a written notice will be provided to the employee, the complainant and the immediate supervisor indicating that the complaint is closed and no documentation of any kind will be placed into the employee's official personnel file.

5.5 If there is a finding of fault on the employee's part, action may be taken.

ARTICLE 6

KAPE RIGHTS

SECTION 1. DUES DEDUCTION The employer agrees to make dues deductions from appropriate unit members in accordance with K.S.A. 75-5501 and the Membership Dues Deduction Agreement signed by KAPE and the Division of Accounts and Reports.

SECTION 2. KAPE REPRESENTATIVES Representatives of KAPE accredited to the employer in writing by the Association, shall be permitted to come on the premises of the employer for the purpose of investigating and discussing grievances or alleged violations of the Memorandum of Agreement with stewards, the employer or other employees in the appropriate unit they represent, if they first obtain authorization to do so from the Human Resource Director (appointing authority in agencies without a Human Resource Director) or his or her designated representative(s) in the agency for which the contact is being made. Personal contacts and other means of communication including phone, pager or e-mail by KAPE representatives with employee concerning matters other than grievances or alleged violations of the Memorandum of Agreement will be accomplished during the employees' non-duty time.

2.1 Authorization to come on the employer's premises for the purpose of investigating and discussing grievances and or alleged violations of the agreement shall not be unreasonably denied. These visits, however, shall not be allowed to interfere with or disrupt the scheduled work of the employees, without the consent of the appropriate Human Resource Director or his or her designated representatives.

2.2 KAPE shall insure the employer has a current list of their representatives accredited by the association. The employer shall insure that KAPE has a list of current names and work phone numbers of the Human Resource Directors in the appropriate agencies and the names and numbers of their designees.

SECTION 3. BULLETIN BOARDS The employer shall make available at no cost to KAPE a reasonable portion of existing bulletin boards as maintained in each unit agency and regional or district offices for use by KAPE for posting notices as described below.

3.1 That notices of the appropriate unit's meetings and notices of election of KAPE officials may be posted on the designated bulletin boards after being initialed by an officer of KAPE. All other notices must be approved and initialed by appropriate agency management prior to posting and such approval will not be unreasonably denied.

3.2 KAPE agrees to insure that all notices are in good taste and do not contain anything that would reflect unfavorably upon the employer or any employee.

3.3 KAPE also agrees that the removal of all posted KAPE notices will be accomplished on a timely basis as soon as notices have served the purpose for which posted.

SECTION 4. RIGHT TO INFORMATION The employer will provide to KAPE requested information as established by the Kansas Open Records Act. Upon request from KAPE and not to exceed two requests per calendar year, the employer shall provide to KAPE at no cost and on a timely basis, an alphabetical list of appropriate unit employee names and their addresses.

SECTION 5. EXCLUSIVITY The employer recognizes KAPE as the exclusive representative for the Law Enforcement Investigator unit.

SECTION 6. NEW HIRE ORIENTATION The Employer will provide an orientation program to new employees in the appropriate unit. New employees in the appropriate unit will be told that they are represented by the Kansas Association of Public employees and that KAPE may be contacted by calling 1-800-232-KAPE. Such calls are to be made during non-work time.

SECTION 7. MEMORANDUM OF AGREEMENT The Employer agrees to inform current and new unit members of the location of the Law Enforcement unit memorandum of agreement which will be display on the web site of the D of A Division of Personnel Services.

ARTICLE 7

PERSONNEL RECORD

SECTION 1. The employer shall maintain an official personnel record for each employee in the appropriate agency's personnel office. As provided in K.A.R. 1-13-1(a), the official personnel record shall contain the following:

1.1 Documents showing employee's hires, transfers, promotions, demotions, separations, changes of pay rates, leaves of absence or other changes in employment status;

1.2 performance reviews, letters of reprimand, letters of disciplinary action and letters of rebuttal thereto, and letters of commendation;

1.3 application for a vacancy and other assessment materials; and

1.4 such other information as the Director of Personnel Services deems appropriate.

SECTION 2. Any employee may also request that material pertinent to his or her employment be placed into his or her official personnel record.

SECTION 3. An employee in the appropriate unit may review his or her official personnel record. An employee may also authorize any individual or firm, including KAPE, to review the employee's official personnel record. Such authorization shall be in writing and shall be delivered to the Human Resource Director or contact or their designee in the appropriate agency. Reviews shall be made consistent with the conditions established by the appropriate agency and at a time mutually convenient to the parties. Copies shall be made upon request, and the cost shall be paid by the individual or firm at the rate established by the employer.

SECTION 4. If an employee's review of his or her official personnel record reveals any documents which are not listed in section and 1 that the employee feels are detrimental to his or her record, the employee shall have the right to place into his or her official record written comments or explanations concerning these documents or the employee may file written notification and the documents may, at the employer's discretion, be removed from the employee's file.

SECTION 5. Employees will be provided with either a copy of any document of a disciplinary or adverse nature placed into his or her personnel record, or the employee will be sent the original document with a copy to the official personnel record.

SECTION 6. When documents are considered for placement into the official personnel record are based in part upon information provided by an individual who will not agree to be identified, the information must be otherwise documented by a named individual, or the material will not be placed in the official personnel record.

SECTION 7. Except as otherwise provided in this section, and the Kansas Open Records Act, K.S.A. 45-215 *et. seq.*, information contained in each state employee's official personnel record shall not be open to public inspection.

SECTION 8. Upon inquiry of an individual, the Division of Personnel Services or personnel in the appropriate agency, shall disclose the following information concerning an employee:

- (a) the name of the employee;
- (b) the employee's current job title;
- (c) the employee's current or prior rates of pay; and
- (d) the employee's length of employment with the state.

SECTION 9. Upon inquiry of a prospective employer, the Division of Personnel Services, or the agency maintaining the personnel records, may disclose the following additional information concerning an employee:

- (a) the name of employing state agency;
- (b) the length of time the employee has served in the employee's current job position;
- (c) any letters of commendation; and
- (d) any documents regarding personal conduct and work performance to the extent consistent with K.S.A. 44-117.

SECTION 10. When individuals from the following agencies, in carrying forth their official duties, establish a need for information contained in an employees' official personnel record, the agency maintaining the personnel records shall permit access to information by personnel from the following agencies:

- (a) The Kansas Department of Administration;
- (b) the Kansas Attorney General's office, including the Kansas Bureau of Investigation;
- (c) the federal Equal Employment Opportunity Commission and Kansas Human Rights Commission;
- (d) the Kansas Civil Service Board;
- (e) the Legislative Post Audit;
- (f) the Child Support Enforcement Specialists of the Kansas Department of Social and Rehabilitation Services.

SECTION 11. Access to information in an employee's official personnel record shall also be permitted to individuals in the agency maintaining the personnel records carrying out their official duties.

