Approved: 1-23-97
Date

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION & ELECTIONS.

The meeting was called to order by Chairperson Kent Glasscock at 9:00 a.m. on January 21, 1997 in Room 521-S of the Capitol.

All members were present except: Rep. Ted Powers, Excused

Committee staff present: Mary Galligan, Legislative Research Department
Mike Heim, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Fulva Seufert, Committee Secretary

Conferees appearing before the committee: Senator Lana Oleen
Ms. Barbara Hinton, Post Audit
Mr. Jeff Wagaman, Department Secretary of Administration
Mr. Don Moler, Chief Counsel, League of Kansas Municipalities
Mr. Scott Stone, Executive Director & Chief Counsel-KAPE
Mr. Ron Smith, General Counsel, Kansas Bar Association
Mr. Bill Henry, Executive Secretary, Kansas Assn. of Defense Counsel
Mr. Paul Shelby, Office of Judicial Administration (OJA)
Mr. Don Myer, Executive Director, Kansas Commission on Veterans Affairs
Mr. Darrell Bencken, Quartermaster, VFW
Mr.Fred Dumas, Veterans Service Representative
Mr. Ralph Snyder, Assistant Adjutant, The American Legion, Dept. of Kansas
Rep. Dan Thimesch

Others attending: See attached list:
Rep. Jim Long moved and Rep. Herman Dillon seconded that the Minutes for January 14, 1997 and January 15, 1997, be approved. Motion passed.

Chairperson Glasscock asked if there was any objection to hearing **HB 2014** first since Sen. Lana Oleen planned to testify. There being none, the hearing was opened for the following:

HB 2014 - An Act relating to certain communications by employees of state agencies, local governments, and certain public contractors. This bill is referred to as the Kansas Whistleblowers Act.

Chairperson Glasscock welcomed Senator Lana Oleen who appeared on behalf of the Legislative Post Audit Committee and spoke in support of **HB 2014.** Sen. Oleen thinks **HB 2014** makes a number of important changes to the Whistleblower's Act. First, it protects employees who discuss operational problems within their agencies with Legislative Post Audit or other State or Federal oversight agencies and not just with the Legislature. Second, it extends the Act's protection to local government employees and to public contractors, and third, it treats classified and unclassified employees the same. (Attachment 1.)

Chairperson Glasscock introduced Ms. Barb Hinton, Legislative Post Auditor, who explained that she is a proponent of **HB 2014** which would strengthen the Kansas Whistleblower Law. She mentioned the following three weaknesses of the present law: 1) Covers discussions of agency operations only with members of the Legislature; 2) Protects only State employees; 3) Is more restrictive than similar laws elsewhere, and therefore potentially less effective. (Attachment 2.)

Mr. Jeff Wagaman, Deputy Secretary, Department of Administration, spoke in support of **HB 2014** which expands the Kansas Whistleblower Act to other public entities. He said this change would provide additional protection to employees and would allow the Division of Legislative Post Audit to be more thorough in its investigations. (Attachment 3.)

Chairperson Glasscock introduced Mr. Don Moler, General Counsel, League of Kansas Municipalities, who made some comments on **HB 2014.** He stated that the League is not entirely clear as to the need for **HB 2014.** He urged extreme caution as he believes that at the present time there are plenty of protections for employees. (Attachment 4.)

Chairperson Glasscock introduced Mr. Scott A. Stone, Executive Director and Chief Counsel, Kansas Association of Public Employees (KAPE), who strongly supported **HB 2014**. He said that this bill is an

effort to provide more accountability to the public from government at all levels, and that KAPE is always supportive of any initiatives that foster the public's trust. (Attachment 5.)

Chairperson Glasscock next recognized Mr. Ron Smith, General Counsel, Kansas Bar Association, who spoke in opposition to **HB 2014.** Mr. Smith's testimony took the provisions of the act and divided them out showing the policy ramifications, and when appropriate, suggested some amendments. He expressed concern that by expanding the policy, it would create new liabilities on employers. (Attachment 6.)

Chairperson Glasscock recognized Mr. Darrell Bencken, Quartermaster, VFW, who stood from his seat and said that he totally agreed with Mr. Ron Smith.

The Chair called on Mr. Bill Henry, Executive Secretary, Kansas Association of Defense Counsel, who expressed concern over some of the language in **HB 2014** and said that he would provide written testimony to the Committee on Wednesday, January 22, 1997. (Attachment 7.)

Chairperson Glasscock introduced Mr. Paul Shelby, Assistant Judicial Administrator, Office of Judicial Administration, who called the Committee's attention to page 2, line 7, concerning any officer or employee of a state agency who is either in the classified service and has permanent status under the Kansas civil service act or in the unclassified service under the Kansas civil service act. Their concern is if this includes non judicial employees, and if it does, they have their own personnel system and do not use the State civil service personnel board. They have a built-in appeal process to the Chief Justice. If the Judicial Branch is included, he would like to offer an amendment saying that those employees would appeal to the Chief Justice and not to the State Civil Service Board.

Since there was no more testimony, Chairperson Glasscock closed the Public Hearing on **HB 2014.**

The Chairperson opened the Public Hearing on **HB 2021**.

HB 2021 - An Act concerning the Kansas Commission on Veterans Affairs.

Chairperson Glasscock recognized Mr. Don Myer, Executive Director, Kansas Commission on Veterans Affairs, who spoke as a proponent for **HB 2021**. His testimony explained why he believes that veteran status as a qualification for Veterans Service Representative is important. He said that **HB 2021** would reestablish a requirement that existed in Kansas for more than thirty years. (Attachment 8.)

The Chair next recognized Mr. Fred Dumas, Veterans Service Representative, The American Legion, who spoke in favor of **HB 2021** in which he pointed out that the "military bond" or comradeship never ends, and that he believes that a veteran wants to be able to talk to another veteran when he or she has a problem. (Attachment 9.)

The Chairperson welcomed Mr. Ralph Snyder, Assistant Adjutant, The American Legion, who spoke as a proponent for **HB 2021.** He stressed the importance of veterans being placed in positions to serve other veterans. (Attachment 10.)

Chairperson Glasscock recognized Rep. Dan Thimesch who also spoke in favor of **HB 2021.**

Chairperson Glasscock announced that the Public Hearing for **HB 2021** was closed.

