

Approved: 3-31-95  
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen at 11:05 a.m. on March 15, 1995 in Room 254-E of the Capitol.

All members were present except: Sen. Tillotson (excused)

Committee staff present: Mary Galligan, Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes  
Kim Perkins, Committee Secretary

Conferees appearing before the committee:

Mary Galligan, Legislative Research  
Jo Lawhon, Division of Post Audit  
Gene Johnson, Kansas Alliance on Alcohol and other Drug Services, Kansas Alcoholism and Drug Addiction Counselors Association, Kansas Community Alcohol Safety Action Project Coordinators Association  
Dwight Young, Association Mental Health Council of Kansas  
Jim Olson, Shawnee Alcohol and Drug Advisory Council  
Tuck Duncan, Kansas Wine and Spirits Wholesalers  
Rise Haneberg, Vice Pres. of Drug and Alcohol Council of Johnson County  
Major John Douglas, City of Overland Park  
Debra Terrell, Associated Youth Services  
Cathy Holdeman, City of Wichita  
Don Moler, General Council to the League of Kansas Municipalities  
Mike Wildgen, City of Lawrence

Others attending: See attached list

Sen. Oleen announced that she had distributed a memorandum from Bruce Rimbo of the Woodlands regarding the possible \$40 million bonus which some have claimed the original race track owners will receive if slot machines are allowed at the Woodlands (Attachment 1).

Sen. Oleen announced that the committee would begin hearings on **SB 365**, an act concerning certain taxes on alcoholic beverages. She called on Mary Galligan to give a historical perspective on the bill (Attachment 2). Sen. Oleen introduced Jo Lawhon, Division of Post Audit, who discussed the Post Audit report entitled "Use of Alcoholic Liquor fund Moneys By Local Units of Government" (Available from Legislative Research Department).

Sen. Oleen announced that Rep. Jim Lowther had supplied the committee with written testimony (Attachment 3) as a proponent to **SB 365**. Sen. Oleen called on Gene Johnson to speak as a proponent (Attachment 4). Sen. Praeger stated that by placing money in enforcement she believed that the deterrent effect on crime was increased and she believed that the bill should allow for flexibilities in each community because each community is different.

Sen. Oleen introduced Rise Haneberg to speak as an opponent to **SB 365** (Attachment 5), and Dwight Young to speak as proponent (Attachment 6).

Sen. Oleen introduced John Douglas to testify in opposition to the bill (Attachment 7). Douglas stated that there are some ambiguities in the definition of enforcement, for example whether the D.A.R.E. is considered enforcement. Douglas proposed a language change which would clarify enforcement as apprehension. Tuck Duncan, as neither a proponent or an opponent to **SB 365**, testified that he also believed that the bill needed clarifying language in terms of defining enforcement and further explained a program called "Cops in Shops" (Attachment 8).

Sen. Oleen introduced James Olson who testified in support of the bill (Attachment 9) and Debra Terrell, Cathy Holdeman, Mike Wildgen, Don Moler, as opponents to the bill (Attachments 10, 11, 12, & 13). Sen.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E  
Statehouse, at 11:00 a.m. on March 15, 1995.

Oleen announced that Georgia Erikson, City of Overland Park, provided written testimony as an opponent to the bill (Attachment 14).

Sen. Oleen called for further discussion, and seeing none, the meeting was adjourned at 12:15 p.m.

The next meeting is scheduled for March 17, 1995.





RACING

A Facility of Sunflower Racing, Inc.

## MEMORANDUM

March 14, 1995

To: House State & Federal Affairs Committee

From: Bruce Rimbo

Re: \$40 million bonus

Critics have claimed that former Sunflower Racing shareholders R.D. Hubbard and Richard J. Boushka will receive a "bonus" of up to \$40 million if legislation passes that permits additional forms of gaming at The Woodlands Race Track in Kansas City.

**Nothing could be further from the truth!** Whether you are a supporter of HB 2547 or not, let me "set the record straight."

Mr. Hubbard and Mr. Boushka originally built The Woodlands Race Track, guaranteeing its original \$60 million investment in Kansas City. In a stock transfer, Hollywood Park acquired the shares of stock in Sunflower Racing from the two original owners. As part of the compensation for that sale, Mr. Hubbard and Mr. Boushka were given consideration for any possible upside at a later date.

The agreement first calls for levels of business at The Woodlands to again reach their pre-riverboat stage in 1993. As I explained during hearings, we have declined 50% from levels of last January and February and more than 60% from 1993 levels. If business returned to those 1993 levels, Mr. Hubbard and Mr. Boushka could share in 25% of any additional profits after payment of 45% in corporate taxes for a period of five years or 2001, whichever comes first.

It is a straight business deal. There are no "bonuses" of any kind for passage of legislation or otherwise. Like many other business deals, there is an upside but only if business could return to pre-riverboat levels.

I hope this helps answer any questions you might have. I stand ready to answer additional questions should you have any.

Sen Fed & State  
3-15-95  
Attachment 1

## How is Liquor Taxed in Kansas?

### Gallonage Tax

Spirits	\$2.50
Wine (14% alcohol or less)	.30
Wine (over 14% alcohol)	.75
Beer and CMB	.18

Gallonage tax is paid by the Kansas manufacturer or by the first person in the state who receives the product. Since there currently are no licensed manufacturers in Kansas, the gallonage tax is paid by farm wineries, microbreweries, and by distributors.

Gallonage tax is not applied to amounts of a gallon or less brought into the country by a private citizen for personal use. Other exceptions include sacramental wine and alcohol sold to nonbeverage user licensees.

### Liquor Enforcement

This 8 percent tax is paid by the consumer in lieu of retail sales tax on liquor and NAB purchased from licensed liquor retailers, farm wineries, and microbreweries. The tax is also paid by clubs and drinking establishments on purchases they make from retail liquor stores and from wholesalers.

Since 1987, the enforcement tax has been collected on sales of CMB by wholesalers directly to clubs, drinking establishments, and caterers. Prior to that, the enforcement tax was not applied to any CMB sales. The enforcement tax rate was increased from 4 percent to the current 8 percent in 1983.

### Drink Tax

The drink tax at the rate of 10 percent of gross receipts is imposed on sales of liquor and CMB by clubs, drinking establishments, caterers, and holders of temporary permits. The tax is paid by the consumer to the licensee or permit holder. Like the enforcement tax, this tax is paid in lieu of retail sales tax. Drink tax is collected on sales of CMB only by on-premise CMB licensees who are also liquor licensees.