SECTION 12. Upon request to the appointing authority in the agency maintaining the personnel records or the Director of the Division of Personnel Services, the head of any state agency or a designee, having a proper interest and an established need to review the personnel record of an employee in another state agency or the Division of Personnel Services, may review the employee's official personnel record, including applications for employment and performance reviews, whether the personnel record is maintained in a state agency or in the Division of Personnel Services.

SECTION 13. The official personnel record of any specifically named employee shall be made available for inspection in connection with litigation pursuant to the terms of an order entered by a judge of any federal, state or municipal court properly having jurisdiction over such litigation or pursuant to an order entered by an administrative tribunal.

ARTICLE 8

EMPLOYEE ASSISTANCE PROGRAM

SECTION 1. The employer agrees to participate in the State of Kansas Employee Assistance Program which provides employees and their families the opportunity to receive confidential professional help in resolving health or personal problems. The employer, through each of its organizational levels and departments, shall strictly maintain the confidentiality of information provided by employee participants in accordance with applicable federal and state laws and regulations.

SECTION 2. Sick leave, vacation leave, compensatory time or leave without pay may be granted to enable the employee to participate in an Employee Assistance Program referral. In addition, if a controlling statute or regulation is amended in the future to permit leave with pay participation in an Employee Assistance Program referral, the employees in this unit will be granted the same privilege.

ARTICLE 9

RESIDENCY

SECTION 1. When a member of this unit is assigned to work in a specific geographic area, the employee may establish residency anywhere within the area as approved by the appointing authority.

SECTION 2. Upon written request from the employee, the appointing authority may request a waiver of the ten (10) mile duty station to residence restriction on the use of state vehicles.

ARTICLE 10

WEARING APPAREL

SECTION 1. Employees in this unit who are required to wear uniforms shall be provided with the required uniform.

SECTION 2. The employer and KAPE recognize that the appearance of State employees is of great importance to both the State and members of the appropriate unit. The official dress code promulgated in each division and/or agency which was in effect as of February 1, 1998 is hereby adopted by reference and shall become a part of this agreement and shall apply to the individuals employed in each such division or agency for the duration of this agreement unless changed by mutual agreement of the parties. The dress codes herein referenced shall apply to the employees in each agency employing individuals in the appropriate unit unless on special assignment or management delineates a less stringent dress code for certain sections or positions.

SECTION 3. The employer agrees to request the appropriation of funds through the budget planning process for new or replacement ballistic vests for issue to an officer who has agreed to wear the ballistic vest in situations as the employee deems appropriate or as directed by superiors. If agency issued ballistic vests do not possess a threat level designation (as described in NIJ Standards) equivalent to or greater than the caliber of the agency issued sidearm, the employing agency agrees to request the appropriation of funds through the budget planning process to purchase ballistic vests which will meet or exceed the threat level posed by the agency issued sidearm.

SECTION 4. Employees will provide written requests to their supervisor or other appropriate agency staff member concerning the need for replacement of unserviceable uniforms or ballistic vests. Final determinations concerning the serviceability or timeliness of replacement for issued uniforms or ballistic vests is the exclusive responsibility of the employer.

SECTION 5. The employer agrees to reimburse employees for clothing and personal belongings damaged or destroyed in accordance with K.S.A. 46-922 *et seq.* and the property damage claims procedures of the Division of Accounts and Reports.

ARTICLE 11

PROMOTION AND VACANCY PROCEDURES

SECTION 1. With the exceptions noted below, the employer agrees that all job vacancies to be filled in the appropriate unit shall be posted within the agency filling the position not less than seven (7) days prior to the closing date of the announcement. Employees in the agency filling the job vacancy who are officed in their homes shall receive individual announcements of such vacancies. Such notification shall include the date of the closing, the location where the vacancy exists and the person to be contacted. Notice of a job vacancy to be filled shall not be required when filling a temporary position, when a position is filled by demotion for employees in the classified service, when a position is reallocated with an incumbent, when filling a governor's trainee position or when the Director of the Division of Personnel Services determines that for good cause such notice is not necessary.

SECTION 2. When it is determined that a vacant position is to be filled, the notice of the job vacancy (circulated within the agency with the vacant position) shall contain not only the education, experience or other minimum requirements for the position but also any preferred selection criteria relating to specific position related skills, knowledge, competencies or other selection measures in order to eliminate confusion or subjective judgments in the application and selection process to the greatest extent possible.

SECTION 3. Any employee applying for a vacancy as a transfer or promotion to a classified position must do so in writing within the specified time frame and to the party indicated on the vacancy announcement. A transfer, as that term is used in this section, means a change by an employee who meets the required selection criteria from one classified position to another classified position with a close similarity of duties, essentially the same basic qualifications, and the same pay grade. A promotion means a change of an employee from a classified position in one class to a classified position in another class having a higher pay grade, by an employee who meets the required selection criteria for promotion.

An employee applying for any vacancy in an unclassified position included in this unit must do so in writing within the specified time frame and to the party indicated on the vacancy announcement. Movement from the classified service to unclassified service means the change of an employee from a position in the classified service to a position in the unclassified service covered by this unit by an employee who meets the posted selection criteria.

SECTION 4. Except for positions filled from within an agency, unit employees who apply for an announced vacancy to be filled in a position within the unit and who meet the minimum and preferred qualifications which are applied to all candidates for the position will be interviewed.

ARTICLE 12

LENGTH OF SERVICE

SECTION 1. “Length of Service” shall mean total time worked in the classified service or unclassified service including time spent on an appointment to an unclassified special projects position pursuant to K.S.A. 75-2935(1)(i), and amendments thereto. Length of service shall exclude:

1.1 time worked as a temporary employee;

1.2 time worked as a student employed by any board of regents institution;

1.3 time worked as a resident worker in any social and rehabilitation services institution or the Kansas commission of veteran’s affairs;

SECTION 2. Seniority shall mean that portion of the employee’s length of service which reflects;

2.1 Agency Seniority: which shall mean time worked as a law enforcement officer in the employee’s current State agency; and

2.2 State Seniority: which shall mean time worked as a law enforcement officer in any agency of the State.

SECTION 3. Time spent on military leave, or time off while receiving workers’ compensation wage replacement for loss of work time, shall be considered to be time worked in the classified or unclassified service. Time on leave while receiving worker’ compensation wage replacement for a disability attributable to state employment prior to May 1, 1983, shall not be credited.

SECTION 4. An employee’s length of service accumulation shall be interrupted during any period of time the employee is on approved leave of absence without pay in excess of thirty (30) days and length of service accumulation shall resume when the employee properly returns to permanent employment at the end of such leave.

SECTION 5. Length of service for computing vacation and sick leave accrual rates and for layoff or compensation purposes shall not be recalculated using prior methods of calculation for employees who have no break in service. Length of service for an individual returning to state service shall be the amount of length of service on record as of December 17, 1995, or the date the individual left state service, whichever date is later.