Since this bill was noncontroversial, Rep. Jonathan Wells made a motion to accept **HB 2021** and pass it to the floor with a favorable recommendation. Rep. Ralph Tanner seconded and motion passed.

Representative Gwen Welshimer made a motion to ammend the public employer/employee relations act: concerning the use of state facilities.` Rep. Ruby Gilbert seconded and motion passed.

Representative Bob Tomlinson made a motion to introduce the Governor's bill on extending the gift ban. Rep. Lisa Benlon seconded and motion passed.

Chairperson Glasscock asked Rep. Ray Cox to carry the veterans bill.

The meeting adjourned at 10:10 a.m.

The next meeting is scheduled for January 23, 1997.

GOV'T. ORGANIZATION & ELECTIONS COMMITTEE
GUEST LIST

DATE: TUESDAY, JANUARY 21, 1997

NAME	REPRESENTING
Fred Pyman	American Legion / KCVA
Ralph Snyder	Ks. American Legion
DON A. MYER	KANSAS COMMISSION ON VETERANS AFFAIRS
Scott A. Stone	KAPE
Bill Henry, Exec Secraty	KS Assn of Defense Counsel
Whitney Damron	KS. Bar Assn.
Pat Baker	KASB
Jon Smith	KS Bar Assoc
Barb Hinton	Legis Post Audit
Jeff Wagaman	DofA
Karen Watney	DofA
Ebrima Mboob	intern (K.U.)
Paul Shelby	OJA
MG (Ret) Jack Thurbel	Kansas Commission on Veteran affairs
Chuck Bredahl	Solicitor General's Dept.

STATE OF KANSAS

LANA OLEEN
SENATOR, 22ND DISTRICT
GEARY AND RILEY COUNTIES

LEGISLATIVE HOTLINE
1-800-432-3924

TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS
CHAIR: FEDERAL AND STATE AFFAIRS
CHAIR: LEGISLATIVE EDUCATIONAL PLANNING
CHAIR: LEGISLATIVE POST AUDIT
COMMITTEE MEMBER: EDUCATION
JUDICIARY
CONTRACT AUDIT
COMMISSIONER: MIDWESTERN HIGHER EDUCATION COMMISSION

TESTIMONY BEFORE THE HOUSE GOVERNMENTAL ORGANIZATION AND ELECTIONS COMMITTEE ON HOUSE BILL 2014

Senator Lana Oleen, Chair
Legislative Post Audit Committee
January 21, 1996

I am appearing on behalf of the Legislative Post Audit Committee in support of House Bill 2014.

The Committee introduced this legislation last year. The bill started on the Senate side in the Federal and State Affairs Committee, which I chair. It passed the Senate, but died in Committee on the House side.

The Committee thinks this bill makes a number of important changes to the Whistleblower's Act. It protects employees who discuss operational problems within their agencies (such as inefficiencies or wastefulness) with Legislative Post Audit or other State or federal oversight agencies, not just with the Legislature. It also extends the Act's protection to local government employees and to public contractors who've entered into contracts with the State to provide goods or services.

Also, at the request of the Department of Administration, this bill treats classified and unclassified employees the same under the Act, and allows the State to be awarded litigation costs in frivolous lawsuits.

I am very supportive of this bill, and would urge the Committee to give it favorable consideration.

House Gov. Organ. and Elections
Attachment 1
1-21-97

HOME
3000 STAGG HILL ROAD
MANHATTAN, KANSAS 66502
(913) 537-3300

DISTRICT OFFICE
1619 POYNTZ AVENUE
MANHATTAN, KANSAS 66502
(913) 537-9194—PHONE
(913) 537-9198—FAX

STATE OFFICE (JAN.-APRIL)
STATE CAPITOL, ROOM 136-N
TOPEKA, KANSAS 66612
(913) 296-7360 PHONE
(913) 296-6718 FAX

House Bill 2014--Kansas Whistleblowers Act
Testimony by Barb Hinton, Legislative Post Auditor
to the House Governmental Organization and Elections Committee
January 21, 1997

As you know, the Legislative Post Audit Committee introduced the legislation (HB 2014) that you have before you today. This bill would strengthen the Kansas Whistleblower Law. I'm appearing before your Committee in support of this bill.

K.S.A. 1994 Supp. 75-2973 is designed to shield from reprisal any State employee who reports illegal, inefficient, wasteful, or dangerous government action. However, in its deliberations, the Post Audit Committee felt that the law, as written, has some significant weaknesses:

- **As it stands, Kansas' whistleblower law covers discussions of agency operations only with members of the Legislature.** The law states that "No supervisor or appointing authority of any state agency shall prohibit any employee of the agency from discussing the operations of the agency, either specifically or generally, with any member of the legislature." But that protection doesn't extend to Legislative Post Audit, which serves as the eyes and ears of legislators in monitoring agency operations.

- **Kansas' whistleblower law protects only State employees.** With the increased emphasis on privatization, more private-sector contractors are becoming involved in helping conduct the State's business. Yet such individuals have no protection if they want to expose problems related to that business.

- **Kansas law is more restrictive than similar laws elsewhere, and therefore potentially less effective.** The attachment to this testimony shows that many states have whistleblower legislation that is much broader in its coverage of employees than is Kansas' law.

When it was first considering introducing this legislation for the last session, the Legislative Post Audit Committee sought input from the Secretary of Administration on the proposed amendments. The then-Secretary made a number of other recommended changes,

House Gov. Organ. and Elections
Attachment 2
1-21-97

including extending coverage under the bill to local government employees. The Committee would support these changes.

In sum, the Legislative Post Audit Committee introduced HB 2014 to improve the effectiveness of the Kansas whistleblower law, and to help ensure that our office, among others, can get the full cooperation of the staff of the audited agencies. This bill corrects the weaknesses the Committee identified.

I would be happy to try to answer any questions you may have on this bill.

Whistleblower Laws in Other States

The table below reflects the weaknesses of Kansas' whistleblower law compared to those in other states. For example, laws in every state we reviewed, except those in Kansas and Washington, covers local public employees, not just state workers.