### Retail Sales Tax

The state retail sales tax of 4.9 percent, plus applicable local sales tax, is collected on sales of CMB by CMB licensees who are also not liquor licensees, *e.g.*, CMB bars, restaurants, and grocery stores. Sale of CMB by clubs was subject to retail sales tax until 1985 when those sales became subject to the drink tax.

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Attachment 2

Rep. Jim Lowther

3/15/95

Testimony before Senate Federal & State Affairs Committee:

Ref.: SB 365

I introduced a bill (HB 2344) to deal with the same issue addressed in SB 365 and asked for the Legislative Post Audit report on the subject of the "Use of Alcoholic Liquor Fund Moneys by Local Units of Government".

What both bills would do is to clarify the statute that specifies how special alcohol and drug programs can be used. The intent is to give clear legislative intent to city and county commissions that these tax revenues should only be spent for services or programs whose principal purpose is alcoholism and drug abuse prevention.

The language in the present statute apparently is not clear enough and, as the audit indicates, city and county commissions have voted to expend the money in questionable programs. One city used funds themselves for "administrative" expenses. The statute needs to better specify the purpose of the tax revenue so that local commissions will not be so vulnerable to requests for the funds by well-meaning and deserving groups that should not be eligible for the funds. It's evidently hard to say "no".

I do have some concerns about the language in SB 365 in that prohibiting any expenditures for administration of alcohol programs by community mental health centers is not really what is wanted.

I also have trouble with the language in HB 2344 as drafted for similar reasons. I would like to suggest an amendment that I think is acceptable to SB 365 -- an amendment I was going to offer to the House bill. The idea is to arrive at language that will accomplish the end result sought.

Sen. Fed & State  
3-15-95  
Attachment 3

**Testimony**  
**Senate Bill 365**  
**March 15, 1995**

To: Senator, Lana Oleen, Chairperson,  
Senate Federal and State Affairs Committee  
Statehouse  
Topeka, KS

From: Gene Johnson, Lobbyist

Good morning Chairperson Oleen and Members of the Committee:

The Kansas Alliance on Alcohol and Other Drug Abuse Services, the Kansas Alcoholism and Drug Addiction Counselors Association, and the Kansas Community Alcohol Safety Action Project Coordinators Association endorse Senate Bill 365 as a means of providing proper channeling of the Alcohol Liquor Fund monies by local units of government.

The Alcohol Liquor Fund Money was established in the 1979 session of the Kansas Legislature and has been amended six times prior to this 1995 session. In addition, the Kansas Attorney General has been asked on twelve different occasions to issue opinions on various provisions of this legislature. This legislative action and the numerous requests for Attorney General's opinion, would indicate the lack of clarity in channeling these funds. Some local governments consider this a lucrative "pot of gold" to raid from time to time to fund programs other than those involved in the prevention, education, intervention or the treatment of alcohol and drug abusers.

During the 1994 session of the Legislature a proposal was submitted to the Senate to provide some language which would define and assist in establishing firm guidelines for those programs who would qualify for these funds and for those programs who do not qualify. That particular piece of legislation did not pass out of Committee. However, consequently through this committee action in 1994, several interested senators and representatives asked for and received a Legislative Post Audit.

*Sen Fed & State*  
*3-15-95*  
*Attachment 4*

The Legislative Post Audit Committee heard testimony concerning the Performance Audit Report on February 9, 1995. that report did indicate some irregularities in the allocation of these Alcohol Liquor Fund monies. The performance audit could identify that eleven percent of these funds were inappropriately used in the ten localities that the audit checked. Also, the audit identified another four percent that the auditors were not able to determine whether or not those funds had been inappropriately allocated.

Estimates indicate that this Alcohol Liquor Fund makes available over four million dollars for the local alcohol and drug agencies. These agencies for the most part, are non-profit. They operate their programs for those individuals who are indigent and have no funds available for treatment or an intervention program.

If the Performance Audit report gives the assumption that throughout the State there is a possibility of at least fifteen percent of those Alcohol Liquor Funds being improperly allocated to programs other than alcohol and drug programs, we are starting to talk about some big bucks.

Over \$600,000 each year is being taken away from those local programs which should be expending these funds for the delivery of services and not administrative, prosecution costs, or funding of vehicles for local law enforcement agencies.

The Performance Audit Report did not expand on all localities, but acknowledged that they received some information regarding illegal allocation of these funds in Newton, Abilene, Coffeyville, Great Bend, Garden City, Barton County and Finney County. What amused me was that one City included in that group reportedly spent over \$2,600 for the care and feeding of a drug dog. One of our organization members from the Southwest part of the State has called me since that time and indicated his local unit of government has decided that some of this Alcohol Liquor Fund monies should be used for transportation purposes of those people who were committed to mental health treatment by the court on a civil commitment treatment order.



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Testimony  
Senate Bill 365  
March 15, 1995

As each year passes, apparently some local units of government in their wisdom, solve their local funding problems by tapping into these Alcohol Liquor Funds.

Senate Bill 365 is a step in the right direction to prevent the loss of these Alcohol Liquor Funds to those programs whose primary purpose is not for alcoholism and drug abuse prevention and education, alcohol and drug detoxification, intervention of alcoholism and drug abuse or for treatment of persons who are alcoholics or drug abusers or who are in danger of becoming alcoholics or drug abusers.

Again, our organizations fully support Senate Bill 365 as a positive step toward solving this rather serious problem for our local alcohol and drug abuse programs.

Respectfully,



Gene Johnson

Legislative Liaison

Kansas Alcoholism and Drug Addiction Counselors Association

Kansas Alliance on Alcohol & Other Drug Abuse Services, Inc.

Kansas Community Alcohol Safety Action Project Coordinators Association



Drug and Alcoholism Council  
of Johnson County

TESTIMONY BEFORE

Senate Federal and State Affairs Committee

March 15, 1995

RE: Senate Bill 365

Good morning. My name is Risë Haneberg. I am here today representing the Drug and Alcoholism Council of Johnson County (DAC) as a member and Vice-President of the Council. The DAC is a division of United Community Services of Johnson County and as a community-based citizen advisory group oversees functions related to alcohol and other drug research, planning, allocations and monitoring in Johnson County. The DAC serves as an advisor on substance abuse issues to the Board of County Commissioners and seven cities within the county (Leawood, Lenexa, Mission, Olathe, Overland Park, Prairie Village and Shawnee). The Drug and Alcoholism Council strongly supports local control of alcohol tax funds with the combined flexibility to fund the full continuum of care - prevention, intervention, and treatment - *to most effectively and efficiently address alcohol and drug issues at the local level.* Therefore, I am here as an opponent to Senate Bill 365. My testimony reflects concerns the DAC has about prohibiting use of local alcohol tax dollars for program administration.