SECTION 6. Ties in length of service or seniority shall be broken by applying the average performance review rating received by each employee during the last five years.

ARTICLE 13

HOURS OF WORK AND OVERTIME

SECTION 1. WORKWEEK The workweek for employees in this unit is a regularly recurring period of 168 hours in the form of seven (7) consecutive 24-hour days. The workweek will begin at 12:01 a.m. Sunday, and end at 12:00 p.m. the following Saturday.

SECTION 2. WORK PERIOD The work period for employees in this unit will vary depending upon their assigned class of position. For positions of Fire Investigator, Special Agent-KBI and Senior Special Agent-KBI and Enforcement Agent for the Department of Revenue the work period will consist of 80 hours of work in 14 consecutive days, subject to Department of Labor determinations regarding 207k partial exemption under the Fair Labor Standards Act. For positions in the Enforcement Agent in all other agencies and Securities Special Investigator I, II and III classifications, the work period will consist of 40 hours of work in seven consecutive days.

SECTION 3. OVERTIME Overtime is defined as all hours worked in excess of the number of hours listed in section 2 above which is the overtime threshold for each defined work period. Overtime hours worked will be compensated at the rate of one and one half times the employees' regular rate of pay or one and one half hours of compensatory time off for each hour of overtime worked.

3.1 Overtime must be approved in advance by the employee's immediate supervisor or as otherwise authorized by agency policy.

3.2 If contact with a superior is not reasonably possible before the employee responds to a situation which may create overtime, the employee shall, as soon as practicable, contact his or her immediate supervisor or the next level superior for guidance on the duration of the overtime which can be approved.

3.3 Unless otherwise provided by an immediate supervisor or higher level superior in the employee's chain of command, any work time accumulated within the current work period, prior to the last scheduled work day(s) of the work period, that could result in overtime shall be taken as equivalent time off on an hour-for-hour basis within the same work period in which it was worked.

SECTION 4. COMPENSATORY TIME IN LIEU OF OVERTIME In lieu of paying an eligible employee at the time and a half rate for overtime worked outside the current work period, the employer may elect to compensate an employee for overtime worked by granting compensatory time off, at the rate of one and a half (1 ½) hours off for each hour of overtime worked. An updated compensatory time accrual balance shall appear on the paycheck/advise summary when the employee would have otherwise been paid for the overtime worked.

4.1 Employees shall be permitted to use compensatory time off at a time mutually agreeable to the employee and his or her supervisor. Employee requests to use compensatory time shall not be unreasonably denied.

4.2 Except as noted below, any employee who has accrued 120 hours of compensatory time off shall, for any additional overtime hours of work, be paid overtime compensation for that payroll period. The employer may approve a higher maximum, provided that the maximum shall not exceed 240 hours. An employee who has accrued 240 hours of compensatory time off shall, for any additional overtime hours of work, be paid overtime compensation for that pay period.

4.3 Each employee who has accrued compensatory time off under this subsection may be required by the appointing authority to use the compensatory time within a reasonable period after receiving notice of this requirement. The notice shall state the length of time in which a specified number of hours of compensatory time are to be used.

SECTION 5. ADDITIONAL HOURS If the number of hours actually worked in a workweek or work period is less than or equal to the number of hours for the applicable overtime standard and the employee uses paid leave during the workweek or work period, except as provided below, any additional hours are to be paid at the regular hourly rate of pay. If the employee agrees to the arrangement, hours of leave may be credited back to the employee.

ARTICLE 14

PAY PLAN

SECTION 1. Except for employees in the unclassified service, employees in this unit shall be compensated in accordance with the State of Kansas Civil Service Pay Plan. The employer reserves the right, as provided in K.S.A. 75-2938, to amend the pay plan from time to time as the employer determines to be necessary. Bargaining unit members will receive increases proposed in this agreement in addition to increases authorized for all employees.

SECTION 2. The employees' hourly rate of pay shall be computed by dividing annual salary by 2080.

SECTION 3. The employer and employee meet and confer teams jointly recommend to the Director of Personnel Services that an Executive Directive be submitted to the Governor for approval of the following:

Effective 12-17-06, the classes of Enforcement Agent, Fire Investigator and Security Special Investigator I will be increased from salary grade 26 to 27 and that Securities Special Investigator II be increased from salary grade 28 to 29. Effective upon the date of the pay grade increase, employees in these classifications will receive the equivalent of a two step increase or approximately a 5% increase.

For FY 08, the Gaming Agency, the Kansas Lottery, the Office of the State Fire Marshal, the Racing Commission, the Department of Revenue, the Securities Commissioner's office agree to submit a budget request to the Governor for the equivalent of a two step increase or approximately a 5% increase for the classes of Enforcement Agent, Fire Investigator and Security Special Investigator I and that these classes be increased from salary grade 27 to 28 and that Securities Special Investigator II be increased from salary grade 29 to 30.

In addition, the Kansas Bureau of Investigation agrees to submit in its budget request to the Governor for FY 08 a 7.5% or the equivalent of a three step increase for employees in Special Agent - K.B.I. and Senior Special Agent - K.B.I. classifications.

ARTICLE 15

SHIFT DIFFERENTIAL

Because employees in the appropriate unit are not utilized in a manner consistent with regularly scheduled multi-shift operations, shift differential payments will not be made to employees within the unit. The parties herein agree that any proposal to adopt a multi-shift operation shall be addressed in future meet and confer sessions along with shift differential compensation.

ARTICLE 16

STAND-BY

SECTION 1. Only the employer may require an employee to be on stand-by. Stand-by time means a period of time during which the employee is required, at the employer's direction, to remain available to the agency within a specified response time. The employer's direction to the employee to carry an operating mobile/cellular telephone or other electronic recall device does not make the employee eligible for stand-by pay. An employee on stand-by shall remain available at the employer's direction for recall to perform necessary work. Stand-by assignments shall be limited to work situations where a probability for emergency recall of employee(s) exists.

SECTION 2. Employees on stand-by who are called into work shall be compensated for the actual hours worked at the appropriate rate of pay. They shall not be paid stand-by compensation for the hours they actually worked. Only the hours actually worked by the employee shall be credited in determining eligibility for overtime compensation.

SECTION 3. An employee on stand-by as defined in Section 1 above, who is not available when called, and who does not present reasonable justification for failure to report when called shall lose stand-by compensation for that stand-by period and may be subject to the appropriate disciplinary action.

SECTION 4. When the employer designates a particular telephone number at a location designated by the employer or restricts the employee to the employer's premises, the employee shall be compensated at his or her regular rate of pay and shall not receive stand-by compensation.