State	Disclosures Protected	Agencies to Which Disclosures can be made	Employees Protected
Kansas	a) Agency operations	Legislators	All State employees
	b) Violations of State or federal law or rules and regulations	Any appropriate authority	All State employees
Alaska	"Matters of public concern," which include violations of any law, regulation, or ordinance; a danger to public health or safety; gross mismanagement, substantial waste of funds, or clear abuse of authority; or a matter accepted for investigation by the office of ombudsman	Any federal or state agency, or political subdivision	Any person who performs services for wages for a public employer (federal, state, or local)
Hawaii	Violation of law; participation in an investigation, hearing, or inquiry held by a public body; or court action	Any public body	Any public-sector or private-sector employee
New Hampshire	Violations of law, participation in an investigation or hearing (employee first must give violator opportunity to correct violation)	Any governmental entity	Any public-sector or private-sector employee, but not private contractors
Oregon	Agency operations; violations of any federal or state law, rule, or regulation by a state agency or a political subdivision; gross waste of funds; danger to public health and safety	Legislature and legislative staff	State and local government workers, those acting on behalf of the state, or employees of firms performing services for the state
Pennsylvania	Violations of federal or state statute or regulation, ordinance, or code of conduct or ethics; substantial abuse, misuse, destruction or loss of funds or resources belonging to a public body	Any appropriate federal, state, or local agency	State and local employees, or any person under contract to perform a service with the state or a political subdivision
Washington	"Improper government action," which includes any violation of any state law or rule, abuse of authority, gross waste of public funds, or danger to public health or safety	Office of the State Auditor	State employees

Testimony To The
Governmental Organization and Elections

By
Jeff Wagaman, Deputy Secretary
Department of Administration

Tuesday, January 21, 1997
RE: HB 2014 - Kansas Whistleblower Act

Thank you for the opportunity to testify in support of expanding the Kansas Whistleblower Act to other public entities. The Department of Administration believes that broadening the provisions of the Act to encompass local government employees is consistent with the original purpose of the law. In addition, the legislation expands the right to request information to auditing agencies. Currently, only legislative requests are covered by the Act. This change provides additional protections to employees and allows the Division of Legislative Post Audit to be more thorough in their investigations.

The amendment which allows the courts to only award the "prevailing party" the cost of litigation in cases brought about in relation to this Act is a welcome change. Currently, the State is subjected to potential court and attorney costs while the unclassified employee who brings suit cannot be held responsible for costs to the state if they lose the case. This change may reduce the number of frivolous lawsuits filed. Currently, only *unclassified state* employees may bring suit for alleged disciplinary action brought pursuant to this Act. However, the bill extends these privileges to local government and public contractor employees, but appears to revoke the right of unclassified state employees to bring civil action.

Classified state employees have the right to appeal disciplinary action in violation of this Act to the Civil Service Board. This bill extends that same appeal right to unclassified employees. The Kansas Civil Service Act establishes a clear distinction between classified and unclassified employees. Classified employees are afforded certain protections to maintain stability in state government. Most unclassified employees serve at the discretion of the Governor or the appointing authority, and should not have the same protections, including appeal rights to the Civil Service Board, as classified employees. This amendment may set a precedent for unclassified employees having appeal rights to the Civil Service Board for other employment matters.

Broadening the Civil Service Board's jurisdiction will likely increase the number of appeals. Generally, whistleblower appeals are complicated and last longer than other appeals (most are multi-day hearings). Consideration must be given to the availability of board members and also to the budgetary impact on the board.

The department believes that unclassified state employees should continue to have the right to bring civil suit against the State in district court, but not with the Civil Service Board. We encourage this committee to adopt amendments that will enhance the effectiveness of the Kansas Whistleblower Act. However, we do not believe that expanding Civil Service Board appeal rights to unclassified state employees will aid in accomplishing this task. We recommend an amendment to this bill that would allow unclassified employees to maintain their right to bring civil action in the courts rather then the right to appeal to the Civil Service Board. Thank you again for the opportunity to comment on this bill.

House Governmental Organ. and Elections
Attachment 3
1-21-97

League
of Kansas
Municipalities

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

LEGISLATIVE TESTIMONY

TO: House Governmental Organization & Elections Committee

FROM: Don Moler, General Counsel

RE: Comments on HB 2014

DATE: January 21, 1997

I am appearing before you today to comment on HB 2014 relating to communications by employees of state agencies, local governments and some public contractors. I would begin by pointing out that it is not entirely clear to the League the need for HB 2014. We believe now there are now a variety of laws and court decisions which allow freedom of speech to public employees at all levels. We would stress we have no problem with local public employees discussing legitimate issues with employees of the division of post audit or auditing firms authorized by local governments or federal agencies which are providing oversight activities under the authority of law authorizing that type of activity.

We are somewhat concerned, however, that disgruntled employees could utilize this approach to circumvent appropriate channels within local governments for solving local problems. How convenient it would be for a disgruntled employee to simply call a state legislator and complain about their treatment in a city, county or other local government. Absent some pervasive problem, we would suggest that this simply would allow disgruntled employees, who are not happy with their place in life, to circumvent current channels of authority under the guise of "whistleblowing." This is further exacerbated by the fact that the act would be denoted in the current amendments, see subsection (h), as the "Kansas whistleblower act." The very title seems to indicate that persons discussing local issues, or state issues for that matter, are whistleblowers and entitled to some special privilege as opposed to simply disgruntled employees who are trying to make life difficult for their employer.

The League would urge extreme caution in this area as we believe there are plenty of protections for employees at this time. Federal civil rights laws as well as employment acts at the state and federal level provide exceptional protections for employees in this day and age. A particularly onerous part of this legislation is found in subsection (g) in which tremendous power is granted disgruntled employees who "whistle blow" but no sanctions are provided for employees who unlawfully or improperly allege wrongdoing at the local level. This is an unfortunate one-way street which essentially allows disgruntled employees to take pot shots at local government, and state government for that matter, whenever the spirit moves them.

House Governmental Organ. and Elections
Attachment 4
1-21-97

KAPE
FPE
KANSAS
ASSOCIATION OF
PUBLIC EMPLOYEES
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 Governmental Organization and Elections Committee

January 21, 1997, 9:00 a.m.
State Capitol, Room 521-S

Testimony in favor of HB 2014

Mr. Chairman, members of the committee, I appreciate the opportunity to appear before you today to discuss the proposed expansion of the Kansas Whistleblower Act. My name is Scott A. Stone and I am the Executive Director and Chief Counsel for the Kansas Association of Public Employees or "KAPE."

