

Approved: 3/28/97
Date

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

The meeting was called to order by Chairman Al Lane at 9:05 a.m. on March 6, 1997 in Room 526-S of the Capitol.

All members were present except: Rep. David Adkins - excused
Rep. Garry Boston - excused
Rep. Broderick Henderson - excused

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

Conferees appearing before the committee: Susan Somers, Ex. Dir.-Board of Accountancy
Charles Simmons, Secretary of Corrections
Dan Stanley, Secretary of Administration
Kathy Metcalf, Personnel Services, Dept. of Adm.
Dale Finger, Associate Dir., KBI
Lt. Terry Maple, Kansas Highway Patrol
E. Dean Carlson, Secretary of KDOT
Scott Stone, KAPE

Others attending: See attached list

The minutes of February 11, 12, 13, and 14 were passed out to the committee. They will be approved at the next meeting.

Hearing on: **HB 2298 - Permitting certified public accountant examinations to be performed by a private service.**

Susan Somers, Executive Director of the Board of Accountancy, appeared before the committee as a proponent of the bill. The Board is the state licensing and regulatory agency for certified public accountants. In January of 1997, they privatized their CPA examinations. The bill makes language changes to allow for an entity other than the Board of Accountancy to administer its CPA examination. Other changes concern certificate fees and duplicate certificate fees. (see Attachment 1) She ended her testimony by answering questions from the committee.

Chairman Lane read the fiscal note for the bill. The fiscal impact would be negligible. No others were present to testify and the hearing was closed.

Hearing on: **HB 2155 - Drug screening program for certain state officers and employees and applicants for state employment.**

Charles Simmons, Secretary of the Department of Corrections, supports the passage of the bill which was requested by his department. Current law prohibits an appointing authority from taking disciplinary action solely due to a positive drug test result unless the employee has previously had a valid positive drug test or refuses to participate in a drug evaluation and recommended educational or treatment programs. This bill permits an appointing authority to take disciplinary action against an employee who has tested positive for illegal drug use or require the employee to undergo a drug evaluation and successfully complete any education or treatment program recommended as a result of the evaluation or both. It would also add non safety sensitive employees working within a correctional facility to be required to submit to drug screening based upon a reasonable suspicion of illegal drug use. (see Attachment 2) Secretary Simmons concluded by answering questions from the committee.

Dan Stanley, Secretary of the Department of Administration, appeared as a proponent of the bill. They feel that the use of illegal drugs by state employees in certain positions of sensitivity poses a special risk to public safety and effective law enforcement. In his view, zero tolerance of illegal drug use is good policy for the State of Kansas. (see Attachment 3) He ended his testimony by answering questions.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR, Room 526-S
Statehouse, at 9:05 a.m. on March 6, 1997.

Kathy Metcalf, Public Service Executive, Division of Personnel Services, answered the question of whether designated positions are listed in the laws making up the State Drug Screening Program.

Dale Finger, Associate Director of the Kansas Bureau of Investigation (KBI), appeared before the committee representing Larry Welch, Director of the KBI. They share the opinion that zero tolerance for illegal drug use by persons employed in safety sensitive positions should be state policy and state law. He also named the drugs that are covered by the drug testing, which are defined in the rules and regulations. The KBI strongly supports the bill. (see Attachment 4)

Lt. Terry Maple, Kansas Highway Patrol, appeared on behalf of Patrol Superintendent, Lonnie McCollum to express support for the bill. They feel that they need strong statutory backing when it comes to the elimination of illicit drug use in the workplace. He sees the legislation as proactive, they need to be prepared before drug problems escalate. (see Attachment 5)

E. Dean Carlson, Secretary of the Kansas Department of Transportation (KDOT), appeared in support of the bill. At KDOT, the employees who hold a valid Commercial Drivers License (CDL) are tested as required by federal law. The question has arisen about this inconsistent treatment of their CDL employees versus other employees of KDOT. The department asks for an amendment: "all employees of an agency, as defined by K.S.A. 21-3826 and amendments thereto, may be subject to drug screening based upon reasonable suspicion of illegal drug use." (see Attachment 6) He ended his appearance by answering questions.

Scott Stone, Executive Director and Chief Counsel, Kansas Association of Public Employees (KAPE), appeared before the committee to voice KAPE's concern over certain parts of the bills. They urge the committee to report this bill unfavorably or at the least, remove all of the new language except for new subsection (g). (see Attachment 7) Chairman Lane asked him to return on Friday to answer questions from the committee.

