

Approved: Al Ramirez 2-11-93
Date

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Chairperson Al Ramirez at 1:30 p.m. on February 9, 1993 in Room 531-N of the Capitol.

All members were present except

Committee staff present: Julian Efird, Legislative Research Department
Fred Carman, Revisor of Statutes
Jackie Breymeyer, Committee Secretary

Conferees appearing before the committee: Brad Avery, Executive Director, Kansas Association of Public Employees (KAPE)
Tom Swan, Employee, Dept. of Corrections
Terry D. Bernatis, Division of Personnel Services, Department of Administration
D. Keith Meyer, Personnel Administrator, Department of Administration
Rich Gonzales, Director of Division of Printing, Department of Administration
Orion M. Jordan, Director, Division of Facilities Management, Department of Administration

Chairman Ramirez called the meeting to order and stated the first order of business would be:
SB 128 - state health care benefits program

Brad Avery, Executive Director, Kansas Association of Public Employees (KAPE), appeared first on the bill. Mr. Avery stated that this bill would allow payments for health insurance to continue when an employee runs out of sick and annual leave hours because of an injury or other circumstance. He distributed a letter to the Chairman from Deborah E. Annable of Norton, Kansas, who had undergone surgery and suffered through a difficult financial time due to her annual and sick leave running out and being placed on 'leave without pay' status. (Attachment 1) Mr. Avery called upon Mr. Tom Swan, an employee of the Department of Corrections, to give his story to the committee. Mr. Swan was placed on leave without pay September 8, 1992. He had previous heart attacks. He was given the opportunity to return to work pending a release from his doctors. Mr. Swan has severe coronary artery disease and a deformed heart from birth. The test that Mr. Swan needed to determine if he could return to work cost \$4600. Unfortunately they did not accept the test after he got it. Mr. Swan also has a daughter with catastrophic illness. Mr. Swan needs surgery himself which the doctors will not schedule as he has no money to pay for it. It is Mr. Swan's feeling that there should be some way for an employee to have coverage when he is on this type of leave status. Mr. Swan cannot apply for assistance from SRS because he is an employed individual.

After answering numerous questions and hearing several comments from committee members, the Chairman thanked Mr. Swan for his testimony and turned to the next conferee.

Terry D. Bernatis, Division of Personnel Services, Department of Administration, appeared as a neutral conferee. Ms. Bernatis cited several statistics in her testimony. (Attachment 2) Ninety-five percent of the eligible employees participate in the state health care benefits program. Employees pay less than 10% of the cost of their coverage. Over the years the cost has continued to escalate. The language in the bill also provides health benefit continuation for "other circumstances." This is not a clear definition. Health care benefits could be paid by the state for situations that are non-health or injury related as well as health or injury related circumstances. With this bill's continuation provisions, agencies will be making additional expenditures for health insurance. Under leave without pay, an employee may continue coverage and pay approximately 75% of the cost of coverage.

Ms. Bernatis ended her presentation and answered several questions from the committee.

As there were no other conferees on the bill, the Chairman closed the hearing on **SB 128**.

The Committee turned to **SB 127** - Kansas Civil Service Act; employee dismissal.

Brad Avery, KAPE, appeared first on the bill. His testimony addressed one state agency, which has imposed a point system to decide whether to undertake discipline based upon absences or tardiness. It is KAPE's belief that when a point system governs the determination of whether to impose discipline, it discourages the use of judgment and common sense in evaluating a potential disciplinary situation. (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION, Room 531-N
Statehouse, at 1:30 p.m. on February 9, 1993.

D. Keith Myers, Personnel Administrator, Department of Administration, appeared in opposition to the bill. He stated that under policies developed in the Department absences from work are defined as non-disciplinary and disciplinary. Points and discipline are maintained on a twelve month rolling basis. Concepts factored into attendance policies include consistent action, progressiveness and reasonableness. Where there is an issue of reasonableness, the Civil Service Board is available to address it. (Attachment 4)

Rich Gonzales, Director of Division of Printing, DOA, spoke to the bill, stating that the attendance policy has worked well and he would not hesitate to recommend its use to anyone. (Attachment 5)

Orion M. Jordan, Director, Division of Facilities Management, DOA, distributed his testimony (Attachment 6) His testimony stated that the point system is a tool that can be applied if habitual or flagrant misuse of leave is occurring in a portion of the workforce.