KAPE strongly supports HB 2014 in its efforts to provide government at all levels that is more accountable to the public. The Whistleblower act was created to protect classified state employees from retaliation for communicating violations and abuse to legislators. It is a basic tenet of good government and is good public policy to encourage the reporting of corruption.

The bill proposes to extend such coverage to all public employees, including unclassified state employees, municipal and educational employees, and employees of private businesses that provide services to the public in exchange for tax dollars. Such inclusions cover all public interests in the state and again, provide greater assurances to

House Governmental Organization and Elections
Attachment 5
1-21-97

taxpayers that their elected government will be accountable to the electorate. It also provides assurances and incentives for employees to obey their conscience without fear of reprisals. The freedom to be free from retaliation by the government for exercising one's rights is a basic constitutional guarantee that will be furthered through the passage of this bill. The Kansas Civil Service Board would hear cases brought under this act, as they currently do with all disciplinary actions against state employees.

HB 2014 further extends the protected speech to communications with auditing agencies, such as legislative post auditors, where only communications with legislators are currently covered. Municipal, educational, and public contractor employees will also be covered for going to their respective governing body to report abuses.

KAPE will always support initiatives that foster the public's trust in their government and promote accountability within our systems. I would like to thank the members of this committee for your time and consideration on this matter. I will gladly stand for any questions.

KANSAS BAR ASSOCIATION

1200 SW Harrison St.
P.O. Box 1037
Topeka, Kansas 66601-1037
Telephone (913) 234-5696
FAX (913) 234-3813
Email: ksbar@ink.org

Memorandum

TO: **House Governmental Organizations and Elections Committee**

FROM: **Ron Smith, General Counsel, KBA**

SUBJ: **HB 2014, whistleblowing**

DATE: **January 21, 1997**

Mr. Chairman, members of the House committee.

This is an interesting and far-reaching bill. Many lawyers specialize in employment law, and handle whistle-blower lawsuits. These are common law exceptions to the employment at will doctrine. Whistle-blower statutes are designed to protect an employee from retaliation by employers when the employee discloses to outside persons information necessary to protect the health, safety and general welfare of other citizens.

For a long time, our courts did not recognize whistle-blower actions as an exception to the employment-at-will doctrine. The basis of a whistle-blower action was first stated in the *Palmer* case:

> "Public policy requires that citizens in a democracy be protected from reprisals for performing their civil duty of reporting infractions of rules, regulations, or the law pertaining to public health, safety, and the general welfare. Thus, we have no hesitation in holding termination of an employee in retaliation for the good faith reporting of a serious infraction of such rules, regulations, or the law by a co-worker or an employer to either company management or law enforcement officials (whistle-blowing) is an actionable tort. To maintain such action, an employee has the burden of proving by clear and convincing evidence, under the facts of the case, a reasonably prudent person would have concluded the employee's co-worker or employer was engaged in activities in violation of rules, regulations, or the law pertaining to public health, safety, and the general welfare; the employer had knowledge of the employee's reporting of such violation prior to discharge of the employee; and the employee was discharged in retaliation for making the report. However, the whistle-blowing must have been done out of a good faith concern over the wrongful activity reported rather than from a corrupt motive such as malice, spite, jealousy or personal gain." (emphasis added) *Palmer v. Brown,* 242 Kan. 893, 752 P.2d 685 (1988)

House Governmental Organization and Elections
Attachment 6
1-21-97

Memorandum
January 21, 1997
HB 2014

This bill goes much farther. What I have done below is take the provisions of the act, divided them out, and in boxes discussed the policy ramifications and, where appropriate, suggested some amendments. **The KBA's recommended amendments are in bold face.**

We all know *why* this bill was introduced, given the trend of government to privatize government functions and then by cloaking private employees with immunity, encourage whistle-blowing to lawmakers. The major policy you must decide is whether it is necessary to significant expand and override common law employment-at-will doctrines in order for the government to have access to the information from these private employees.

As with any legislation there are hidden minefields. Many of these minefields are not a problem *so long as* the policy applied in KSA 75-2973 applied only to classified employees of state government. I have tried to show how expanding the policy will create new liabilities on employers.

Thank you.

HB 2014
By Legislative Post Audit Committee
1-14

AN ACT relating to certain communications by employees of state agencies, local governments and certain public contractors; prohibiting certain acts by supervisors and appointing authorities; providing remedies for violations; amending K.S.A. 1996 Supp. 75-2973 and repealing the existing section.

Be It Enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1996 Supp. 75-2973 is hereby amended to read as follows: 75-2973.

(a) No supervisor or appointing authority of any ~~state~~ *public* agency *or public contractor* shall prohibit any employee of the *public* agency *or public contractor* from discussing ~~the operations~~ **in good faith serious infractions of rules or statutes concerning matters of public safety, health or general welfare** of the *public* agency *or public contractor, as the case may be, or other matters of public concern*, either specifically or generally, with any member of the legislature *or any auditing agency*.

Under old law, KSA 75-2973 applied only to classified employees in state agencies. Thus protecting their disclosure of information about the "operations" of those agencies was perhaps proper. Further, employees making complaints under the campaign finance act and the state ethics act are protected by 75-2973.

If left unamended, subsection 1(a) is very broad in its sweep. What are "other matters of public concern?" "The operations" of a public agency or, even more broadly, a public *contractor,* is a wide-open phrase and has no limit to what part of the business can be divulged to legislators. Employees of a private business can discuss any operation of the business – regardless whether the wrongdoing is tied to the contract, so long as there is a "public concern." **The KBA amendment in subsection (a) limits the application of this law to situations similar to case law in Kansas whistle-blower cases. [See the quoted Palmer case on page one.]**

Without this limiting amendment, private entities that contract with state or local government have a much broader liability for wrongful termination than other private sector employers. This broader liability will discourage contracting with government.

(b) No supervisor or appointing authority of any ~~state~~ *public* agency *or public contractor* shall:

(1) Prohibit any employee of the *public* agency *or public contractor* from reporting **in good faith** any violation of state or federal law or rules and regulations **affecting matters of public safety, health or general welfare** to any person, agency or organization; or

We realize subsection (b)(1) is current law. However, "prohibiting any reporting" of any violation "to any person" would mean an agency cannot prohibit reporting even to persons with no state interest, i.e. the press. If the speech is to be protected, it should be made in good faith and relate only to matters of public safety, health or general welfare reported to appropriate government agency officials. Then it fits the definition of common law whistle-blowing.