The hearing on **HB 2155** will be continued tomorrow.

Chairman Lane adjourned the meeting at 10:02 a.m.

The next meeting is scheduled for March 7, 1997.

HOUSE BUSINESS, COMMERCE & LABOR COMMITTEE GUEST LIST

DATE: March 6, 1997

NAME	REPRESENTING
P. Lipsley	AA
Bill Watts	KDOT
Connie Hafenstine	KDOT
Nancy Bogina	KDOT
Dean Carlson	KDOT
Terry Maple	KHP
Robin Linticum	
JAN PISENBERGER	KGC
Stanley Sutton	Lab Improvement Program KHEL - KDHE
Dale Finger	KBI
SCOTT STONE	KAPE
Charles Simmons	Dept. of Corrections
DAN STANLEY	Dot A
Kathy Metral	WJA

STATE OF KANSAS
BOARD OF ACCOUNTANCY

SUSAN L. SOMERS
EXECUTIVE DIRECTOR
TELEPHONE (913) 296-2162



LANDON STATE OFFICE BUILDING
900 S.W. JACKSON STREET, STE. 556
TOPEKA, KS 66612-1239

TESTIMONY ON HB 2298

By Susan Somers
Executive Director
State Board of Accountancy

March 6, 1997

*Business, Commerce
& Labor Committee
3/6/97
Attachment 1*

Mr. Chairman, members of the Committee, my name is Susan Somers and I am the Executive Director of the Board of Accountancy. I am here today to give testimony in favor of HB 2298.

The Kansas Board of Accountancy is the state licensing and regulatory agency for certified public accountants. The board consists of seven members; 5 permit-holding CPAs and two public members.

In January of 1997, the Board of Accountancy contracted with CPA Examination Services, a division of the National State Boards of Accountancy, to administer the Uniform CPA Examination in Kansas. Kansas joined 27 other states that have privatized their CPA examinations. HB 2298 makes language changes to allow for an entity other than the Board of Accountancy to administer its CPA examination, to provide for fees to be paid directly to the administering entity, and also to allow the Board to charge for duplicate certificates and permits to practice.

The decision to privatize the administration of the examination was based upon several factors, including the need for tighter security due to the examination becoming completely confidential in 1996. This required the use of Brinks Security Service for delivery and pickup of the exams, and the need for restricted access and locked vault facilities during the time of the examination. With a view to computerization of the CPA examination, the American Institute of Certified Public Accountants will be developing a bank of examination questions and is therefore not allowing examination candidates from November 1996 forward to keep the examination booklets.

The Board is volunteer and meets on at least seven occasions each year, in addition to spending many hours during the year dealing with national and state-wide issues facing the CPA profession and investigating complaints on their own time. Spending an additional four full days each year to monitor the CPA examination was becoming excessive.

Regardless of the above, the Uniform CPA Examination is to become computerized in the future, thereby enabling examination candidates the ability to walk into a computer facility at any time to take the examination, which means that the Board of Accountancy would not directly administer the examination.

Language changes are made to separate the initial certificate fee which is currently incorporated with the initial examination application fee, and further to allow the Board to charge a fee for duplicate certificates.

Language also was added to charge a fee for the issuance of duplicate permits.

The Board of Accountancy respectfully requests that the proposed changes be accepted and the bill be passed as presented.

I will be happy to answer any questions that the Committee may have.



DEPARTMENT OF CORRECTIONS
OFFICE OF THE SECRETARY
Landon State Office Building
900 S.W. Jackson — Suite 400-N
Topeka, Kansas 66612-1284
(913) 296-3317

Bill Graves
Governor

Charles E. Simmons
Secretary

MEMORANDUM

Date: March 6, 1997
To: Business, Commerce and Labor Committee
From: Charles E. Simmons, Secretary
Subject: HB 2155

The Department of Corrections supports HB 2155. HB 2155 amends the provisions of K.S.A. 75-4362 which govern drug screening for state officials and employees. Current law prohibits an appointing authority from taking disciplinary action solely due to a positive drug test result unless the employee has previously had a valid positive drug test or refuses to participate in a drug evaluation and recommended educational or treatment programs. HB 2155 permits an appointing authority to take disciplinary action against an employee who has tested positive for illegal drug use or require the employee to undergo a drug evaluation and successfully complete any education or treatment program recommended as a result of the evaluation or both. Additionally, pursuant to HB 2155, non safety sensitive employees working within a correctional facility, while not subject to pre employment drug testing, could be required to submit to drug screening based upon a reasonable suspicion of illegal drug use.