One of the conferees said that the point system is only a part of "two unique divisions within the Department of Administration."

As time for the Senate session was near, the chairman asked Ms. Bobbi Mariani, who was present to answer a question on **SB 96** if she could return on Wednesday. She replied in the affirmative.

The meeting was adjourned.

The next meeting is scheduled for February 10, 1993.

GUEST LIST

COMMITTEE: Separate Gov. Organization

DATE: Feb. 9, 1993

[illegible]

DEBORAH E. ANNABLE
906 N. Wabash
Norton, KS 67654
February 3, 1993

The Honorable Senator Al Rameriz
Chairman of Government Organization Committee
State Capitol
Topeka, KS 66612

Dear Senator,

I am writing to share with you my recent experience after having been injured on the job. I work for the Department of Transportation, District Three at Norton and have just returned to work after a four month recovery period following knee surgery.

It was of course a very difficult period for me and my family due to the injury and surgery but the financial difficulty that was added to the burden because of the "rules" governing workman's compensation was even harder to bear. May I explain:

1. When my sick and annual leave ran out I was placed on 'Leave Without Pay' status.
2. Leave without pay status does not allow for payment of my health insurance premium; my share or the state's.
3. I am a single mother and therefore was carrying the family plan which is a total premium payment of \$259 and some change.

Granted I was receiving worker's compensation payments but the extra payments of \$259 + per month really stretched my budget and caused an unexpected hardship on my household income.

I guess my point is that I didn't feel that a worker should be penalized for having been hurt on the job. I did apply for the shared leave program but was denied because my case was not considered 'catastrophic'. Had I been able to receive some additional leave, which by the way had been donated to me by co-workers, I would not have been placed on leave without pay status and would not have had to face this problem.

I realize that the shared leave problem is a different issue but I am not real clear on what is considered 'catastrophic' and who determines how something like this affects my personal household. When a single mother of teenagers hasn't got enough money to make ends meet, I would consider that situation catastrophic. Having to pay out an additional \$259 + each month for four months tends to put an extra load on an already tight budget!

Thank you for hearing 'the rest of the story'.

Post-It™ brand fax transmittal memo 7671		# of pages ▶
To <i>Brad</i>	From <i>Deb Annable</i>	
Co.	Co.	
Dept. <i>FVI</i>	Phone #	
Fax #	Fax #	

G. Comm.
Deborah Annable
Attachment 1
2/9/93

Testimony To The
COMMITTEE ON GOVERNMENTAL ORGANIZATION

By
Terry D. Bernatis
Division of Personnel Services
Department of Administration

Tuesday, February 9, 1993
Re: SB 128

Mr. Chairperson, members of the Committee, thank you for the opportunity to present testimony regarding Senate Bill 128. My name is Terry Bernatis. I am the Benefits Analysis Manager for the Division of Personnel Services in the Department of Administration.

Senate Bill 128 amends K.S.A. 75-6508 which establishes that there will be an agency contribution for active state employees participating in the state health care benefits program.

Obviously the issue of health care is of grave concern to all citizens. It is generally recognized that the cost of health care is in a crises situation which has been a long time in the making. It touches every citizen's life either in terms of access or cost. Until the 1960's, the health care system was built upon the premise of employer provided benefits. Since the 1960's, the federal and state governments have become actively involved in providing coverage for those who do not have employer provided benefits. These bodies also have mandated either types of coverage or continuation of coverage when the employer/employee relationship ceases.

Ninety-five percent of our eligible employees participate in the state health care benefits program. The health care commission

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has endeavored to ensure that the program is affordable for active participants. Employees pay less than 10% of the cost of their coverage. Over the past several years as the cost of coverage continued to escalate, the health care commission has provided additional funding for dependent coverage as well. The health care commission has provided a health benefits program that provides good benefits and has strived to make the cost affordable for the active employee.

Senate Bill 128 provides access to and cost of the health benefits program will be extended beyond the active employee/employer relationship. The Department of Administration generally supports the addition of or the broadening of benefit plans. Although it generally supports the concept of the extension of access and cost maintenance of group health insurance, there are several issues that perhaps need to be more fully considered to assure that the provisions of this bill are equitably and fairly applied. Our concern is to assure that the provisions of this bill coordinate with current continuation provisions.