By adding a "good faith" requirement, that would conform to case law. A bad faith report supported by no facts or evidence would require the employer to respond to an investigation and defend itself, and essentially prove the negative.

By adding "affecting matters of public safety, health or general welfare," this conforms to current whistle-blower case law. Without this phrase, and the good faith requirement, employees can defame their employer on nearly any subject and are protected against termination or any discipline by the employer.

(2) require any such employee to give notice to the supervisor or appointing authority prior to making any such report.

(c) This section shall not be construed as:

(1) Prohibiting a supervisor or appointing authority from requiring that an employee inform the supervisor or appointing authority as to legislative *or auditing agency* requests for information to the *public* agency *or public contractor* or the substance of testimony made, or to be made, by the employee to legislators *or the auditing agency, as the case may be,* on behalf of the *public* agency *or public contractor*;

(2) permitting an employee to leave the employee's assigned work areas during normal work hours without following applicable rules and regulations and policies pertaining to leaves, unless the employee is requested by a legislator or legislative committee to appear before a legislative committee *or by an auditing agency to appear at a meeting with officials of the auditing agency*;

(3) authorizing an employee to represent the employee's personal opinions as the opinions of a ~~state~~ *public* agency *or public contractor*; or

(4) prohibiting disciplinary action of an employee who discloses information which: (A) The employee knows to be false or which the employee discloses with reckless disregard for its truth or falsity, (B) the employee knows to be exempt from required disclosure under the open records act ~~or~~ (C) is confidential under any other provision of law, **or (D) is confidential under the Model Rules of Professional Conduct for attorneys.**

This bill applies this whistle-blower statute to any outside entity that contracts with state or local government for "services." Attorneys regularly contract with state agencies, i.e. the Board of Indigent Defense Services or the Insurance Commissioner to handle workers compensation cases.

The amendment we recommend **codifies** the holding of the Kansas Supreme Court in a recent case interpreting this statute, KSA 75-2973(c)(4)(C).

Attorney-client confidences are vital to the work that attorneys do for their clients. Client confidences are protected in two places:

(1) KSA 60-426 is the general attorney-client privilege for evidentiary purposes.

(2) The Model Rules of Professional Conduct, promulgated by the Supreme Court, also control what an attorney can do with confidential information. The confidentiality rule by the Court applies not only to matters communicated in confidence by the client but also to all information relating to the representation, whatever its source.

The Model Rules' confidentiality rule imposed on the lawyer is also imposed on the lawyer's employees and independent contractors by MRPC 5.3. If the lawyer cannot be forced to divulge client confidences, neither can the employee or "persons retained by or associated with a lawyer." These generally include including secretaries, investigators, law student interns, and paraprofessionals.

In *Crandon v. State of Kansas,* 257 Kan. 727, 897 P.2d 92, 100 (1995) an attorney for the Bank Commissioner disclosed information to the FDIC which she thought was important to an FDIC investigation. However, the information was privileged under the attorney-client rule, and the employer exercised the employer's right to fire the lawyer. When fired, Crandon brought a retaliatory discharge lawsuit alleging common law whistle-blower protections and that the *state had violated KSA 75-2973, which is our current whistle-blower statute amended in HB 2014.* As to the claim against the state whistle-blower statute, our court held: "Addressing plaintiff's claim under K.S.A. 1994 Supp. 75-2973, the court found that plaintiff disclosed information which was confidential pursuant to MRPC 1.6(a) (1994 Kan.Ct.R.Annot. 310) and MRPC 1.13(b) and until she satisfied those rules, plaintiff had [257 Kan. 736] no duty or privilege to disclose the information. * * * The court specifically found that information which is confidential under the

Model Rules of Professional Conduct is confidential "under any other provision of law" as that phrase is used in K.S.A. 1994 Supp. 75-2973(c)(4)(C), which permits discipline of an employee who releases confidential information."

Crandon is the only case that has construed what KSA 75-2973 means.

Thus by inserting the boldfaced amendment above into the statute, we are **codifying** what the Court said was already its ruling. The whistle-blower statute does not protect employees of law firms from divulging information that the rules require be held confidential. This amendment clarifies that a breach of the Model Rules for lawyers and the clients will breach the exceptions in 75-2973, and may result in discipline against the employee.

(d) Any officer or employee *of a state agency,* who is *either* in the classified service and has permanent status under the Kansas civil service act *or in the unclassified service under the Kansas civil service act,* may appeal to the state civil service board whenever the officer or employee alleges that disciplinary action was taken against the officer or employee in violation of this act or in any court of law or administrative hearing. The appeal shall be filed within 30 days of the alleged disciplinary action. Procedures governing the appeal shall be in accordance with subsections (f) and (g) of K.S.A. 75-2949 and amendments thereto and K.S.A. 752929d through 75-2929g and amendments thereto. If the board finds that disciplinary action taken was unreasonable, the board shall modify or reverse the agency's action and order such relief for the employee as the board considers appropriate. If the board finds a violation of this act, it may require as a penalty that the violator be suspended on leave without pay for not more than 30 days or, in cases of willful or repeated violations, may require that the violator forfeit the violator's position as a state officer or employee and disqualify the violator for appointment to or employment as a state officer or employee for a period of not more than two years. The decision of the board in such cases may be appealed by any party pursuant to law.

This is powerful stuff, when applied to unclassified employees.

Subsection (d) only applies to classified or unclassified employees of state agencies, not local governments or the private sector contractors. Never before have unclassified political appointees been protected from termination or discipline by state civil service law. NOTE: previously, subsection (g) required that unclassified employees file a civil lawsuit within 90 days of disciplinary action in order to invoke the protection of the act. KBA has no particular problem if you want to extend civil service protections to unclassified employees, but legislators should know the full ramifications of the changes in sections (d) and (g).

The first sentence is current law, but unclear. "(d) Any officer or employee *of a state agency,* . . . may appeal to the state civil service board whenever the officer or employee alleges that disciplinary action was taken against the officer or employee in violation of this act or in any court of law or administrative hearing." is ambiguous as to whether the phrase "or in any court of law or administrative hearing" is intended to indicate where the employee can file the appeal or where the disciplinary action is brought by the government. I believe you mean to say "or *such disciplinary action was filed* in any court of law or administrative hearing."