SECTION 5. Employees who are eligible to receive overtime shall be compensated at the rate of one dollar (\$1.00) for each hour they are required to serve on stand-by status. Any provisions of this section relating to stand-by compensation which are affected by amendments to the Kansas Administrative Regulation as promulgated by the Rules and Regulations Filing Act shall be adhered to as subsequently amended.

ARTICLE 17

CALL-IN AND CALL-BACK

SECTION 1. Except for law enforcement employees in the Kansas Bureau of Investigation, unit employees who are called back to work on their scheduled day off will be given a minimum of two (2) hours work or two (2) hours pay if given less than two (2) hours work. The minimum shall not apply if the employee was on stand-by, nor shall it apply if the employee was called in or called back during the two hour period immediately prior to the beginning of the employee's next scheduled work day. Only hours actually worked shall be credited in determining eligibility for overtime pay or compensatory time off, at the time-and-a-half rate. Law Enforcement employees of the Kansas Lottery, who are called back to work after a regular work schedule, are also entitled to the provisions of this article.

SECTION 2. Except for law enforcement employees in the Kansas Bureau of Investigation, employees who perform work on a scheduled day off pursuant to a request by either their supervisor, or to respond to a request for assistance from a law enforcement agency or a member of the public as provided by agency policy, and under either circumstance such request requires that the employee leave his or her residence, then the employee will be given a minimum of two (2) hours of work or two (2) hours pay if given less than two (2) hours work. If the request can be dealt with by the employee without leaving his or her residence, then the employee shall not be eligible for call-back pay.

SECTION 3. Following the performance of work on a call-in or call-back basis, the employee shall adjust the remainder of his or her work schedule within such workweek or work period to avoid exceeding the applicable overtime threshold. If, however, such request to perform work is made after the employee has actually worked the number of hours necessary to meet the applicable overtime threshold, then payment shall be in the form of pay or compensatory time off, at the time-and-a-half rate.

ARTICLE 18

ACTING ASSIGNMENTS

SECTION 1. An employee in the appropriate unit who has permanent status in one position may be assigned to perform the duties of another position, provided that the acting assignment be for a period of time greater than thirty (30) consecutive days but less than one (1) year, and the employee meets the qualifications for the position. An acting assignment must be approved in advance by the employer. Documentation of the acting assignment shall be signed by the appointing authority and shall be placed in the employee's personnel file.

SECTION 2. Except for employees in unclassified positions, if the employee is acting in a position assigned to a higher salary range than that of the employee's normal position, the employee shall be paid at a step on the higher range that gives the employee an increase in pay. Such an increase shall not exceed the highest step possible if the employee were being promoted to the position. The employee may receive salary step increases in accordance with applicable salary step increase regulations during an acting assignment.

SECTION 3. If the employee is promoted to a position in which the employee has served in an acting assignment, the salary shall remain at the amount paid during the acting assignment. Any accumulated months shall count towards the next pay increase. The time served in the acting assignment may be credited towards the promotional probationary period.

ARTICLE 19

HOLIDAYS

SECTION 1. Employees in the appropriate unit shall have the following legal holidays with pay:

New Year's Day
Memorial Day
Independence Day
Labor Day
Veteran's Day
Thanksgiving Day
Christmas Day

In addition to the above holidays, such other days as may be designated as holidays by the Governor as days on which state offices will be closed shall be considered holidays with pay for employees in the unit.

SECTION 2. When one of the legal or designated holidays falls on a Saturday, the preceding Friday shall be the officially observed holiday. When one of the legal or designated holidays falls on a Sunday, the following Monday shall be the officially observed holiday. A full time employee who is required to work on a legal holiday or on an officially observed holiday shall receive at the employer's discretion either pay or holiday compensatory time at the time and a half rate for the hours worked on the holiday. Holiday compensation is either pay or compensatory time credits at a time and a half rate for those hours worked on a holiday.

SECTION 3. When one of the legal or officially observed holidays falls during an employee's vacation such holiday shall not be counted as a day of vacation.

SECTION 4. Each employee, regardless of work schedule, shall receive a maximum of eight hours of holiday credit for each holiday and shall be given the same number of holidays as are credited to employees whose regular work week is Monday through Friday. Holiday credit means pay or credit for paid time off at a straight-time rate.

SECTION 5. In the case where a legal holiday (such as New Year's Day) is preceded or followed by an officially observed holiday (for example, December 31 or January 2) a full time employee who is required to work on both the legal and the officially observed holiday shall receive holiday compensation for only one of the two days. If the number of hours worked varies between the two days, holiday compensation shall be calculated for the day on which the employee worked the greatest number of hours.

SECTION 6. A Discretionary Holiday may be designated by the Governor. If so designated, eligible full-time employees shall receive eight hours of pay at their straight time rate in accordance with administrative guidelines.

ARTICLE 20

VACATION LEAVE

SECTION 1. VACATION (GENERAL) Each permanent and probationary employee shall earn vacation leave as provided in section 2 of this article. Persons employed in temporary positions shall not earn vacation leave.

1.1 VACATION LEAVE PAYOUT Any employee who leaves state service shall be paid for all accumulated but unused vacation leave balances. Such payments shall be limited to the maximum accumulation provisions outlined in section 2 of this article. Except as otherwise provided herein, all payments for unused vacation leave shall be made at the same time the employee receives his or her last pay check.

1.2 VACATION LEAVE ACCRUAL For the purposes of section 2 of this article, “hours in pay status” shall not include overtime hours worked, additional hours for which the employee has been paid under K.A.R. 1-5-24(d)(2), and holiday compensation earned. Hours in pay status shall include time off while receiving worker’s compensation temporary or permanent disability payments for loss of work time. Leave earned during a pay period is credited on the first day of the following pay period. All vacation leave over the maximum accumulation shall be forfeited at the end of the last payroll period in the fiscal year.

1.3 VACATION REQUESTS/APPROVAL An employee shall request approval to use vacation leave time on the form provided, or in the manner prescribed by the employer. The employer shall not be arbitrary or unreasonable in granting or denying such requests. The employer may cancel previously approved request for leave due to unusual, unforeseen, or emergency circumstances.