Currently in its thirteenth year of operation, the DAC - a 21 member citizen advisory group - acts as the coordinating body for drug and alcohol services in Johnson County. Its central role is to provide:

•**Research and Planning** - the DAC conducts biennially an alcohol and drug needs assessment that reviews prevention, intervention and treatment services and programs provided in the county and identifies gaps in services and recommendations for filling identified gaps. The needs assessments are key to identifying community needs and directing local dollars to fill those needs.

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Attachment 5

One such needs assessment completed by the DAC in 1994 studied the Alcohol and Drug Safety Action Program (ADSAP). The study found critical inconsistencies in the provision of services by various ADSAP certified agencies. This study led to the introduction of SB 213 and SB 295 (currently being reviewed by the Senate Judiciary Committee) which address the need for system improvements. The DAC's study and its work to advocate for change played an important role in supporting changes in the delivery of the Alcohol and Drug Safety Action Program in Kansas.

•**Allocations** - annually the DAC conducts a coordinated review process for the Board of County Commissioners and seven cities in the county to distribute local alcohol tax funds. As an ongoing part of its work, the DAC puts a heavy emphasis on accountability. Stressing measurable results and where possible eliminating duplication of services, the DAC requires applicants to justify their funding requests, to prove a need and to show results. The needs assessments conducted by the DAC are used to establish funding priorities that meet identified community needs. The coordinated allocations process is cost-efficient for the eight participating jurisdictions and efficient for the 15-20 agencies that apply for local alcohol tax dollars - offering one point of access for funds, one application form, and one body to report results. The joint participation by the jurisdictions provides greater availability of funds and ultimately greatly benefits the citizens of the county accessing these services.

•**Monitoring** - agencies approved to receive local alcohol tax funds report quarterly program and financial information to the DAC as a part of their funding requirements. This information assures the funds are being used for the purpose intended and demonstrates that the agency is achieving the results set forth in their funding application.

•**Information and Referral** - annually the DAC fields over 500 requests for information on a variety of alcohol and other drug issues. Most recently, the DAC published a list of certified ADSAP agencies providing evaluation, education and treatment services in the county and the cost for those services. This list is made available to all courts to ensure clients requiring services have access to this information to make informed choices about their care. This list is updated and distributed biannually by the DAC.

The Drug and Alcoholism Council of Johnson County conducts comprehensive work to reduce alcohol and other drug problems by promoting, supporting and advocating for the full continuum of care - prevention, intervention, and treatment - for residents of Johnson County, Kansas. SB 365 would prohibit city and county governments from using local alcohol tax dollars to fund the Drug and Alcoholism Council of Johnson County, as a researcher, planner, information resource and allocations agent. More now than ever communities are being asked to resolve issues such as violence, crime, juvenile justice, *and alcohol and drug issues* locally. If federal and state governments expect local communities to solve these issues, they must provide the resources for a thoughtful, inclusive community planning process. The DAC urges you to reconsider SB 365.

**PRESENTATION TO SENATE FEDERAL & STATE AFFAIRS  
COMMITTEE REGARDING SB 365**

**BY**

**Dwight L. Young, Executive Director  
The Center for Counseling & Consultation  
5815 Broadway, Great Bend KS 67530**

In the beginning there was :

- ☹ SB 467 which was a confusing “alliance” among several different interest groups which produced and distributed tax revenues on liquor sales.
- ☹ The proposal was touted by the Alcohol and Drug Service (ADAS) of the Department of Social & Rehabilitation Services to be a good opportunity to replace ADAS start up grants which provided declining revenues over the life of the “three year grant”.
- ☹ The Center for Counseling & Consultation (The Center) bought into this plan and organized the community council called for in the legislation, was named as the recipient of the funds for Barton County and the City of Great Bend, and gave up the final year of the ADAS grant.

Today, we have:

- ☹ Demands for the the funds from any organization that can make a claim that it is in anyway related to alcoholism.
- ☹ Funds are being spent on “programs” that range from after prom functions to shelters for domestic abuse.

What we need is:

- ☹ An amended SB 365 which will allow all ADAS certified or licensed programs to be funded.

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Attachment 6

COMMENTS ON SENATE BILL NO. 365  
March 15, 1995

Mr. Chairman, members of the Senate, Federal and State Affairs Committee.

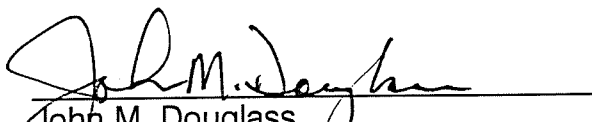
My name is John M. Douglass, and I am the Assistant Chief of Police for the Overland Park Police Department. I am here representing the City of Overland Park in opposition to Senate Bill No. 365 as written. After reviewing the proposed changes to Senate Bill No. 365, it appears that it is the intent of the bill maker to limit the use of alcohol control funds for three specific purposes, prosecution and enforcement, administrative costs and any law enforcement costs.

The City of Overland Park understands the need to delineate the use of these funds but objects to the wording as written. The key language of the bill which states "**no moneys in the special alcohol and drug programs fund shall be expended for any costs of program administration or for any law enforcement costs, including any costs of prosecution.**"

As we read this language, it is the City's position that we are neutral with the decision to prohibit the use of these funds for enforcement or prosecutorial endeavors. Although the City of Overland Park has in the past used funds for prosecution, it is no longer our practice.

In regard to the use of these funds for any administrative functions, the City has in the past used these funds to support the Johnson County Drug and Alcohol Council which is an umbrella of the administrative body whose purpose is to support drug and alcohol rehabilitation and prevention programs. We believe that this is a legitimate purpose for these funds and comply with the original spirit of the bill to focus resources on prevention and rehabilitation.

Our most stringent objection, however, is the language which says "**any law enforcement costs.**" Taken literally, this would inhibit cities from using these funds for drug awareness resistance education since it is sponsored and administered by law enforcement. The D.A.R.E. program in our opinion is an quintessential example of a successful preventive program against the abuse of drugs and alcohol. We are hopeful that this is not the intent of the bill maker and that the language of the bill can be changed to reflect an exemption for law enforcement programs which are clearly preventative and educational in nature.

  
John M. Douglass  
Assistant Chief of Police

Sen Fed & State  
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Attachment 7

K • A • N • S • A • S  
**WINE & SPIRITS**  
WHOLESALE ASSOCIATION, INC.