The upshot of this amended provision if Section 1(a) is not amended, Civil Service Board Members may be able to make orders concerning the sensitive inner staff of the Governor's office, or an executive branch agency – the Civil Service Board – can make determinations involving high-level employees of the Legislative Branch.

If Section 1(a) is not amended and applies to whistle-blowing concerning "all operations" of an agency, one result might be an employee of the Republican House leadership who leaks any information to the House Minority leader's office about the "operations" and strategy of the majority party on elections, campaigns, or even policy positions on bills is protected against retaliatory discharge. That employee could not be disciplined in any manner, thus instituting a known political "spy" in the other camp. **Note the last sentence of subsection (d).** If the Board finds repeated violations of the whistle-blower law, can the civil service board – an executive branch agency – issue an order stripping the Speaker of his position in the legislature? A cabinet official could testify to the legislature totally contrary to the Governor's wishes and the Governor could not discipline the cabinet member. [Compare original subsection 1(a) – without our amendments – with subsection (d).]

(e) Each ~~state~~ *public* agency *and public contractor* shall prominently post a copy of this act in locations where it can reasonably be expected to come to the attention of all employees of the *public* agency *or public contractor, as the case may be*.

(f) As used in this section*: (1) "Auditing agency" means the legislative post auditor, any employee of the division of post audit, any firm performing audit services pursuant to a contract with the post auditor, or any state agency, agency of a local government or federal agency or authority performing auditing or other oversight activities under authority of any provision of law authorizing such activities;*

(2) "disciplinary action" means any ~~dismissal, demotion, transfer, reassignment, suspension, reprimand, warning of possible dismissal or withholding of work~~ **wrongful discharge from such employment;**

Historically, common law whistle-blower protections have arisen only in situations where the employee was wrongfully discharged (fired) from the job for what was said, written or reported, hence the name, "wrongful discharge" or "retaliatory discharge" lawsuits. Courts have held that the "tort of retaliatory discharge does not encompass claim for demotion in retaliation for asserting a workers' compensation claim." *Brigham v. Dillon Companies, Inc.*, __ Kan.App2d __, 921 P.2d 837, (Kan.App. 1996)

Indeed, one can argue that if a state employee who lawfully whistle-blows but is simply shifted to another work assignment without loss of pay, then the employee has not been significantly damaged. By maintaining that disciplinary action means all of these things, from dismissal to warnings of dismissal, we may spur many lawsuits where employers are hauled into court to face small damages but larger attorneys fee awards.

Current statutory law applies to all forms of discipline but had applied only to classified employees of state government – a narrow group of employees. By extending the current law to all businesses who contract with state or local government, you prohibit any disciplinary action whatsoever (unless modified above). []

Without the suggested KBA amendment the employer can take no disciplinary action at all unless the employer fires the employee and then successfully defends itself in court that the employee divulged information he or she should not have divulged under the four areas of exceptions in subsection 1(c). Most employers may not have the financial ability to engage in such litigation in order to discharge an employee. See Subsection 1(c).

(3) "local government," means any county, township, city, municipal university, school district, community college, drainage district and any other special district, taxing district or political subdivision of Kansas that is supported by tax funds and includes any board, commission, committee, bureau, department, division of agency thereof;

Question: is a untenured professor who blows the whistle on "the operations of" any university policy protected for life from being discharged even if he is not later tenured? Without the KBA recommended amendments in Section 1(a), we believe he or she is so protected.

(4) "public agency" means any state agency or local government;

(5) "public contractor" means any person, partnership, association, corporation or other private business entity that has entered into a contract with a state agency for any supplies, materials, equipment or other goods or for performance of any services;

except that *"public contractor" does not include* **(A)** *any public agency,* **(B) any person, partnership, association, corporation or other private business entity that has involuntarily entered into a contract with a state agency for any supplies, materials, equipment or other goods or for performance of any services, or (C) where the contract or contracts for such public contractor in the aggregate do not result in payment by the public agency to the private business entity of at least $5,000 per calendar year**; *and*

Since HB 2014 applies to all situations where a private entity contracts with state or local government, if we increase the liability of businesses to defend wrongful discharge lawsuits while at the same time impose that liability on businesses doing very small amounts of business with state and local governments, the result will be those businesses will stop contracting with government altogether.

One solution is a *de minimus threshold* under which the law would not apply. For example, a lawyer who handles just a few indigent defense cases per year may not take on those cases if the Act makes him subject to wrongful discharge lawsuits – even if he ultimately prevails on the lawsuit. Many times experienced lawyers in small counties are ordered by the court to take an indigent defense case, yet by doing so the court now puts that lawyer at risk of having to defend a whistle-blower lawsuit by a disgruntled employee. The proposed amendment would exempt smaller contracts and court-ordered situations.

Subsection (5)(B) covers attorneys and others (Doctors?) who are ordered to handle state contract patients or clients, and subsection 5(C) handles situations where the contracts are few or small in number.

By excluding such employers from the application of the law, we encourage small or intermittent contract employers to continue to take such cases and contracts. Otherwise, small employers or contractors will weigh the possible liability against the possible income and may avoid taking such cases altogether.

(6) "state agency" and "firm" have the meanings respectively ascribed thereto by K.S.A. 46-1112 and amendments thereto. **This act shall not apply to employees of the judicial branches of government, or public contractor contracting with the judicial branch of government, unless other state law expressly confers jurisdiction of the legislative post audit division over such officers or employees.**

KSA 46-1112 is the Legislative Post Audit statute's definition of state agency, which is "any state office, officer, department, board, commission, institution, bureau, agency, or authority or any division or unit thereof." With the exception of some minor statutes allowing auditing of the bar discipline fee program moneys and temporary deposits to banks by the clerk of the Supreme Court, the post audit statute does not give jurisdiction to post audit to investigate the judicial branch of government.

Our amendment clarifies what we think is the intent of the original law, which was to apply to classified employees unless extended to other branch agencies. There are no classified employees in the judicial branch. If you intend that it apply to the judicial branch and legislative branch, you should so specify in a separate law.