SECTION 2. VACATION LEAVE CREDITS AND MAXIMUM ACCUMULATIONS

Vacation Leave Table

Hours Earned Per Two Week Pay Period Based on Length of Service

Hours in Pay Status Per Pay Period	Less Than 5 Years	5 Years & Less Than 10 Years	10 Years & Less Than 15 Years	15 Years And Over
0 - 7	0.0	0.0	0.0	0.0
8 - 15	0.4	0.5	0.6	0.7
16 - 23	0.8	1.0	1.2	1.4
24 - 31	1.2	1.5	1.8	2.1
32 - 39	1.6	2.0	2.4	2.8
40 - 47	2.0	2.5	3.0	3.5
48 - 55	2.4	3.0	3.6	4.2
56 - 63	2.8	3.5	4.2	4.9
64 - 71	3.2	4.0	4.8	5.6
72 - 79	3.6	4.5	5.4	6.3
80 -	3.7	4.7	5.6	6.5
<u>Maximum Accumulation of Hours</u>	144.0	176.0	208.0	240.0

ARTICLE 21

SICK LEAVE

SECTION 1. Each classified employee in a regular position in the appropriate unit shall be credited and accumulate sick leave as provided in this section. Persons employed on a part-time position shall earn leave under this section on a proportional basis to the number of hours worked during the payroll period as follows:

Sick Leave Table for Non-Exempt Employees

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

1.1 “Hours in pay status” does not include overtime hours worked, additional hours for which the employee has been paid under K.A.R. 1-5-24 (d) (2) and holiday compensation earned. For the purpose of this article, hours in pay status shall include time off while receiving workers’ compensation wage replacement for loss of work time.

1.2 If an employee taking vacation leave becomes ill or family member as defined in section 2 of this article becomes ill and for all intents and purposes, the employee is deprived of all or a significant portion of the vacation, the appointing authority, upon request of the employee, may charge to sick leave some or all of the time the employee or family member was ill while on vacation.

1.3 Sick leave earned by an employee during a pay period shall be credited to the employee, and available for use, on the first day of the following pay period.

SECTION 2. Sick leave with pay shall be granted for only the following reasons: illness or disability of the employee including pregnancy, childbirth, miscarriage, abortion and recovery therefrom or of a member of the family of the employee when the illness or disability reasonably requires the presence of the employee; appointments for the employee with a physician, dentist or other health practitioner; a family member's personal appointments with a physician, dentist or other recognized health practitioner, when the appointment reasonably requires the employee to be absent from work; the legal quarantine of the employee; or the adoption of a child by an employee or initial placement of a foster child in the home of an employee, when the adoption or initial placement reasonably requires the employee to be absent from work. For the purpose of this article, an employee's "family member" shall be limited to persons related to the employee by blood, marriage or adoption and minors residing in the employee's residence as a result of court proceedings pursuant to the Kansas code for care of children or the Kansas juvenile offenders code.

2.1 The employer may require employees to provide evidence necessary to establish that the employee is entitled to use sick leave under the circumstances of the request. If the employee fails to provide this evidence, the use of requested sick leave may be denied by the employer. This requested information will be provided at the employee's expense. The employer may require an examination of an employee by a licensed health or mental health care professional ultimately responsible for the employee's health care, as designated by the employer at the employer's expense.

2.2 The employer may require the employee to use sick leave if the employer believes the employee cannot perform assigned duties because of illness or disability. Also, the employer may request a written release by a licensed health or mental health care professional before the employee is allowed to return to work.

SECTION 3. Employees retiring from State service shall be compensated for earned but unused sick leave in accordance with the provisions of K.S.A. 75-5517.

ARTICLE 22

SHARED LEAVE

SECTION 1. Each employee in a regular position may be eligible to receive from or donate to any other State employee shared leave as provided in this article. Shared leave may be granted to an employee in the appropriate unit if the employee or a family member as defined in article 13 of this agreement is experiencing a serious, extreme or life-threatening illness, injury, impairment or physical or mental condition which has caused, or is likely to cause, the employee to take leave without pay or terminate employment; and the illness, injury, impairment or condition keeps the employee from performing regular work duties.

SECTION 2. To be eligible to receive shared leave, an employee must have exhausted all paid leave available for use including vacation leave, sick leave, and compensatory time credits; and have six months of continuous service. An employee shall be eligible to donate vacation leave or sick leave to another employee if the donation of vacation leave does not cause the accumulated leave balances of the donating employee to be less than 80 hours for vacation leave and not less than 480 hours of sick leave.

SECTION 3. When requesting shared leave, or at any time during the use of shared leave, the employee may be required by the employer to provide a physician's statement or other medical evidence necessary to establish that the illness, injury, impairment or physical or mental condition of the employee or family member is serious, extreme or life threatening and keeps the employee from performing regular work duties. If such evidence is not provided, the employer may deny or terminate the shared leave. Shared leave may be denied if it is determined by the employer that the requesting employee has a history of leave abuse. Any employee receiving worker's compensation shall not be eligible to receive shared leave.

SECTION 4. No employee shall be coerced, threatened, intimidated, or financially induced into donating leave for purposes of the shared leave program.

SECTION 5. Shared leave may be used only for the duration of the condition for which it was approved and collected.

- 5.1** When an employee is granted shared leave due to his or her illness or injury, the maximum duration of the shared leave shall be six months from the date the employee began using the shared leave. After six months, if the employee does not meet the conditions for long-term disability payments, shared leave may be extended for up to an additional six months.

5.2 When the shared leave is granted due to the illness or injury of a family member, the maximum duration of the shared leave shall be 12 months from the date the employee began using the shared leave.

SECTION 6. The employee shall no longer be eligible to receive shared leave for the particular occurrence if the illness, injury, impairment or condition improves so that it is no longer serious, extreme or life-threatening and the employee is no longer prevented from performing regular work duties; if the recipient terminates or retires; or if the family member's illness, injury, impairment or physical or mental condition is no longer serious, extreme or life-threatening and the employee is no longer prevented from performing regular work duties.

SECTION 7. Any unused portion of the shared leave shall be prorated among all donating employees, except that leave shall not be returned to any person who has left state service.

SECTION 8. The requirements of this article may be waived or modified by the Director of the Division of Personnel Services only upon his or finding that all criteria of K.S.A. 1995 Supp. 75-5549 have been met and that failure to grant the requested waiver or modification would create a manifest injustice or undue hardship on the employee requesting the shared leave or on a family member of that employee.

ARTICLE 23

JURY DUTY OR WITNESS LEAVE

SECTION 1. An employee shall be granted leave with pay to respond to a summons for jury duty in a state or federal court or to comply with a subpoena as a witness before the civil service board, the Kansas Human Rights Commission, the U.S. Equal Employment Opportunity Commission, or a court. An employee shall notify the immediate supervisor upon receipt of such a summons or subpoena. Leave with pay may be granted to an employee for an appearance before a court, a legislative committee or other public body, if the employer considers the granting of leave with pay to be in the best interest of the state. The employer may direct an employee to attend such legal functions without benefit of a summons or subpoena being served on the employee.

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

SECTION 3. An employee who takes leave under this section who receives compensation for a required appearance other than jury duty, shall turn over to the state all compensation except that the employee shall retain the first \$50.00 of such fee and all reimbursed expenses or per diem for travel, meals and lodging, except when an employee travels in a state vehicle, the employee shall turn over to the state any mileage expense payments received.