The bill addresses two different types of circumstances where coverage would be continued. The first is for injury. This appears to be a reasonable extension of coverage if the employee is unable to work as a result of a work related injury. Employers I have worked for in the past have had this continuation provision. It creates excellent good will and can improve employee relations. It also provides an incentive for the employer to work with the employee to return to work. Current workers' compensation law

provides that the cost of group health insurance be included in the 2/3 weekly benefit. The workers' compensation law recognizes the value of health benefits. It tried to make provisions for benefits continuation. Unfortunately, in far too many instances, it does not achieve this goal. This bill would provide that.

The language in the bill also provides health benefit continuation for "other circumstances." Without a clear definition of what "other circumstances" are, health care benefits would be continued and paid for by the state for situations that are non-health or injury related as well as health or injury related circumstances. The direct bill provisions of the health benefit plan already provide for continuation of coverage. The state makes a contribution for that coverage.

The federal government has mandated continuation of coverage through COBRA and now the Family Leave and Medical Bill. It provides for the continuation of coverage and maintenance of participant cost while employees take a leave without pay for family care. Although we have requested the bill, we still do not have a copy of it. From watching the subcommittee hearings and floor debates, I know that the provisions of the bill will have to be integrated into existing COBRA laws which we are required to follow. However, without the actual bill, I don't know how it is to be integrated. I also don't know how its provisions would impact or coordinate with the provisions of this bill.

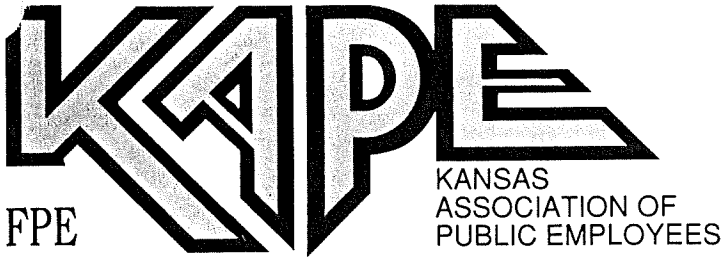
With the SB 128 continuation provisions, agencies will be making additional expenditures for health insurance. Budgets will

have to be amended. We believe that the fiscal notes provided are really just the tip of the iceberg of the total cost to implement these continuation provisions. Similarly, there are going to be additional costs to implement the Family Medical and Leave Bill.

The Family Medical and Leave Bill provides specific timeframes for the continuation period. There are no continuation timeframes under the provisions of this bill. It would be unfortunate if agencies were placed in the position of having to terminate an employee because of the continuation cost, whereas currently the agency may have approved a leave without pay.

Under leave without pay, an employee may continue coverage and pay approximately 75% of the cost of coverage. At termination, the only continuation provision available is through COBRA at 102% of total cost of coverage.

I appreciate this opportunity to appear before you. The federal government has provided two continuation provisions: COBRA and the Family Medical and Leave Bill. The state plan additionally provides for continuation through the direct bill plan and the shared leave plan. We hope that additional guidelines can be established for this bill that will ensure coordination with current continuation provisions. If you have any questions, I will be happy to answer them.



1300 South Topeka Avenue Topeka, Kansas 66612 913-235-0262 Fax 913-235-8788

TESTIMONY OF BRAD E. AVERY
KANSAS ASSOCIATION OF PUBLIC EMPLOYEES
IN REGARD TO SB 127

Under the Kansas Civil Service Act, there are disciplinary procedures that allow state employers to either suspend without pay, demote or terminate an employee.

The Act requires the employer to first propose a disciplinary action it wishes to undertake and then allow the employee a hearing in order to determine whether the proposed action should be made final.

If the employer decides to proceed, then the employee has a right of appeal to the Kansas Civil Service Board. Once before the Board, the employee has the burden to prove the employer's action was unreasonable. The Civil Service Board then has the authority to affirm, modify or reverse the action of the employer.

There are 26 stated causes of discipline within the Act. When the employer decides to implement one of those causes against an employee, it is implicit within the decision-making process that the facts and circumstances of the events or events leading to the charge justify the action taken. That is, after all, why the employee must prove the action to be unreasonable.



G. O. Comm.
Attachment B
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SB 127 addresses an exception to this general rule, undertaken by one state agency, which has imposed a point system to decide whether to undertake discipline based upon absences or tardiness.