(g) Any officer or employee ~~who is in the unclassified service~~ *of a local government or public contractor* who alleges that disciplinary action has been taken against such officer or employee in violation of this section may bring a civil action for appropriate injunctive relief, or actual damages, or both within 90 days after the occurrence of the alleged violation. A court, in rendering a judgment in an action brought pursuant to this act, shall order, as the court considers appropriate, reinstatement of the officer or employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights, actual damages, or any combination of these remedies. A court may ~~also~~ award ~~such officer or employee~~ *the prevailing party in any such civil action* all or a portion of the costs of litigation, including reasonable attorney fees and witness fees.

As to local government employees and all other employees of private businesses contracting with state or local governments, Section (g) creates a new way of suing an employer.

Current law allows the court to award part or all of the costs of litigation – including attorneys fees and costs – to the "officer or employee" if they prevail. Section 1(g) changes the attorney fee shift so that the prevailing party's attorneys fees are paid. What that means is the whistle-blower that loses a lawsuit against the state agency or a wealthy corporation-contractor will have to pay the state or local agency's, or the contractor's, legal bills. This will discourage whistle-blower lawsuits. If such discouragement is the purpose of the change, then why make the changes in this entire bill? If, however, the purpose of HB 2014 is to expand whistle-blowing by employees of local governments and protect them from discharge, then you need to retain the former attorney fee language. KBA does not care which way you go on this issue. That is a public policy choice.

(h) This statute shall be known and may be cited as the Kansas whistle-blower act.

Sec. 2. K.S.A. 1996 Supp. 75-2973 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

Other Issues concerning this Legislation not ballooned.

1. What is the standard of proof for lawsuits brought under subsection (g)? Under common law whistle-blower actions, the plaintiff must prove their claim by clear and convincing evidence. *Palmer v. Brown,* 242 Kan. 893, 752 P.2d 685 (1988) HB 2014 is silent as to which burden to use. Unless you want the courts to make this policy decision, you should clarify which burden – clear and convincing evidence or a preponderance of evidence standard – is to be used. The court has reasoned that because retaliatory discharge is based on the employer's intent and not on the employer's negligence, it should require a higher standard of proof. But that is for *discharge* cases. Unless the legislature amends "disciplinary action" to include only retaliatory firings, then the reasoning of *Palmer* will not be the same.

2. Who has the burden of proof? If the plaintiff must show by clear and convincing evidence that the disciplinary action was based on whistle-blowing, if the employer wants to defend his actions by showing the plaintiff's actions were within the exceptions to the statute [Section (c)(4)(C)], must the employer prove this by clear and convincing evidence or some lesser standard?

3. Is there legislative intent that there be retroactive application of this new statute? For example, upon the effective date of the HB 2014, the act applies to all employees of all businesses contracting with state or local governments. Does it apply only to public contracting entities who contract after the effective date of the law? If the disclosure of information by the protected employee takes place before the effective date but the "disciplinary action" takes place after the effective date, does the new act apply to the old disclosure? Generally if you want a remedial statute to have retroactive application the legislature must expressly convey that fact to the courts in the statute itself.

4. KSA 75-2929d. states the jurisdiction of the state civil service board. KSA 75-2929d(a) states "The state civil service board shall hear appeals taken to it pursuant to: . . . K.S.A. 75-2973 and amendments thereto concerning *disciplinary action in violation of that statute*." It is ambiguous as to whether an employee of a private business now subject to 75-2973 can invoke civil service board jurisdiction under this act. You should clarify whether it is intended that unclassified employees, local government employees, and private employees are covered by civil service board appeals.

5. One problem with this law is the "protection" afforded by the statute never decays. For example, how long does the whistle-blower protection against disciplinary action apply? A year? Five years? Until they retire? Once the employee makes a lawful disclosure, the employer will be unable to prove that any subsequent discipline might be for some other activity such as insubordination *unrelated to the original whistle-blower disclosure.*

MRPC 1.6 CONFIDENTIALITY OF INFORMATION

(a) A lawyer shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraph (b).

(b) A lawyer may reveal such information to the extent the lawyer reasonably believes necessary:

(1) to prevent the client from committing a crime; or

(2) to comply with requirements of law or orders of any tribunal; or

(3) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client.

Comment

* * *

The observance of the ethical obligation of a lawyer to hold inviolate confidential information of the client not only facilitates the full development of facts essential to proper representation of the client but also encourages people to seek early legal assistance.

Almost without exception, clients come to lawyers in order to determine what their rights are and what is, in the maze of laws and regulations, deemed to be legal and correct. The common law recognizes that the client's confidences must be protected from disclosure. Based upon experience, lawyers know that almost all clients follow the advice given, and the law is upheld.

A fundamental principle in the client-lawyer relationship is that the lawyer maintain confidentiality of information relating to the representation. The client is thereby encouraged to communicate fully and frankly with the lawyer even as to embarrassing or legally damaging subject matter.

The principle of confidentiality is given effect in two related bodies of law, the attorney-client privilege (which includes the work product doctrine) in the law of evidence and the rule of confidentiality established in professional ethics. The attorney - client privilege applies in judicial and other proceedings in which a lawyer may be called as a witness or otherwise required to produce evidence concerning a client. The rule of client-lawyer confidentiality applies in all situations other than those where evidence is sought from the lawyer through compulsion of law. The confidentiality rule applies not merely to matters communicated in confidence by the client but also to all information relating to the representation, whatever its source. A lawyer may not disclose such information except as authorized or required by the Rules of Professional Conduct or other law.

TESTIMONY

House Governmental Organization and Elections Committee
House Bill 2014

January 21, 1997

Chairman Glasscock, Members of the Committee I am Bill Henry, Executive Secretary for the Kansas Association of Defense Counsel.

I appear before you today to express my association's concern with the language in the whistle-blowing bill.

The Kansas Association of Defense Counsel is composed of more than 300 lawyers who perform defense work in civil litigation across the state.

The area of employment law has become the fastest growing area for litigation in recent years and House Bill 2014 as introduced may produce further growth for litigation in this area.

The Kansas Association of Defense Counsel's major concern with House Bill 2014 is centered on lines 20 - 21, page 1, which states that no supervisor or appointing authority of any "Public Agency" or "Public Contractor" can prohibit any employee of the public agency or public contractor from discussing the operations of the public agency or public contractor, "as the case may be, or other matters of public concern, either specifically or generally, with any member of the legislature or any auditing agency."