ARTICLE 24

JOB INJURY LEAVE

SECTION 1. An employee who sustains a qualifying job injury as determined by the employer, which renders the employee unable to perform regular job duties and which arises out of and in the course of employment with the state from a shooting, stabbing or aggravated battery as defined in K.S.A. 21-3414, or for a law enforcement officer was sustained while in fresh pursuit of a person or while operating under the provisions of K.S.A. 8-1506, shall be eligible for leave of absence with pay for a maximum duration of six months. Qualifying job injuries shall not include injuries sustained as a result of the intentional actions of a co-worker.

SECTION 2. Subject to the duration limitations provided in section 3 below, an employee who qualifies for job injury leave shall continue to accrue sick and vacation leave credits and participate in all other benefits they would normally receive if not on job injury leave. If the employee is awarded worker's compensation because of a qualifying job injury as defined in K.A.R. 1-9-22(b), the employer shall pay an amount that when added to the worker's compensation will equal the regular salary of the employee.

SECTION 3. The employer may require the employee to return to limited service if the employee becomes capable of performing at a reduced level in the opinion of a physician selected and paid for by the employer. However, any limited duty allowed shall not, in combination with time away from work on job injury leave, exceed the total of six months allowed for job injury leave. The employee shall perform limited service under this subsection at the regular hourly rate of pay.

ARTICLE 25

LEAVE WITHOUT PAY

SECTION 1. An employee may request and may be granted leave of absence without pay for any good and sufficient reason such as illness or disability including pregnancy, childbirth, miscarriage, abortion and recovery therefrom, adoption, initial placement of a foster child in the employee's home, or to care for a family member who has a serious health condition. The employer shall determine whether approval of each request for leave without pay is for the good of the service, and shall approve or disapprove the request on a timely basis considering the circumstances of the request. The provisions of this article shall be applied in a manner consistent with the Kansas Administrative Regulations implementing the Family and Medical Leave Act (FMLA) of 1993.

SECTION 2. Leave of absence without pay shall not exceed sixty (60) calendar days, extendible or renewable to a maximum of six (6) months for a new hire in a regular position without permanent status. For permanent employees a leave of absence shall not exceed one (1) year. Any employee currently without permanent status as a result of promotion or reinstatement may be granted leave without pay under the same conditions as an employee with permanent status, if the employee had permanent status in the class in which the employee was employed immediately prior to the promotion or reinstatement.

SECTION 3. Any such leave which extends beyond thirty (30) calendar days shall be reported to the Director of Personnel Services and shall interrupt the accrual of seniority.

SECTION 4. Upon return to work at the expiration of an authorized leave without pay or upon notice by the employer that the leave without pay has been terminated, the employee shall be returned to a position in the same class as the position which the employee held at the time the leave was granted, or to a vacancy in another class in the same pay grade for which the employee meets the qualifications.

SECTION 5. Failure to return to work at the expiration of an authorized leave without pay, or upon notice by the employer that the leave has been terminated, shall be deemed a resignation.

SECTION 6. Nothing shall preclude a permanent employee returning from leave without pay from applying, and being considered for, a position in a higher salary grade for which the employee meets the qualifications.

ARTICLE 26

TRANSFER OF LEAVE CREDITS

SECTION 1. An employee who transfers from one agency of the state to another shall have all accrued vacation and sick leave credits transferred with the employee.

1.1 If the employee has compensatory time credits at the time of the transfer, the employee shall be paid at the current hourly rate of pay for all such accumulation by the agency from which the transfer is made.

1.2 The provisions of this section shall also apply to an employee who separates from one agency and is appointed to another agency or department on the following work day.

ARTICLE 27

PROFESSIONAL DEVELOPMENT

SECTION 1. Employees in this unit will be encouraged to enhance their job related knowledge and skills through participation in various work related conferences, work shops, and seminars when funding is available. The employee's participation must be approved by the appointing authority in his or her agency. Time spent in the actual training activities and eligible travel time, consistent with the provisions of the Fair Labor Standard Act, will be considered working time and compensable.

SECTION 2. Employees in this unit may be directed by the employer or may request on their own initiative to attend the work related training activities. Requests to attend such functions which are submitted by employees shall indicate the nature of the function to be attended, the time away from normal duties necessary to attend the function, and the approximate costs of registration, per diem or other travel expenses in accordance with applicable rules and regulations established by the Division of Accounts and Reports.

ARTICLE 28

ASSOCIATION LEAVE

The use of paid time off, excluding sick leave and administrative leave, shall not be unreasonably denied for employees in this unit to attend meetings, conferences and/or training related to association business. Association leave does not include meet and confer time.

ARTICLE 29

HEALTH INSURANCE

Employees in this unit may participate in the State of Kansas Group Health Plan as established by the State of Kansas Health Care Commission.

ARTICLE 30

RETIREMENT BENEFITS

SECTION 1. Upon employment or upon completion of one year's service as provided in the eligible participant's plan, employees in this unit will participate in the retirement program as provided by statute for their agency and job class and as administered by the Kansas Public Employees Retirement System (KPERS), which, as an umbrella organization also administers the Kansas Police and Firemen's Retirement System (KP&F).

SECTION 2. When authorized by the Legislature, unit members presently in the KPERS may elect to transfer to KP&F. The parties to this agreement recognize that if Legislative action does not provide for the transfer of unit members to the KP&F unit members will continue to participate in the KPERS.

SECTION 3. Any costs which are assessed by the retirement system as a result of any legislative transfer shall be paid as authorized and appropriated by the Legislature.

SECTION 4. The agencies listed below agree to either support or not oppose legislation to transfer unit members, for future service participation, to the Kansas Police and Firemen's Retirement System (KP&F) during the 07, 08 and 09 legislative sessions.

Department of Revenue
Kansas Lottery
Kansas Racing and Gaming Commission
Office of the Securities Commissioner of Kansas

ARTICLE 31

TRAVEL AND MEAL REIMBURSEMENT

SECTION 1. Employees in this unit shall receive travel and meal reimbursement in accordance with applicable rules and regulations established by the Division of Accounts and Reports.

SECTION 2. For approved use of their privately owned vehicles to participate in under cover activities or for other official state business as approved by their immediate supervisor when a state owned or leased vehicle is not available for use, employees in this unit shall receive private vehicle mileage reimbursement at the maximum rate established by the Division of Accounts and Reports for that category of privately owned vehicle used.

SECTION 3. To avoid undue hardship on employees, the state has contracted, for the duration of that agreement, with the UMB Bank to provide personal credit cards to employees who travel frequently on state business. Even though obtained through the state, each credit card and its use is the personal responsibility of the employee to whom the card was issued.