The system works through the assessment of points for "unauthorized" absences. If, for instance, an employee's car breaks down on the way to work, and is unable to call to advise the employer of a late arrival, the employee would be assessed one point or one-half a point, depending on how late the arrival was.

If an individual is out of leave time and is required to stay home with a sick child, the employee will be also given a point. The accumulation of nine points within a twelve-month period automatically leads to termination.

Such a scenario is illustrated by a case in which I have represented an individual who was a single parent and whose child suffered from a condition called Nephrotic Syndrome, which is a serious kidney condition. On top of that, he suffered migraine headaches, which according his doctor caused nausea, vomiting, photophobia and extreme sensitivity to noise.

The history of his termination and the way in which this system works is illustrated by copies of leave applications, recording his point assessment each time he reported sick. His employer was fully aware of his and his daughter's medical problems, but was unwilling to make an effort to accomodate his problem.

It is KAPE's belief that when a point system

(3)

governs the determination of whether to impose discipline, it discourages the use of judgment and common sense in evaluating a potential disciplinary situation. While the Civil Service Act will remain less than perfect, SB 127 will eliminate a major flaw in the way in which the Act has been implemented.

DEPARTMENT OF ADMINISTRATION
BUILDINGS & GROUNDS SERVICES
APPLICATION FOR LEAVE

DATE: August 14 1989

TO: WGN BUILDINGS & GROUNDS SERVICES (Superintendent)

FROM: (Employee)

TYPE OF APPOINTMENT: 100% ☒ 68% 62% 50% Temporary

TYPE OF LEAVE:

<input type="checkbox"/> EV Vacation	<u>9</u>	<input type="checkbox"/> Funeral	
<input type="checkbox"/> Sick		<input type="checkbox"/> Jury	
<input type="checkbox"/> Military Leave		<input type="checkbox"/> Discretionary	
<input type="checkbox"/> Without Pay		<input type="checkbox"/> Other (Specify)	

LEAVE TO BEGIN: August 9, 1989, 8:00 a.m. TO END: August 9, 1989, 4:30 p.m.
Date Time Date Time

REASON: Reported sick and no sick leave. 1 pt. 3 total.

EMPLOYEE SIGNATURE: DATE: 8-14-89

SUPERVISOR SIGNATURE: ack Jim Stanley DATE: 8-14-89

LEAVE AUTHORIZED: ☒ YES ☐ NO IF NO, GIVE REASON:

SUPERINTENDENT'S SIGNATURE: WAS-17 DATE:

DEPARTMENT OF ADMINISTRATION
BUILDINGS & GROUNDS SERVICES
APPLICATION FOR LEAVE

DATE: Oct. 26, 1989

TO: WGN BUILDINGS & GROUNDS SERVICES (Superintendent)

FROM: (Employee)

TYPE OF APPOINTMENT: 100% ☒ 68% 62% 50% Temporary

TYPE OF LEAVE:

<input checked="" type="checkbox"/> XE Vacation	<u>2</u>	<input type="checkbox"/> Funeral	
<input checked="" type="checkbox"/> X Sick	<u>6</u>	<input type="checkbox"/> Jury	
<input type="checkbox"/> Military Leave		<input type="checkbox"/> Discretionary	
<input type="checkbox"/> Without Pay		<input type="checkbox"/> Other (Specify)	

LEAVE TO BEGIN: Oct. 25, 1989, 8:00 am TO END: Oct. 25, 1989, 4:30 pm
Date Time Date Time

REASON: Reported sick, not enough time. 1/2 point. Total 3 1/2 points.

EMPLOYEE SIGNATURE: DATE: 10-26-89

SUPERVISOR SIGNATURE: Jim Stanley DATE: 10-26-89

LEAVE AUTHORIZED: ☒ YES ☐ NO IF NO, GIVE REASON:

SUPERINTENDENT'S SIGNATURE: WAS-17 DATE:

DEPARTMENT OF ADMINISTRATION
BUILDINGS & GROUNDS SERVICES
APPLICATION FOR LEAVE

DATE December 22 1989

TO: WGN BUILDINGS & GROUNDS SERVICES. (Superintendent)

FROM: _____ (Employee)

TYPE OF APPOINTMENT: 100% X 68% _____ 62% _____ 50% _____ Temporary _____

TYPE OF LEAVE:

<u>XE</u> Vacation	<u>1</u>	_____	Funeral	_____
<u>X</u> Sick	<u>7</u>	_____	Jury	_____
_____ Military Leave	_____	_____	Discretionary	_____
_____ Without Pay	_____	_____	Other (Specify)	_____

LEAVE TO BEGIN: December 20, 1989 8:00 am TO END: December 20, 1989 4:30 pm
Date Time Date Time

REASON: Reported sick, not enough leave time to cover. 1/2 point. Total 3 1/2

EMPLOYEE SIGNATURE: _____ DATE: 12-22-89

SUPERVISOR SIGNATURE: Jim Stanley DATE: 12-22-89

LEAVE AUTHORIZED: YES NO IF NO, GIVE REASON: _____

SUPERINTENDENT'S SIGNATURE: 12/22/89 DATE: _____

DEPARTMENT OF ADMINISTRATION
BUILDINGS & GROUNDS SERVICES
APPLICATION FOR LEAVE

DATE: January 4, 1990

TO: WGN BUILDINGS & GROUNDS SERVICES (Superintendent)

FROM: _____ (Employee)

TYPE OF APPOINTMENT: 100% X 68% _____ 62% _____ 50% _____ Temporary _____

TYPE OF LEAVE:

<u>XE</u> Vacation	<u>6</u>	_____	Funeral	_____
_____ Sick	_____	_____	Jury	_____
_____ Military Leave	_____	_____	Discretionary	_____
<u>X</u> Without Pay	<u>10</u>	_____	Other (Specify)	_____

LEAVE TO BEGIN: December 31, 1989 8:00 am TO END: January 1, 1990 4:30 pm
Date Time Date Time

REASON: Reported sick, not enough time to cover. 1 point. Total 4 1/2 points NO HOLIDAY PAY

EMPLOYEE SIGNATURE: _____ DATE: 1-4-90

SUPERVISOR SIGNATURE: Jim Stanley DATE: 1-4-90

LEAVE AUTHORIZED: YES NO IF NO, GIVE REASON: _____

SUPERINTENDENT'S SIGNATURE: 1/4/90 DATE: _____

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DEPARTMENT OF ADMINISTRATION
BUILDINGS & GROUNDS SERVICES
APPLICATION FOR LEAVE

DATE: November 6 1989

TO: WGN BUILDINGS & GROUNDS SERVICES (Superintendent)

(Employee)

FROM: _____
TYPE OF APPOINTMENT: 100% X 68% _____ 62% _____ 50% _____ Temporary _____

TYPE OF LEAVE:
XE Vacation 8 _____ Funeral _____
Sick _____ Jury _____
Military Leave _____ Discretionary _____
Without Pay _____ Other (Specify) _____

LEAVE TO BEGIN: November 4, 1989 , 8:00am TO END: November 4, 1989 4:00 pm
Date Time Date Time

REASON: Reported sick, no time to cover. 1 point. Total 4 1/2 points.

EMPLOYEE SIGNATURE: _____ DATE: 11-6-89

SUPERVISOR SIGNATURE: ack Jim Stanley DATE: 11-6-89

LEAVE AUTHORIZED: YES NO IF NO, GIVE REASON: _____

SUPERINTENDENT'S SIGNATURE: WDA 11-13 DATE: _____

DEPARTMENT OF ADMINISTRATION
BUILDINGS & GROUNDS SERVICES
APPLICATION FOR LEAVE

DATE: November 14, 1989

TO: WGN BUILDINGS & GROUNDS SERVICES (Superintendent)

(Employee)

FROM: _____
TYPE OF APPOINTMENT: 100% X 68% _____ 62% _____ 50% _____ Temporary _____

TYPE OF LEAVE:
Vacation _____ Funeral _____
Sick _____ Jury _____
Military Leave _____ Discretionary _____
X Without Pay 2 _____ Other (Specify) _____

LEAVE TO BEGIN: November 9, 1989 , 8:00 am TO END: November 9, 1989 9:55 am
Date Time Date Time

REASON: Requested use of family sick leave, out of sick & vacation. 1/2 point. Total 5

EMPLOYEE SIGNATURE: _____ DATE: 11/14/89

SUPERVISOR SIGNATURE: Jim Stanley DATE: 11-14-89

LEAVE AUTHORIZED: YES NO IF NO, GIVE REASON: _____

SUPERINTENDENT'S SIGNATURE: WDA 11-16 DATE: _____

DATE JANUARY 9 90

TO: WGN BUILDINGS & GROUNDS SERVICES. (Superintendent)