Nowhere in House Bill 2014 is there a definition of "or other matters of public concern".

Since the stated reason for House Bill 2014 is to protect public employees and allow them to share information about what a given public agency or public contractor is doing it might be better to narrow the discussion protected by the bill in some fashion.

The Kansas Association of Defense Counsel suggests that the language "or other matters of public concern" is too broad and that what should be protected in discussion is "only those operations of the public contractor or agency that relate to the performance of the contract."

Constitutionally, in Kansas, statutes have been struck down for vagueness and the current language in lines 20 - 21, page 1, of the measure borders vagueness.

The Kansas Association of Defense Counsel will be pleased to work with the committee to narrow the current language of the bill so that it will be more specific.

Respectfully submitted,

William Henry
Executive Secretary Kansas Association of Defense Counsel

House GO and E
Attachment 7
1-21-97

Testimony by Don Myer, Executive Director

Kansas Commission on Veterans Affairs

on House Bill 2021

before the

House Organization and Elections Committee

January 21, 1997

Mr. Chairman and members of the committee, my name is Don Myer, the Executive Director of the Kansas Commission on Veterans Affairs, and I am here to testify on House Bill 2021. I am in favor of this bill, which would require that all Veterans Service Representatives appointed by the Executive Director of the Kansas Commission on Veterans Affairs be honorably discharged veterans of the United States Armed Forces.

This bill was introduced in the senate last year, based on the request of the Kansas Commission on Veterans Affairs. It was overwhelmingly passed, and moved onto the house. There it died on the calendar as the 1996 legislative session ended.

This veteran status was a requirement in Kansas for more than thirty years. The State Division of Personnel determined that the specification for veteran status did not meet their definition of a necessary special qualification because it was not grounded in statute, law or regulation of some type. My agency was informed that unless we could base this qualification on a federal or state law the necessary special qualification would be removed from this position.

I believe that being an honorably discharged veteran is an important element of being an effective and efficient Veteran Service Representative in assisting Kansas veterans and their spouses and dependents to obtain their entitled counseling, benefits and services. The federal benefits that Veteran Services Representatives attempt to obtain for Kansas citizens are based upon the veterans service in the U.S. Armed Forces. Knowledge and experience of what military service entails are vital to the service representative. It allows him to relate to the veteran, and

accurately determine the critical information needed. This is especially true when filing a claim, or pursuing an appeal for service connected disability of any type with the Veterans Administration.

There is precedent in requiring veteran status as a qualification for positions in other governmental programs. Local Veteran Employment Representatives and Disabled Veteran Outreach Program specialists employed with the Kansas Department of Human Resources in Job Service Centers are required to be veterans based upon federal law. Additionally, other states have already taken similar steps. Nebraska, Missouri, Oklahoma, and Colorado all have made it a statutory requirement that veterans fill these positions. Arkansas has made it an Administrative Rule and Regulation. I believe it would only be appropriate for Kansas to follow this precedent by requiring those specifically tasked with assisting veterans in this capacity to be veterans themselves.

In conclusion, I believe that veteran status as a qualification for Veterans Service Representative is important, and is a fair job requirement. I encourage the passage of this bill, both as a veteran who has received the services of a Veterans Service Representative and as the Executive Director of the agency. This bill would reestablish a requirement that existed in Kansas for more than thirty years.

Thank you for this opportunity to testify. I would be happy to answer any questions you might have at this time.

TESTIMONY PRESENTED
HOUSE GOVERNMENTAL ORGANIZATIONS AND ELECTIONS COMMITTEE
REGARDING HOUSE BILL 2021
by FRED DUMAS, VETERANS SERVICE REPRESENTATIVE
THE AMERICAN LEGION, DEPARTMENT OF KANSAS

My experience as a Veteran Service Representative in assisting veterans with filing claims for disabilities incurred in or aggravated by military service with the Dept. of Veterans Affairs, has touched the lives of veterans of WWI, WWII, the Korean Conflict, Vietnam and the Persian Gulf.

It seems that the "military bond" or comradeship never ends, as military veterans share a special kind of "growing up" together during our middle or late adolescence. This "bond" continues forever. You can look in our local newspaper, American Legion, VFW, DAV and various other organization's magazines and find listings of "outfits" ships and dates for reunions for former members of the Army, Air Force, Navy, Marines, Coast Guard, Merchant Marines and Army-Air Corps.

This pride and bonding lives today and when a veteran walks into my office he/she knows that another veteran understands what he/she is getting at or talking about. Further they want to feel that he or she is getting representation from a veterans advocate. Sometimes they come straight out and ask if I'm a veteran. At times they come in already upset and say "that's not what they promised when I went to serve my country", and if I don't tell them what they want to hear they get up from their chair and say "You're no damn veteran!" These situations occur in all Kansas Commission on Veterans Affairs Offices whether in a VA Medical Center or Field Office which are located throughout the state.

At times they preface an incident or situation with "you know", "when we", or "remember how it was". This I feel is their way of being at ease with another veteran to talk about certain things that happened to them while in service. Some of which are of a very personal and private nature. When a veteran comes into my office and shares horrible things that make them cry, or good things like crying at parades in honor of veterans or just seeing the Flag, I know they know they're talking to another veteran.

Therefore I urge your vote in favor of House Bill 2021.

House Gov. Organ. and Elections
Attachment 9
1-21-97

TESTIMONY PRESENTED
HOUSE GOVERNMENTAL ORGANIZATIONS AND ELECTIONS COMMITTEE
REGARDING HOUSE BILL 2021
by RALPH SNYDER, ASSISTANT ADJUTANT
THE AMERICAN LEGION, DEPARTMENT OF KANSAS

The single most important reason The American Legion was founded was to insure that veterans - primarily disabled, elderly and needy veterans - were provided care when necessary and in a manner befitting those who defended this nation in time of peril, or who carried out our government's policies through their service in the armed forces.

With few exceptions, those veterans who seek assistance from the VA are the disabled, the elderly and the needy. And when a veteran finds themselves in need of VA assistance they feel more comfortable confiding in a fellow veteran. I would, with your permission, like to introduce Fred Dumas a Veterans Service Representative with The American Legion who can better relate to you the importance of veterans being placed in positions to serve other veterans who are trying to obtain their earned VA benefits.

House Gov. Organ. and Elections
Attachment 10
1-21-97