March 15, 1995

To: Senate Committee on Federal and State Affairs

From: R.E. "Tuck" Duncan

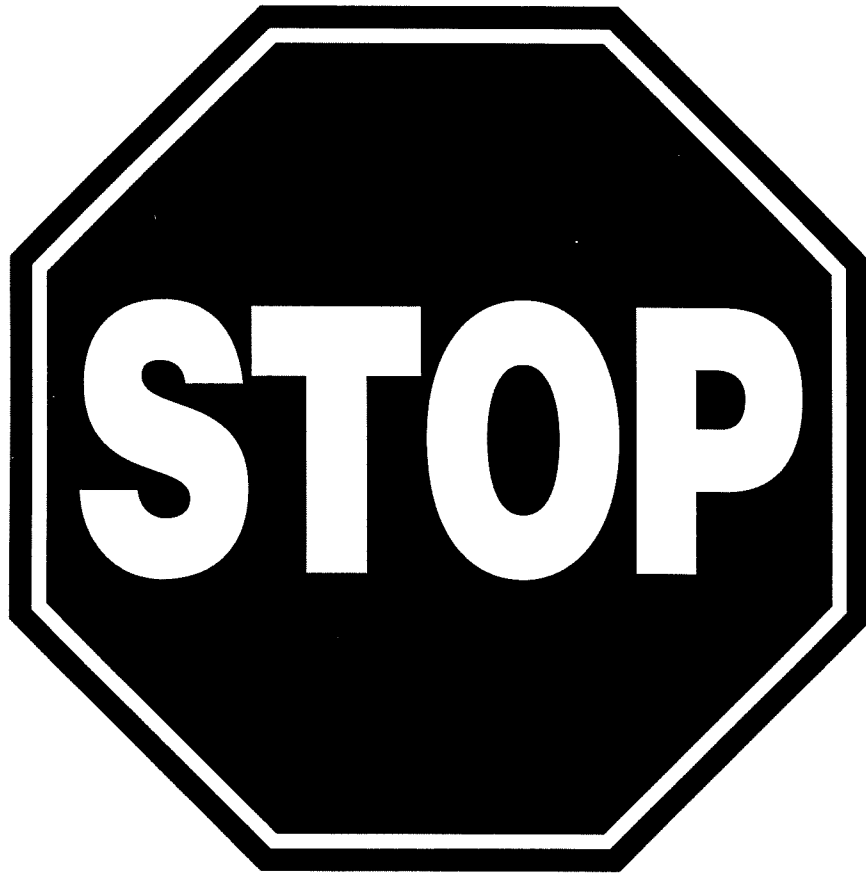
RE: SB 365

Please allow an exception for programs where law enforcement makes efforts to reduce underage purchases of beverage alcohol.

Thank you for your attention to and consideration of this matter.

*On reverse: Cop in Shops poster*

Sen Fed & State  
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Attachment 8



**Under  
21?**

**WARNING:  
"COPS In SHOPS"**

Police Officer May Be Posing  
As An Employee

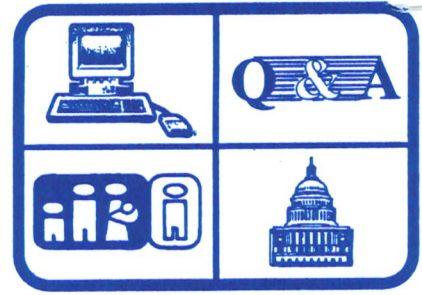
**THE  
CENTURY  
COUNCIL**

*Supported by concerned brewers, vintners, distillers and wholesalers.*



# community resources council

for a better community



March 15, 1995

## TESTIMONY REGARDING SENATE BILL No. 365

Presented by  
James L. Olson, Executive Director  
Community Resources Council of Shawnee County, Inc.

### BACKGROUND

K.S.A. 79-41a04 was originally proposed by alcohol treatment professionals, who sought support from parks and recreation professionals and local governments for a bill that would financially benefit all three interests.

Although all revenue distributed is derived entirely from the consumption of alcohol, the alcohol treatment profession correctly assumed that the bill would have broader support if the revenue pie were shared with local governments. Currently 2/3 of all revenue is retained by local government for their general fund and their parks/recreation programs and facilities. Only the remaining 1/3 is dedicated to alcohol-drug prevention, education, detoxification, intervention and treatment.

Despite the rather generous provisions of K.S.A. 79-41a04 in providing local government 2/3 of all locally distributed revenue from the act, some units of local government have raided the remaining 1/3 of the fund for a wide range of needs whose principal purposes are clearly not alcohol-drug abuse services. As indicated by the recently completed *Performance Audit Report on the Use of Alcoholic Liquor Fund Moneys by Local Units of Government*, there has been widespread use of these funds for purposes other than those intended by the Kansas Legislature and alcohol-drug abuse professionals.

More alarming is the fact that some jurisdictions have raided the special alcohol-drug fund for administration of the fund itself. In defending such actions these local governments appear to have forgotten the fact that 2/3 of the revenue generated by this tax directly benefits local government with few strings attached.

I support this committee's intent in revising the statute to specify unacceptable uses of the special alcohol drug programs fund. You may wish to give further attention to the wording of the amendment regarding prohibition of using the fund for "program administration." None of the abuses mentioned in the Legislative Post Report cited above were related to the administration of specific alcohol-drug programs, but rather the administration of the fund itself by units of local government. I respectfully suggest that substitute wording of "fund administration" or "administration of the special alcohol-drug programs fund" be considered.

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3-15-95  
Attachment 9



United Way  
of Greater Topeka

• 1000 S. Kansas Avenue, Suite 103, Topeka, Kansas 66612 •

(913) 233-1365



# ASSOCIATED YOUTH SERVICES

GIVING KIDS ROOTS TO GROW AND WINGS TO FLY



## TESTIMONY BEFORE SENATE FEDERAL and STATE AFFAIRS COMMITTEE

RE: Senate Bill 365  
March 15, 1995

A. Donald Wise  
Executive Director

### Board of Directors

LeAnn Smith  
Board Chairman

Dan Crabtree  
Vice Chairman

Barbara Carlsen  
Secretary

William Fivecoat  
Treasurer

Ralph Brightwell  
Toby Cooperwood  
Marisa Feagan

Debbie Froelich

Trudie Hall

Daniel Hermreck

Laura Kampschroeder

Marcella Lee

Gary Long

Ana Valdez

My Name is Debra Caro Terrell. I am Director of Program Services for Associated Youth Services, a not-for-profit social service agency headquartered in Kansas City, Kansas. Alcohol and other drug prevention, intervention, and treatment are among the continuum of services we provide to troubled and disadvantaged youth.