ARTICLE 32

LAYOFF AND RECALL

SECTION 1. The provisions of this article relate only to employees in the classified service. The appointing authority of each unit agency, with the approval of the Secretary of Administration, may layoff employees in the classified service when the employer deems it necessary by reason of shortage of funds or work, the return of an employee on authorized leave, the abolition of a position or other material changes in duties or organization. The employer may designate a geographic area, an organizational unit and/or job classes within which employees are to be subject to layoff. The employer also may limit the layoff to full-time employees or to employees employed on less than a full-time basis. The employer may also permit an employee to bump into any class in which the employee previously had permanent status. When a layoff is limited to full-time employees or less than full-time employees, any employee with permanent status may exercise bumping rights into a position filled by any employee with probationary status only within the group of employees having the same full-time or less than full time status. Otherwise, any employee with permanent status may exercise bumping rights into positions filled by probationary employees anywhere within the agency, provided the permanent employees meet the required selection criteria for the classes.

SECTION 2. Lay off scores shall be computed by the employer for each employee in the agency in the class or classes of positions identified for layoff and for employees in classes of positions that may be affected by the exercise of bumping rights. Layoff scores shall be computed according to the formula: $A \times L$, where:

A = average performance review rating of the employee, as described below;
and

L = the length of service, as defined in Article 8 of this agreement, expressed in months.

2.1 Except as otherwise authorized by this subsection, the performance evaluation ratings used in computing the layoff score of an employee shall be the average of the most recent ratings for the employee during the last five years, up to and including five ratings, if the employee has as many as five ratings. However, a rating resulting from a special performance review that is given for a rating period ending within 90 calendar days of any notice of the layoff to the director shall not be counted. Performance reviews completed for rating periods ending on or after the date the appointing authority notifies the director in writing that a layoff is to occur shall not be considered in computing layoff scores; however, the appointing authority may designate a uniform earlier cutoff date to identify which performance evaluation ratings shall be used in computing layoff scores.

2.2 For the purposes of calculating layoff scores in accordance with the formula established in this subsection, a rating of exceptional shall have a value of five; a rating of satisfactory, shall have a value of one; and a rating of unsatisfactory shall have a value of zero.

2.3 In case of identical layoff scores, and if some, but not all, of the persons with the same score need to be laid off, preference among such persons shall be given to any veteran, any surviving spouse of a veteran, and any orphan of a veteran, in that order. If further ties remain, preference in retention shall be given to the person with the greatest length of service. If a tie still exists, the next preference shall be given to the person with the greatest length of service within the agency for conducting the layoff.

SECTION 3. The layoff list shall be based on the order of the layoff scores. The person with the lowest layoff score shall be laid off first. If more than one person is to be laid off, the persons to be laid off shall be selected on the basis of the lowest layoff scores.

3.1 Each employee in a position identified for layoff or who may be affected by layoff and each employee who may be laid off through the exercise of layoff bumping rights shall be notified in writing by the employer at least 30 days prior to the date of layoff.

SECTION 4. Bumping shall occur within the layoff group identified in the agency's layoff notice, or agency-wide if the agency has not designated a layoff group. If the criteria set forth in subsections 4.1 and 4.2 of this article have been met, any employee with permanent status, or any employee considered permanent for layoff purposes only, who is scheduled for layoff shall only bump into a lower class in which the employee previously had permanent status, unless the employee's position is in a class which is part of a class series designated by the appointing authority in the agency's layoff notice. If such a class series is designated in the agency's layoff notice, then the employee shall be permitted to bump into a lower class in the class series. Except as provided below, in order for an employee with permanent status to exercise bumping rights, the employee shall meet the following criteria.

4.1 The employee to be bumped shall have a lower layoff score than the person exercising the bumping right.

4.2 The employee to be bumped shall have the lowest layoff score in the employee's job class of anyone in a position not scheduled for layoff.

4.3 No permanent employee shall be laid off if:

4.3.1 Subject to the provisions of Section 1, there is a position filled by a probationary employee anywhere in the agency;

4.3.2 the employee with permanent status scheduled to be laid off is interested in the position; and

4.3.3 the employee with permanent status is eligible for transfer or demotion to the position.

4.4 Any employee who is not scheduled for layoff, but whose position will be vacated during the layoff and bumping process, and who refuses to accept a transfer or demotion to another position, may request to be laid off voluntarily. Any employee who has been granted a voluntary layoff shall have reemployment rights.

SECTION 5. At the layoff conference, each employee shall be informed of his or her right to seek reemployment opportunities with the state, including placement assistance provided by the Department of Administration, Division of Personnel Services. Placement assistance shall be available to the affected employee for up to three years after the effective date of the layoff.

ARTICLE 33

DISCIPLINE

SECTION 1. All disciplinary actions shall be administered in accordance with applicable statutes and regulations. A classified employee's sole recourse on suspensions, demotions and dismissals is in accordance with the Civil Service Act.

SECTION 2. When suspension, demotion or dismissal is proposed, the employee shall receive a written statement of the proposed action and the reason for the proposal. The notice shall specify the date, time and place by, or at which, the employee may reply in writing or appear, or both. If the employee chooses to appear in person on the issue of the proposed suspension, demotion or dismissal, the employee may be represented by a person of the employee's choice who does not hold himself or herself out as a representative of any other employee organization.

SECTION 3. Except for gross misconduct or other detrimental conduct described by statute, employees will generally be counseled and given opportunity to take corrective action or remedy deficiencies in work performance or personal conduct. If warranted in the opinion of the appointing authority, oral and written warnings, training or other remedial actions may be used to assist the employee in avoiding disciplinary action.

SECTION 4. For the purpose of this article and memorandum of agreement, discipline shall be defined as suspension, demotion or dismissal. As indicated above for classified employees, these disciplinary actions will be administered in accordance with the Civil Service Act, and as a result, are not subject to the grievance procedure contained in this memorandum of agreement. For unclassified employees, suspension, demotion or dismissal shall be subject to the grievance procedure contained in this agreement.

SECTION 5. Because written warnings or written reprimands do not have a method of settlement or appeal procedure otherwise established by statute or regulation, these remedial actions are subject to the grievance procedure contained in this memorandum of agreement.

ARTICLE 34

GRIEVANCE PROCEDURE

SECTION 1. Any grievance or dispute arising as to the interpretation or application of the provisions of this agreement shall be settled in the following manner. Nothing in this article or elsewhere in this agreement applies to matters of demotion, dismissal, suspension, performance review ratings or any other subject deemed to apply to matters for which a method of settlement or an appeal procedure is established under appropriate Kansas Statutes or Regulations. This procedure does not apply to employees in the appropriate unit during their probationary period of service.

Except as provided in Section 2 below, an employees may have an appropriate representative present to represent him or her at any step of the grievance procedure if the employee so desires. If the employee is to be represented, the employee shall be represented by a designated KAPE representative, an attorney of the employee's choosing at the employee's expense, or an individual who does not hold herself or himself out as a representative of any other organization. If the employee chooses not to be represented, KAPE shall be notified of the grievance and permitted to participate in all grievance resolution proceedings as an interested party to the interpretation of the agreement, provided the employee specifically agrees to such disclosure and participation. The decision or the resolution of a grievance will only impact that employee's situation and will not set precedent for future grievance resolution.