HB 2155 would not penalize employees who report their substance abuse and request treatment prior to detection by a positive drug test, nor would it require an appointing authority to forego referring an employee to a drug evaluation and treatment program. HB 2155 would, however, permit state agencies to take appropriate disciplinary action against employees engaged in safety sensitive positions or working within a correctional institution who test positive for illegal drug use even if the employee had not previously been tested for illegal drug usage. Disciplinary action would remain subject to appeal to the Civil Service Board.

The current provisions of K.S.A. 75-4362 do not adequately address the needs of the Department of Corrections. If the department prudently responds to a suspicion of illegal drug use by an

*Business, Commerce
& Labor Committee
3/6/97
Attachment 2*

employee before the employee has the opportunity to jeopardize the safety and security of a correctional facility, current law does not allow the officer to be disciplined. The department has encountered a situation in which local law enforcement officers executed a search warrant on an individual's residence. That residence also appeared to be occupied by a correctional officer. A substantial quantity of marijuana was seized at the residence. The officers executing the search warrant noted the presence of the corrections officer's uniform and mail addressed to the officer bearing the address of the residence. The officer was en route to the facility at the time of the raid on the house. Police officers advised the facility of the evidence recovered at the residence. Based upon that information, the officer was requested to submit to a drug test prior to his being allowed to assume his duties. The officer tested positive for marijuana usage. Disciplinary action was not an available option due to the current provisions of K.S.A. 75-4362.

The mission of the department is well served by HB 2155. A substantial number of offenders incarcerated by the department have a history of substance abuse. Officials involved in the incarceration of those offenders should serve as a role model. Additionally, as part of their duties, corrections officers must strictly enforce the prohibition against the possession and use of illegal drugs by the inmate population. A double standard for the use of illegal drugs by officers is not consistent with the mission of the department. Additionally, the use of illegal drugs by corrections officers adversely affects their ability to perform their duties, subjecting themselves, other staff, inmates and the public to danger. Illegal drug usage on the part of an officer also raises a concern regarding the introduction of drugs into a correctional facility.

HB 2155 also authorizes subjecting any person employed within a correctional institution to drug testing based upon a reasonable suspicion of illegal drug use. Drug testing based upon a reasonable suspicion of illegal drug use by any person working within a correctional facility is advisable since all personnel within a correctional facility are authorized and required to enforce the department's disciplinary rules. Likewise, illicit drug usage by anyone within a correctional facility presents a threat to the safety and security of the facility.

The department urges favorable consideration of HB 2155.

CES:TGM/nd

Testimony To The
HOUSE BUSINESS, COMMERCE and LABOR COMMITTEE

By
Dan Stanley, Secretary
Department of Administration

Wednesday, March 6, 1997
RE: House Bill 2155

Good morning. Thank you for the opportunity to appear before you today in support of House Bill 2155. The Drug Screening Program and the Alcohol and Controlled Substance Testing Program for Commercial Drivers are components of the State's comprehensive Drug-Free Workplace Program established as an on-going campaign against alcohol and drug abuse. The use of illegal drugs by state employees in certain positions of sensitivity poses a special risk to public safety and effective law enforcement.

K.S.A. 75-4362 and 4363 authorize and implement the Drug Screening Program for safety-sensitive positions. The legislation was originally signed into law on April 15, 1988, and the program was implemented November 1, 1988. On July 1, 1991, additional legislation was signed into law which authorized the expansion of the Drug Screening Program to include positions located in the mental health and retardation facilities of SRS. The Alcohol and Controlled Substance Testing Program for Commercial Drivers was implemented on January 1, 1995, in compliance with guidelines established by the Federal Highway Administration as mandated by the federal Omnibus Transportation Employee Testing Act of 1991. Both programs emphasize rehabilitation after the first positive test result, and both require termination after a second positive result or the equivalent, which includes not completing rehabilitation. The success of rehabilitation is estimated by the percentage of negative test results after treatment. The Drug Screening Program has had a 64% rehabilitation rate and the CDL program has had a 75% rehabilitation rate. A handout I have provided you shows the breakdown of the numbers of drug and alcohol tests administered, number of positive first and second tests, and the rehabilitation rates for both programs.