I am here today to speak about Senate Bill 365. Specifically, I am concerned about the language of the bill that would prohibit tax dollars from being used for program administration. While I am a strong advocate for ensuring that funding reaches the intended beneficiaries, I also recognize that strategic administrative planning, oversight and evaluation is critical in maximizing the benefit of public dollars.

As a treatment provider, alcohol tax dollars make up a small but important part of the AYS budget. About 3% of our budget comes from alcohol tax funds allocated by the Johnson County Drug and Alcoholism Council. The DAC's centralized system for the review and allocation of

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Attachment 10

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funds allows AYS, and other potential service providers, to receive funding consideration from eight different jurisdictions with one application and one funding presentation. This coordinated allocations process is both cost and time efficient. Without the availability of this coordinated process, my agency and others like it, would probably have to invest eight times the amount of staff time for the same amount of money.

As communities and social service programs are challenged to address the problems of drug and alcohol abuse it is important that we allocate resources for the administrative framework that can ensure quality and accountability. The passing of Senate Bill 365 would prevent eligible programs from using alcohol tax dollars for administration, thereby limiting the effectiveness of oversight bodies such as the DAC.



# THE CITY OF WICHITA



OFFICE OF THE CITY MANAGER  
CITY HALL — THIRTEENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202  
(316) 268-4351  
FAX (316) 268-4519

TESTIMONY RE: SENATE BILL 365  
FEDERAL AND STATE AFFAIRS COMMITTEE  
MARCH 15, 1995

Chairman and members of the Committee, I am Cathy Holdeman, Intergovernmental Relations Director for the City of Wichita. I am here today to speak in opposition to SB 365. This bill would prohibit the use of liquor tax funds for program administration costs, as well as costs associated with law enforcement and prosecution.

The City of Wichita is required by law to place one-third of the liquor tax funds in a special alcohol and drug programs fund. The City of Wichita does use a portion of these funds to cover administrative costs associated with program monitoring, evaluation, contract development and technical assistance to agencies receiving said funds. Senate Bill 365 would prohibit this use.

The City believes that utilization of these funds for administrative purposes is necessary. On an annual basis, staff develops the request for proposal to solicit applications from agencies that would provide substance abuse services (prevention, education, intervention, and treatment) for a complete continuum of care for indigent citizens and persons without resources for medical care.

After the applications have been received, staff reviews, analyzes, and makes specific funding recommendations to the local advisory board, the Wichita-Sedgwick County Alcohol and Drug Abuse Board (ADAAB). Upon determination of actual allocations by the governing bodies, staff develops contracts and memoranda for each agency. Staff monitors program adherence to contractual obligations through on-site monitoring and monthly/quarterly statistical and financial reports. The attached 1995 SPECIAL LIQUOR TAX (ALCOHOL) ALLOCATION INFORMATION SHEET identifies the programs receiving 1995 City/County special liquor tax funds.

The City believes the dollars spent on administration are appropriate to the liquor tax dollars received. Of the total \$1,097,180 in 1995 available funds (City Liquor Tax - \$1,021,930 and County Special Alcohol/Drug Program Funds - \$75,250) \$94,600 (8.6%) was allocated for program administration. It should also be noted that City staff are responsible for all of the program monitoring/evaluation elements for both City and County funded programs.

Looking back a year, shows that the administrative costs have remained fairly

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Attachment 11



constant. Combined City/County funds available in 1994 were \$1,045,566, and \$94,169 (9%) was used for program administration. Staff administrative functions help to guarantee that designated funds are used appropriately and insure that indigent substance abuse services are available to the citizens of Wichita-Sedgwick County.

In addition to program administration, staff is responsible for support for the joint City/County citizen advisory board, coordination with the Kansas Department of Social and Rehabilitation Services, Alcohol and Drug Abuse Services, and technical assistance/coordination with citizens, providers, etc., on substance abuse related issues, programs, and proposals.

Staff funded from these funds (Department Director - 5%; Senior Planner - 100%; Secretary - 33 1/3%; and Associate Accountant - 8%) are completely dedicated to substance abuse program administration. It has been the position of the City that grant funds should provide money for administrative costs associated with overseeing the fund.

The February, 1995 Legislative Post Audit Report on the use of liquor tax moneys has raised the issue of the eligibility of liquor tax moneys for administration. Attached to this testimony is a response to the Legislative Post Audit Report which further states the City of Wichita's position on the appropriate use of these funds for administrative purposes. On page 2 of this report, you will note the numerous administrative actions that must take place to ensure that this money is distributed wisely to community organizations. There are multiple procedures involved in purchasing a new program or service, establishing the program, and maintaining and expanding the program.

In summary, the City believes that administration of the Special Liquor Tax Fund provides accountability to the City of Wichita and the taxpayers and that such costs are eligible. We also believe that City administration has ensured that liquor tax moneys are expended appropriately and that funds are utilized to the benefit of the participants in the most efficient manner.

OFFICE OF THE CITY MANAGER

MAR 14 1995

Please Reply \_\_\_\_\_

Comments \_\_\_\_\_

File \_\_\_\_\_

REFERENCE ITEM 4C  
 ADAAB AGENDA 01/12/95

1995 SPECIAL LIQUOR TAX (ALCOHOL) ALLOCATION INFORMATION SHEET

Community Health Department, Alcoholism Family Counseling Center (AFCC)  
 Ted Jobst, Director  
 714 South Hillside  
 Wichita, Kansas 67211 Telephone: 688-9371  
 1995 Allocation - \$98,710 (City Liquor Tax) Treatment: Inpatient

Mid-American All-Indian Center Indian Alcoholism Treatment Services (IATS)  
 Gayl Edmunds, Director  
 313 North Seneca Telephone: 262-6633  
 Wichita, Kansas 67203  
 General Component - \$44,890 (City Liquor Tax) Treatment: Outpatient  
 Corrections Component - \$10,680 (City Liquor Tax) TOTAL \$55,570

Parallax Program, Inc.  
 Milton Fowler, Director  
 3410 E. Funston  
 Wichita, Kansas 67218 Telephone: 689-6813  
 1995 Allocation - \$73,510 (City Liquor Tax) Treatment: Inpatient

Recovery Services Center, Inc. (RSC)  
 G. Robert Mann, Director  
 1712 West Douglas  
 Wichita, Kansas 67203 Telephone: 265-8546  
 1995 Allocation - Treatment: Inpatient/Outpatient

Detoxification Center	\$179,450	(City Liquor Tax)
Intermediate Treatment	82,710	(City Liquor Tax)
Medical Services	10,000	(City Liquor Tax)
Family Services	20,000	(City Liquor Tax)
	<u>\$292,160</u>	