SECTION 2.

Step 1: The employee shall take up the grievance or dispute with the employee's immediate supervisor within seven (7) calendar days of its occurrence or the employee's knowledge of its occurrence. The supervisor shall then attempt to adjust the matter and shall respond to the employee within seven (7) calendar days. The employee may be represented by a person of his or her choice at any step of the grievance procedure except this oral effort at reconciliation.

Step 2: If the grievance is not settled in step 1, it shall be presented in writing by the employee to the immediate supervisor or his or her designee within seven (7) calendar days after the response from the supervisor is due in step 1 above. The supervisor shall respond in writing to the grievant within 10 calendar days following receipt of the written grievance.

Step 3: If the grievance has not been settled in Step 2, it shall be presented in writing by the employee to the person at the next level of supervision within the chain of command or his or her designee within seven (7) calendar days after the response from the supervisor is due in Step 2 above. The second level superior or his or her designee shall respond in writing within 14 working days following receipt of the written grievance.

Step 4: Grievances which have not been settled in Step 3, may be presented in writing to the appointing authority or his or her designee within 14 calendar days after the response from the second level superior or his or her designee in Step 3 above is due. The appointing authority or his or her designee may hold an informal meeting to obtain information regarding the grievance and shall respond in writing within 14 calendar days to the aggrieved employee. This step shall constitute the last level of administrative appeal within the agency.

SECTION 3. Time limitations at any step of the procedure may be extended by mutual agreement of the parties. Any grievance not so extended or appealed to the next level within the appropriate time limitation specified herein shall be considered settled on the basis of the response received at the previous step and any right to proceed on the matter is deemed waived. The failure of any member of management to respond to the grievant within the appropriate time limitations shall permit the grievant to advance the grievance to the next step of the procedure.

SECTION 4. Any grievance occurring during the period between the termination date of this agreement and the effective date of a new agreement shall not be grievable except by mutual extension of the agreement.

SECTION 5. Discussion of grievances or disputes at any step of the grievance procedure shall be at such time and place as the parties mutually agree upon.

SECTION 6. Nothing in this procedure shall be deemed to prevent employees from exercising any right of appeal, judicial review, or any other legal rights afforded them by law or constitution of the United States or the State of Kansas.

ARTICLE 35

KAPE STEWARDS

SECTION 1. KAPE shall have the right to designate members of the unit to serve as stewards. The employer agrees to recognize these stewards as a means of promoting an effective labor-management relationship through the resolution of grievances with as little delay as possible and through the participation of individuals most affected by the issue.

SECTION 2. KAPE shall provide and update as necessary a list of all stewards to the director of human resources or appointing authority for each of the unit agencies. The list shall identify the geographic area in which each steward shall serve. KAPE reserves the right to assign stewards as desired, but shall make every effort to insure that stewards are assigned within the KBI designated region in which he or she serves. There shall be no more than one chief steward and eight line stewards appointed for this unit.

SECTION 3. Stewards will be allowed a reasonable period of time during working hours, without loss of pay for the purpose of discussing or investigating grievances. Reasonable time for this purpose shall be interpreted to mean not more than eight (8) hours per month for the chief steward and four (4) hours for each line steward. These time limitations shall include time in transit. The use of State-owned vehicles or other travel expense is not authorized for stewards or grievants to participate in the grievance process.

SECTION 4. Upon request of an employee in the appropriate unit for assistance with a grievance, the steward may request to be excused from assigned work activities to discuss or investigate a grievance. A steward and the affected employee must receive permission from their immediate supervisors to leave their work area and/or interrupt an assigned work activity. When a steward requests time to discuss a grievance, the steward shall advise his or her supervisor with whom the discussion will take place and the nature of the grievance to be discussed. The grievant will not be unreasonably denied time during work hours to discuss his or her grievance with a steward, but such paid discussion time shall not exceed (1) hour per grievance.

SECTION 5. Before attempting to act on any problem on behalf of an employee, the steward will insure that the matter has been discussed by the grievant with his or her immediate supervisor.

SECTION 6. Stewards will not use time during working hours to discuss matters connected with the internal management and operation of KAPE, the collection of dues or assessments, the solicitation of membership, the distribution of literature, to campaign for elective office in KAPE or the solicitation of grievances or complaints.

ARTICLE 36

SAVINGS CLAUSE

Should any provision of this agreement be declared by the proper judicial authority or the Kansas legislature to be unlawful, unenforceable, or not in accordance with applicable statutes, all other provisions of this agreement shall remain in full force and effect for the duration of this agreement. Any provision of this agreement which is based upon any statute, whether federal or state, either directly or indirectly, shall be construed to conform to the statute upon which the provision is based; such construction is to apply as the statute is presently worded or as it may be subsequently amended or changed.

ARTICLE 37

CLOSING CLAUSE

The parties agree that this document shall represent the complete Agreement between the employer and KAPE. The parties also acknowledge that during the meetings which resulted in this Agreement, each had the unlimited right and opportunity to make requests and proposals with respect to any subject or matter not removed by law from the meet and confer process and that the complete understandings and Agreement arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the employer and KAPE, for the term of this Agreement, each voluntarily and unqualifiedly waive the right, and each agrees that the other shall not be obligated to meet and confer with respect to any subject or matter not specifically referred to or covered in this Agreement.

ARTICLE 38

APPROVAL AND DURATION

SECTION 1. This memorandum of Agreement shall become effective on the first day of the payroll period following approval by the employer, the State of Kansas except for those provisions of the agreement which state herein, or otherwise by law require the approval of the governor or the legislature. Any provision of the Agreement requiring approval by the Governor or the Legislature shall become effective as specified by the Governor or Legislature. A representative of the employer shall notify KAPE, in writing by U.S. mail, of the effective date(s) of this agreement or any of its provisions that have a separate effective date.

SECTION 2. This memorandum of agreement shall remain in effect for a period of three years. All parties agree that this agreement may be reopened, in the manner described below, during the third year of the agreement for the purpose of discussing wages. The entire agreement shall be automatically renewed from year to year thereafter unless either party shall notify the other in writing not less than one hundred twenty (120) days nor more than one hundred fifty (150) days prior to the expiration date, that it desires to amend or modify this Agreement. If notice to modify or amend is given, it shall contain a statement of the general issues or areas in which changes are desired, and meet and confer meetings shall begin not later than thirty (30) days prior to the expiration date. All articles and/or sections of the agreement shall be considered to be continued during the meet and confer process and those Articles not noticed for modification during the meet and confer process shall be included in any successor agreement. Those Articles and/or Sections noticed for modification shall be included in the successor agreement when agreement between the parties is reached.