Currently, the Drug Screening Program and the Commercial Driver's License Alcohol and Drug Testing Program do not allow for the termination of an employee based solely on a first-time positive test result. Currently, upon a first-time positive test result, mandatory treatment referral is required for the employee to continue employment with the State. Although the Department of Administration supports the concept of rehabilitation for employees who have a first-time positive test result, we believe that certain circumstances may arise that require stricter discipline. This bill would allow state agencies the flexibility to terminate an employee after one positive test result if necessary to ensure a safe environment for both employees and customers of the state.

Employees in these types of positions are often directly responsible for security, public safety, or the welfare of clients and patients of the State.

In my view, zero tolerance of illegal drug use is good policy for the State of Kansas. I support Secretary Simmons in his quest for a drug-free workplace in prisons where safety is of the utmost concern to all Kansas citizens. It is important for the Department of Corrections to extend drug-testing to all of its employees upon reasonable suspicion in the name of public safety. The Department of Corrections has consistently had the most activity since the inception of the Drug Screening Program and needs the flexibility to expand that activity. As we have all heard on recent news stories about the increasing prevalence of drugs inside prisons, it is important that the State of Kansas take this proactive step to eliminate illegal drug use by employees.

The Department of Administration encourages the committee to pass this bill. Thank you for your attention. I would be happy to provide you with any additional information or stand for questions.

G:\MSS\LEGISLAT.97\TESTIMON.97\HB2155.TST, March 5, 1997

STATE OF KANSAS DRUG SCREENING PROGRAM

Fiscal Year	# of Tests Administered	# of 1st Positive Tests	% of Positive Tests	# of 2nd Positive Tests or Equivalent	Rehabilitation Rate
89	400	1	.25	0	100%
90	454	2	.44	0	100%
91	441	1	.23	1	0%
92	521	0	0	0	n/a
93	731	0	0	0	n/a
94	629	0	0	0	n/a
95	767	3	.39	1	67%
96	637	3	.47	1	67%
97*	436	1	.23	1	0%
TOTAL	5016	11	.22	4	64%

**ALCOHOL & SUBSTANCE ABUSE TESTING PROGRAM for COMMERCIAL DRIVERS -
DRUG TESTS**

FY	# of Tests Administered	# of 1st Positive Tests	% of Positive Tests	# of 2nd Positive Tests or Equivalent	Rehabilitation Rate
95	132	1	.76	0	100%
96	1700	33	1.94	6	82%
97*	1005	10	1.00	6	40%
TOTAL	2837	44	1.55	12	73%

**ALCOHOL & SUBSTANCE ABUSE TESTING PROGRAM for COMMERCIAL DRIVERS -
ALCOHOL TESTS**

FY	# of Tests Administered	# of 1st Positive Tests	% of Positive Tests	# of 2nd Positive Tests or Equivalent	Rehabilitation Rate
95	89**	0	0	n/a	n/a
96	929	3	.32	0	100%
97*	389	1	.26	0	100%
TOTAL	1407	4	.28	0	100%

* FY 97 numbers are year to date.

** Includes pre-employment which we no longer administer by federal order.



Kansas Bureau of Investigation

Larry Welch
Director

Carla J. Stovall
Attorney General

February 17, 1997

Chuck Simmons
Secretary of Corrections
Landon State Office Building
900 S.W. Jackson
Suite 400 North
Topeka, Kansas 66612-1284

Dear Chuck:

Please be advised that the Kansas Bureau of Investigation strongly supports your proposal (House Bill 2155) to amend K.S.A. 75-4362, the State Drug Screening Program, to authorize discipline, including the possibility of termination from employment, of employees in safety sensitive positions who test positive for illegal drug use.

I share your opinion that zero tolerance for illegal drug use by persons employed in safety sensitive positions should be state policy and state law.

Common sense dictates that any use of illegal drugs by employees in safety sensitive positions creates a double standard for officers charged with making life and death decisions and who enforce our narcotic laws and incarcerate drug offenders.

Sincerely,

Larry Welch
Director

LW/pjs

*Business, Commerce
& Labor Committee
3/6/97
Attachment 4*

**Kansas Highway Patrol
Summary of Testimony
1997 House Bill 2155
before the
Committee on Business, Commerce and Labor
presented by
Lieutenant Terry Maple
March 6, 1997**

Good morning Mr. Chairman and members of the committee. My name is Terry Maple and I appear before you on behalf of Patrol Superintendent, Lonnie McCollum, to express support for House Bill 2155.