Big Brothers-Big Sisters of Sedgwick County, Inc. (BB-BS)  
 Nick Mork, Director  
 219 North St. Francis  
 Wichita, Kansas 67202 Telephone: 263-3300  
 1995 Allocation - \$11,330 (City Liquor Tax) Prevention/Intervention

Sedgwick County Mental Health  
Addiction Treatment Services (ATS)  
Chuck Stump, Program Coordinator  
940 North Waco  
Wichita, Kansas 67203  
1995 Allocation -

Telephone: 383-8015  
Treatment: Outpatient

Treatment Component \$47,070 (City Liquor Tax)  
African American  
Component 26,000 (City Liquor Tax)  
\$73,070 (ATC Total City Allocation)  
  
Treatment \$25,000 (County Special Alcohol)  
\$98,070 (ATS's Total Allocations)

Northeast Drug/Alcohol Referral and Tracking Station, Inc. (NEDARTS)  
Edith Knox, Director  
1809 North Broadway, Suite C  
Wichita, Kansas 67214  
1995 Allocation - \$36,910 (City Liquor Tax)

Telephone: 265-8511  
Treatment:  
Outpatient/Intervention

Drug/Alcohol Abuse Prevention Center (DAAPC)  
Helen Harjo, President  
1421 East 2nd Street  
Wichita, Kansas 67214  
1995 Allocation - \$134,750 (City Liquor Tax)

Telephone: 262-2421  
Treatment: Prevention

27,600 (County Special Alcohol/Drug Program Funds)  
\$162,350

Sedgwick County Mental Health  
Women's Alcoholism Treatment Services (WATS)  
Deborah Morgan, Program Coordinator  
~~731 North Water, Suite 2~~ 934 N. Water  
Wichita, Kansas 67203  
1995 Allocation - \$30,570 (City Liquor Tax)  
22,650 (County Special Alcohol/Drug Program Funds)  
\$53,220 (Total Allocation)

Telephone: ~~262-8914~~ 383-8005  
Treatment: Outpatient

Youth Development Services, Inc. (YDS)  
Teen Challenge  
Fran Jackson, Director  
2120 East 13th Street  
Wichita, Kansas 67203  
1995 Allocation - \$19,980 (City Liquor Tax)  
Prevention/Intervention

Telephone: 264-8921  
Treatment:

Marty Hughes - 7591  
383-7159  
FAX - 7729  
7607

Mental Health Association of South Central Kansas (MHASCK)  
Pathways Program  
Linda Stiefel, Director of Program and Resource Development  
555 North Woodlawn, Suite 3105  
Wichita, Kansas 67208  
1995 Allocation - \$13,790 (City Liquor Tax)

Telephone: 685-1821  
Prevention/Intervention

A New Beginning  
Lorenzia Harding, Director  
303 N. Hillside  
Wichita, Kansas 67208  
1995 Allocation - \$25,000 (City Liquor Tax)  
Groups

Telephone: 689-8889  
Treatment: Outpatient/Support

Miracles, Inc.  
Sue Neely, Director  
1236 North Market  
Wichita, Kansas 67214  
1995 Allocation - \$31,570 (City Liquor Tax)  
Reintegration

Telephone: 264-5900  
Treatment: Inpatient

DCCCA, Inc.  
Women's Recovery Center  
Central Kansas  
Mary Jo Hill, Director  
309 N. Market  
Wichita, Kansas 67203  
1995 Allocation - \$15,400 (City Liquor Tax)

Telephone: 262-0505  
Treatment: Inpatient

City of Wichita  
Human Services Department  
Earline Wesley, Director of Human Services  
Mary Davis, Senior Planner  
ADAAB Staff Support  
455 North Main, Second Floor, City Hall  
Wichita, Kansas 67202  
1995 Allocation - \$94,600 (City Liquor Tax)

Telephone: 268-4691

Contingency \$15,010

Grand Total \$1,097,180  
(\$1,021,930 City Liquor Tax)  
(\$75,250 County Special Alcohol/Drug Program Funds)



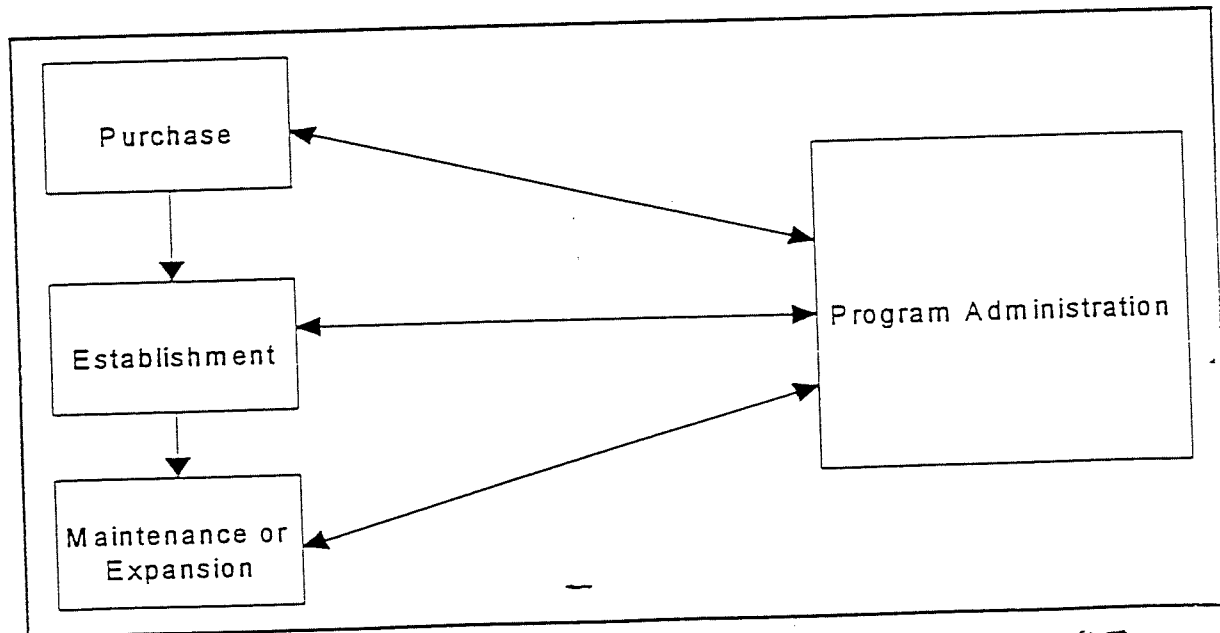
# CITY OF WICHITA

## Management Response to Legislative Division of Post Audit Report: "Use of Alcoholic Liquor Fund Moneys by Local Units of Government"

The scope of the audit was to determine "Are local units of government spending the money in their Special Alcohol and Drug Program Funds for unauthorized purposes?" Specifically, the audit report found the City of Wichita not in compliance for having expenditures of \$101,560 in program year 1994 for Program Administration which does not appear to meet the criteria set forth in K.S.A. 79-41a04. The City of Wichita believes the Program Administration expenses are appropriate and necessary to ensure accountability, the efficient use of liquor tax receipts and is a direct activity in the purchase, establishment, maintenance, or expansion of drug and alcohol programs.

The law states that receipts in the Special Alcohol Fund "...shall be expended only for the purchase, establishment, maintenance or expansion of services or programs whose principal purpose is alcoholism and drug abuse prevention and education, alcohol and drug detoxification, intervention in alcohol and drug abuse or treatment of persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers."

Below is a chart indicating how the Program Administration directly supports the purchase, establishment, maintenance or expansion of services or programs. Note that the City of Wichita also provides administration for the Sedgwick County Special Alcohol Fund.



Program Administration is an integral part of the processes to purchase, establish and maintain or expand programs whose principal purpose is alcoholism and/or drug abuse prevention, etc. Procedures are outlined for each of the three processes - including how

Program Administration is a key element to effectively implement the procedures with some certainty of accountability.

Procedures for purchasing a new program or service are as follows:

1. Programs and Services to be purchased are identified through a plan developed by the Alcohol and Drug Abuse Advisor Board (ADAAB). The administration provides clerical and staff support in developing this plan as well as providing research and recommendations during the plan development.
2. An RFP is issued and proposals are received for the following fiscal year. Proposals are submitted and reviewed by administration to ensure the proposals are in compliance with regulations governing the use of Special Alcohol Funds. Additional comments regarding how the proposals address the plan objectives are provided to ADAAB by the administration. The administration also reviews the proposals to ensure duplicate funding is not awarded for individual programs and/or services. This step ensures that quality programs are funded rather than funding programs on a first come first serve basis.
3. Questions regarding compliance with Special Alcohol Regulations are referred to the City of Wichita Law Department for review and approval. An attorney has been assigned responsibility for the Special Alcohol Fund.
4. ADAAB recommends projects and funding levels to the City Council and the County Commission for approval.
5. The projects and funding levels are approved by the City Council and County Commission (a unanimous vote by the County Commission is required to overturn the recommendation by the ADAAB board).

Procedures for establishment of a program are as follows:

1. Administration develops a contract for each program or service approved by the City Council and County Commission. City contracts have provisions for payments to be on a cost reimbursement basis.
2. The contract is reviewed by the City of Wichita Law Department.
3. The contracts are amended by administration based upon the Law Department review.
4. Contracts are approved by the City Council and County Commission.
5. Administration provides budget/financial information to the Finance Department for internal control of payment.

Procedures for maintenance or expansion of a program are as follows (Note - expansion of a program would fall under procedures for purchasing a new program.):

1. Request for payment is reviewed by administration to ensure contract compliance prior to approval of payment.

2. Unauthorized requests are denied payment and the request for payment is adjusted accordingly.
3. In addition, administration conducts on-site monitoring of client files, procedures, etc. to ensure the recipient is in compliance with the terms of the contract.
4. Administration provides technical assistance, such as financial planning, budgeting, record keeping, keeping adequate performance documentation on file, etc.

In summary, the administration of the Special Alcohol Fund provides accountability to the City of Wichita and the taxpayers that the tax receipts are expended appropriately as well as ensuring the tax receipts are utilized to benefit the participants in the most efficient manner. The administration expense of the Special Alcohol Fund is a direct activity in the "...purchase, establishment, maintenance, or expansion of services or programs whose principal purpose is alcohol and drug abuse prevention and education..."

The audit report also identified two programs which sufficient documentation was not obtained for the State Legislative Post Auditor to determine whether the expenditures complied with the law. The two programs are "After-care for youth in custody" for \$19,980 and a "Summer program for middle & elementary students" for \$15,000. Additional information about the programs (discussed below) is needed in order to clearly understand the intent of the program.

The Aftercare program for youth in custody (\$19,980) is a program that provides aftercare service to SRS youth who have been juvenile offenders or former gang members. Aftercare is defined as services for youth that have re-entered society after juvenile court procedures. The performance criteria within the contract does not specifically address how the moneys are to be used in accordance with criteria set forth in State law. Prior to approval of funding the program for fiscal year 1996, the contract agreement and objective of the program shall clearly identify the principal purpose of the program as it relates to alcoholism and drug abuse prevention, education, detoxification, intervention, or treatment. The Aftercare program was approved based on the assumption that juvenile offenders have either an alcohol or drug abuse problem or are at a high risk of becoming alcoholics or drug abusers. The Aftercare program provides intense counseling with twenty youth and the parents/guardians to intervene and/or prevent the participant from drug abuse or alcoholism.

The Summer Youth, Recreational, Educational and Employment Project (\$15,000) is a summer project with a goal to provide prevention programs that address the risk factors which contribute to substance abuse and youth violence among children between the ages of 5 to 14. These individual risk factors are addressed through the integration of educational, recreational, vocational and social programs. The Summer Youth Program provides six weeks of program services designed to prevent Sedgwick County children from using/abusing illegal drugs and alcohol and associating with gangs or gang related violence. Proper purchasing procedures were used in acquiring The Summer Youth Program, including a review of the proposal by the City of Wichita Law Department which determined the program a permissible expenditure under KSA 79-41a04. Because the Summer Youth Program meets the criteria of the state statute.....principal purpose of substance abuse prevention, education and intervention.....the

City of Wichita believes the Summer Youth Program expenditure is in compliance with state law.

The City of Wichita concurs with the recommendations requesting the Legislature to clarify whether administrative costs, or law enforcement costs including prosecution, are in accordance with the criteria set forth in the State Law. The City of Wichita would like to emphasize the importance of Program Administration to effectively manage and account for expenditures within the Special Alcohol Fund and Program Administration is a direct activity in supporting the purchase, establishment and maintenance of programs and/or services.

In addition, the recommendation for the Legislature to "state whether agencies or organizations whose principal purpose is not alcohol and drug abuse prevention,..... can get these moneys, and if so, under what conditions" will clarify and impact how future appropriations are prioritized and awarded. The City of Wichita believes effective drug and alcohol abuse programs can be provided by an agency whose principal purpose is not alcohol and drug abuse prevention, detoxification, intervention, or treatment. In other words, a program could be established which meets the principal purpose criteria within an agency or organization who does not meet the principal purpose criteria.