The Kansas Highway Patrol is keenly aware of the negative repercussions that result from the use of illicit drugs in the workplace. It is a well known fact that illicit drug usage tremendously reduces the overall performance of employees and impairs judgment and decision-making abilities. This is extremely critical in the law enforcement profession where officers are routinely required to make split-second decisions with life and death implications. Such decisions obviously require a complete presence of the officer's mental faculties.

Although the Patrol has not had any problems of this nature, we feel to protect the State of Kansas, it's employees and the public that we serve, it is paramount that we have strong statutory backing when it comes to the elimination of illicit drug usage in the workplace. House Bill 2155 provides such backing by giving state agencies the authority to dismiss employees in those instances where our collective safety has been jeopardized.

I thank you for having been given the opportunity to speak to you this morning. In closing, I would ask that you give serious consideration to passing House Bill 2155 and its safety-sensitive provisions.

#####

*Business, Commerce
& Labor Committee
3/6/97
Attachment 5*



KANSAS DEPARTMENT OF TRANSPORTATION

E. Dean Carlson
Secretary of Transportation

Docking State Office Building
Topeka 66612-1568
(913) 296-3566
TTY (913) 296-3585
FAX (913) 296-1095

Bill Graves
Governor of Kansas

**TESTIMONY BEFORE
HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE**

**REGARDING HOUSE BILL 2155
DRUG SCREENING PROGRAM FOR CERTAIN STATE OFFICERS AND
EMPLOYEES**

MARCH 6, 1997

Mr. Chairman and Committee Members:

I am Dean Carlson, Secretary of the Department of Transportation. On behalf of the Department of Transportation, I am here today to testify in support of House Bill 2155 regarding the drug screening program for state officers and employees.

The Department of Transportation has approximately 1,750 employees who are required by KDOT policy to hold a valid Commercial Drivers License (CDL) as a condition of employment. In conjunction with the Department of Administration, we administer a controlled substance and alcohol testing program for these employees as required by federal law.

Over the years, the agency has had concerns with drug use by its employees. When the issue of drug testing was raised, there seemed to be a question of the agency having the legal authority to proceed with testing. When KDOT implemented the CDL drug and alcohol testing program, we received information that the problems with drug use were not restricted to those who are CDL holders.

Since I have been Secretary of the Department, I have conducted a number of employee forums across the state to meet with employees and discuss their concerns on work issues. A reoccurring topic at these meetings in our field offices has been the inconsistent treatment of CDL employees versus other employees. Our CDL employees believe there is unequal treatment for them because they are subject to drug and alcohol testing and other employees are not.

The State of Kansas has a Drug Free Workplace Policy, which new employees are asked to sign upon employment, which states "reporting to work or performing work for the state while impaired by or under the influence of drugs or alcohol is prohibited." We request that HB 2215 be amended to provide the statutory authority to conduct reasonable suspicion testing for any employee of the Department of Transportation. Language in the bill could state that any state agency which has an ongoing drug testing program may develop and implement a reasonable suspicion drug testing program with approval from the Director of the Division of Personnel Services.

*Business, Commerce
& Labor Committee
3/6/97
Attachment 6*



1300 South Topeka Avenue Topeka, Kansas 66612 913-235-0262 Fax 913-235-3920

TESTIMONY OF SCOTT A. STONE
Executive Director and Chief Counsel,
Kansas Association of Public Employees (KAPE)

Before the House Committee on Business, Commerce and Labor

March 6, 1997, 9:00 a.m.
State Capitol, Room 526-S

Testimony in opposition to parts of HB 2155

My name is Scott A. Stone and I am the Executive Director and Chief Counsel for the Kansas Association of Public Employees (KAPE). Mr. Chairman and members of the committee, I appreciate the opportunity to appear before you today to voice KAPE's concern over certain parts of HB 2155.

We see this Bill as making four major changes. They are:

1. The introduction of arbitrary decision making by state managers;
2. The removal of the major policy statement that encourages rehabilitation of sick employees into productive workers;
3. The removal of the prohibition of public disclosure of drug test information; and
4. The inclusion of probable cause testing for corrections officers.

I would like to address the last change, first. KAPE represents all of the corrections officers except for Lansing. If the proposed subsection (g) stood alone, that is without the other changes proposed by this Bill, we would not oppose it in any manner. In fact, it is probably good public policy to regard corrections officers as safety sensitive positions.