# City of Lawrence KANSAS

CITY COMMISSION  
MAYOR  
JOLENE ANDERSEN  
COMMISSIONERS  
BOB MOODY  
DOUG COMPTON  
JOHN NALBANDIAN  
ROBERT C. SCHULTE

MIKE WILDGEN, CITY MANAGER

CITY OFFICES 6 EAST 6th  
BOX 708 66044-0708 913-832-3000  
TDD 913-832-3205  
FAX 913-832-3405

March 15, 1995

Senator Sandy Praeger  
128-S  
Statehouse  
Topeka, Kansas 66612

Dear Senator Praeger,

The City of Lawrence urges you to oppose Senate Bill 365 which would alter the ability of Kansas cities to spend special alcohol funds on program administration, law enforcement or prosecution costs. This bill represents an attempt to unnecessarily interfere with local priorities in spending these important funds to combat alcohol and substance abuse problems in communities across Kansas. If any alterations are made to this state law it should be to clarify that law enforcement and prosecution efforts are explicitly allowed for funding with alcohol tax dollars.

Historically, Lawrence has used these tax dollars -- which are spent by residents and visitors in Lawrence -- to fund prevention, treatment, law enforcement, and prosecution efforts aimed at alcohol and substance abuse problems. It is entirely appropriate to use these funds in this manner. Lawrence's uses include funding alcohol recovery counseling entities, battered women shelters, and DCCCA - a regional substance abuse counseling program. Other uses have included community policing efforts and funding prosecution efforts. Much of the crime and resulting adjudications are related to alcohol and substance abuse.

This bill is really about who should set local priorities for these tax dollars. In past City budgets, the Lawrence City Commission has determined that treatment and prevention programs should receive some of these tax dollars. It has also determined that certain police and prosecution efforts related to alcohol and substance abuse should also be funded. Each community is different, and each community's priority for these funds will be different. In Lawrence, with over 30 drinking establishments and bars in our downtown, specialized police patrols and prosecution emphasis on underage drinking and DUIs is a locally determined priority to intervene in substance abuse problems. Other cities would fund other priorities.

Attachment 12



Page 2  
Senator Sandy Praeger

City Commissions and councils must effectively manage their limited resources based on their priorities. Substance abuse treatment programs and counseling are clearly appropriate -- Lawrence funds these programs as well. This is not an argument about the value of treatment and counseling versus enforcement and prosecution -- it is an argument about who should decide local priorities in dealing with alcohol and substance abuse problems. To take funding away from police officers and prosecutors when these programs have been seen as local priorities in combatting alcohol and substance abuse is not wise public policy and violates principles of home rule. If a city governing body directs that "prevention" and "intervention" in alcohol and drug abuse includes law enforcement, prosecution and adjudication efforts reasonably related to alcohol and drug abuse, why is it appropriate for the Legislature to change these local priorities? We would urge the Legislature to amend this law to clarify that law enforcement and prosecution are explicitly authorized for these funds.

Respectfully,



Mike Wildgen  
City Manager

c: City Commission



**League  
of Kansas  
Municipalities**

LEGAL DEPARTMENT · 300 S.W. 8TH TOPEKA, KS 66603 · TELEPHONE (913) 354-9565 · FAX (913) 354-4186

**LEGISLATIVE TESTIMONY**

**TO:** Senate Committee on Federal and State Affairs

**FROM:** Don Moler, General Counsel

**RE:** Opposition to SB 365

**DATE:** March 15, 1995

First I would like to thank the Committee for allowing the League to appear today in opposition to SB 365. Specifically the bill provides that no moneys in special alcohol and drug programs fund shall be expended for any cost of program administration or for any law enforcement costs, including any costs of prosecution. The League unconditionally opposes the restriction of the use of this money as SB 365 intends. We firmly believe that drug abuse prevention and intervention includes preventing and limiting the availability of certain illegal substances and includes limiting and regulating drugs and alcohol in our society. We believe that cities, and their elected local governing bodies, are the appropriate level of government to determine where and how these funds are to be used.

We do not dispute the fact that there are many worthy causes, all of which deserve to be funded. We further do not disagree that there are always limited resources and that not all groups have achieved the level of funding which they would desire and that this can lead to tensions in the decision making process at the local level. We would submit, however, that it still does not make it appropriate for the legislature to superimpose its judgement for the spending of these moneys on locally elected governing bodies. It is appropriate for these decisions to be made at the local level as they have for a number of years. We would further submit that an entity feeling it deserved more of the alcohol and drug program funds should make its plea not to the state legislature, but to the locally elected governing body of the city in which it is located.

We therefore oppose any modification to the existing statutory language and recommend defeat of SB 365.

COMMENTS ON SENATE BILL #365  
MARCH 15TH, 1995

Mr. Chairman, Members of the Senate Federal and State Affairs Committee:

My name is Georgia Erikson. I am a member of the Overland Park, Kansas, City Council, and Chairperson of that Council's Public Safety Committee. For many years, I have been involved with the growth and development of the Overland Park Police Department. I have been particularly close to the budgeting issues confronting that department, as it sought to find new ways to effectively meet the needs of our community.

I am here today in opposition to Senate Bill 365, which would specifically prohibit cities in Kansas from using Alcohol Control funds in support of any law enforcement costs, including such activities as the D.A.R.E. program. I am at a loss in trying to understand the reasons for establishing such a prohibition, and I am deeply concerned that passage of this bill would undermine some of our police department's most important and successful programs.

In Overland Park, we use Alcohol Control funds to partially support the D.A.R.E. program. The D.A.R.E. program has been offered in our city for five years now. In that time, it has become a popular and respected element of our police department's service to the community. I would venture to say that virtually every voter in Overland Park thinks the program is necessary; over the years that I have been on the Council, I have never heard constituents criticize the program. They have had only words of praise and support, because they recognize the importance of educating our children to avoid drugs and alcohol, and they understand the unique role of the specially-trained police officers in the D.A.R.E. program.

My reading of Senate Bill 365 tells me that the principal purpose for which Alcohol Control funds can be used is "alcoholism and drug abuse prevention and education". This is precisely what the D.A.R.E. program is all about. The officers who present the program are not present in the schools as investigators, and do not engage in enforcement activities under normal circumstances. They are there specifically as educators, bringing their powerful moral authority to thousands of students each week. If such education is, in fact, the primary purpose of Alcohol Control fund expenditures, I do not understand why the present Senate Bill seeks to exclude one of the most effective programs of drug abuse education in this State.

*written  
only*

*Attachment 14*