*Business, Commerce
& Labor Committee
3/6/97
Attachment 7*



On the other hand, KAPE has definite problems with the other proposals contained in HB 2155. I want to make it very clear that KAPE does not stand for allowing drug and alcohol abuse in the workplace. It should be strongly discouraged and eliminated to every extent possible. But, alcoholism and drug abuse are recognized as treatable illnesses, both by the Americans with Disabilities Act and the medical community. There should be every attempt by the state as an employer to set an example for Kansas businesses that employees can and should be helped to overcome illness and return to the workforce as productive, healthy employees.

The deletion of subsection (c) and its replacement with new language makes a major change in direction in the policy of attempted rehabilitation of employees into productive individuals. Alcoholism and drug addiction are treatable diseases and up until now, there has been a stated policy encouraging and even mandating such attempts at rehabilitation for state employees. An employee who does their work, and has no other infractions, but who fails a drug test, must be given one, and only one, chance to correct the problem and seek help. They may be demoted to a lower job, suspended for up to thirty days, or be subject to any other discipline except for termination. Such employees are subject to periodic tests in the future to ensure that they stay clean. What, in this process, needs changing? KAPE feels that nothing needs changing. If the employee in question fails another test, at any time in the future, they may be summarily dismissed.

An employee who is fired will no longer be able to provide for themselves or their family. Such person will likely not seek treatment for their illness and the taxpayers will pay--through increased health care costs, state assistance or because the individual has become a charge of the Secretary of Corrections. I think that we all would rather have

7-2

such a person be a rehabilitated, productive member of society than a drain on society. Also, drug tests have been proven again and again as inaccurate and prone to showing false positive test results. Common items such as Advil and Tylenol can cause a test to show usage of controlled substances. Again, because of the fallibility of the tests, the state may be open to legal liability.

Additionally, the proposed changes to subsection (c) would inject a measure of arbitrary decision making into state managers' decisions. There could be two employees who both fail drug tests. One could be fired immediately, while the other could be sent to rehabilitation, with no other adverse consequences whatsoever. Only unfavored and politically incorrect employees who fail a drug test will be fired while favored or more politically correct employees who fail a drug test may be retained as if nothing had happened. I predict a large number of legal actions by employees terminated under this proposed law claiming a denial of constitutionally guaranteed due process, discrimination against certain protected classes, and actions in tort for libel, slander and/or defamation. These changes, as currently worded, will subject the state to excessive liability in a number of areas.

The proposed amendment to subsection (d) is a severe change and subjects the state to the most liability. Both constitutional and libel/slander/defamation issues arise out of the proposed language. It should be stated that exempting Civil Service hearings from the prohibition against publication of drug test results effectively deletes any prohibition at all. Kansas Civil Service Board hearings are statutorily open, public meetings where anyone may attend, including the media. A terminated employee has no option of trying to prove the decision was in error, because under these proposals, such employee is faced with the

7-3

humiliating prospect of state attorneys, who could have a virtual press conference before, during and after the civil service hearing regarding all information obtained through the test results.

The only way a disciplined state employee could prevent publication of test results would be to not appeal the action, thereby effectively denying his or her constitutionally guaranteed property right of due process by government. The U.S. Supreme Court, in Cleveland Board of Ed. v. Loudermill, 470 U.S. 532 (1985); U.S.C.A. Const. Amend. 14, decided an issue similar to the one at hand with this Bill by stating that “While a legislature may elect not to confer a property interest in public employment, it may not constitutionally authorize the deprivation of such an interest, once conferred, without appropriate procedural safeguards.” The Kansas Supreme Court, in Gorham v. Kansas City, 225 Kan. 369 (1979), stated that such a property interest exists for employees who may only be discharged “for cause.” Kansas law undisputedly recognizes that the Kansas Civil Service Act, K.S.A. 75-2921 et seq. conveys the right to be terminated only “for cause” to permanent, classified state employees. The Kansas Civil Service Board is the due process safeguard for state employees and **since this bill would effectively deny some individuals access to that or any other venue, these proposals, taken as a whole, will probably be found to be unconstitutional.**

Improperly disciplined employees will have no choice but to sue the state for a host of violations of their state and federal civil rights. Are we ready to abandon the idea that alcohol and drug addiction are diseases and are treatable? KAPE is not and we sincerely hope that the 1997 Legislature is also not ready for such a step backward.

7-4

KAPE urges this committee to report this Bill unfavorably or at the least, remove all of the new language except for new subsection (g). I would like to thank the members of this committee for your time and consideration on this matter. I would also be pleased to respond to your questions.

7-5