(Employee)

FROM: _____

TYPE OF APPOINTMENT: 100% X 68% 62% 50% Temporary

TYPE OF LEAVE:

 Vacation

 Sick

 Military Leave

X Without Pay 8

 Funeral

 Jury

 Discretionary

 Other (Specify)

LEAVE TO BEGIN: January 6, 1990, 12:00 ~~am~~ END: January 6, 1990 8:00 am
Date Time Date Time

REASON: Reported sick, no leave time. 1 Point. Total 5 1/2 points.

EMPLOYEE SIGNATURE: _____

DATE: 1-9-80

SUPERVISOR SIGNATURE: ack Jim Stanley

DATE: 1-9-90

LEAVE AUTHORIZED: ack AB1-10 YES NO

IF NO, GIVE REASON: _____

SUPERINTENDENT'S SIGNATURE: ack 1/11/90

DATE: _____

DEPARTMENT OF ADMINISTRATION
BUILDINGS & GROUNDS SERVICES
APPLICATION FOR LEAVE

DATE: January 9, 1990 ✓

TO: WGN BUILDINGS & GROUNDS SERVICES (Superintendent)

(Employee)

FROM: _____

TYPE OF APPOINTMENT: 100% X 68% 62% 50% Temporary

TYPE OF LEAVE:

 Vacation

 Sick

 Military Leave

X Without Pay 8

 Funeral

 Jury

 Discretionary

 Other (Specify)

LEAVE TO BEGIN: January 8, 1990, 8:00 am TO END: January 8, 1990 4:30 pm
Date Time Date Time

REASON: Reported sick, no leave time. 1 Point. Total 6 1/2 points.

EMPLOYEE SIGNATURE: _____

DATE: 1-9-90

SUPERVISOR SIGNATURE: ack Jim Stanley

DATE: 1-9-90

LEAVE AUTHORIZED: ack AB1-11 YES NO

IF NO, GIVE REASON: _____

SUPERINTENDENT'S SIGNATURE: ack 1/11-11

DATE: _____

DEPARTMENT OF ADMINISTRATION
BUILDINGS & GROUNDS SERVICES
APPLICATION FOR LEAVE

Appellant's exhibit 6 AB

DATE March 7, 1990

TO: WGN BUILDINGS & GROUNDS SERVICES. (Superintendent)
FROM: _____ (Employee)
TYPE OF APPOINTMENT: 100% X 68% _____ 62% _____ 50% _____ Temporary _____
TYPE OF LEAVE:
EV Vacation 8 _____ Funeral _____
Sick _____ Jury _____
Military Leave _____ Discretionary _____
Without Pay _____ Other (Specify) _____
LEAVE TO BEGIN: February 28, 1990, 8:00 am TO END: February 28, 1990, 4:30 pm
Date Time Date Time
REASON: Reported sick, no leave time. Last of vac. 1 point. Total 7 1/2 points.
EMPLOYEE SIGNATURE: _____ DATE: 3-7-90
SUPERVISOR SIGNATURE: ack Jim Stanley DATE: 3-7-90
LEAVE AUTHORIZED: YES _____ NO _____ IF NO, GIVE REASON: _____
SUPERINTENDENT'S SIGNATURE: WGN 3/8 DATE: _____

DEPARTMENT OF ADMINISTRATION
BUILDINGS & GROUNDS SERVICES
APPLICATION FOR LEAVE

AB

DATE March 7, 1990

TO: WGN BUILDINGS & GROUNDS SERVICES. (Superintendent)
FROM: _____ (Employee)
TYPE OF APPOINTMENT: 100% X 68% _____ 62% _____ 50% _____ Temporary _____
TYPE OF LEAVE:
Vacation _____ Funeral _____
Sick _____ Jury _____
Military Leave _____ Discretionary _____
X Without Pay 8 _____ Other (Specify) _____
LEAVE TO BEGIN: March 4, 1990, 8:00 am TO END: March 4, 1990, 4:00 pm
Date Time Date Time
REASON: Reported sick, no leave time. 1 point. Total 8 1/2 points.
EMPLOYEE SIGNATURE: _____ DATE: 3-7-90
SUPERVISOR SIGNATURE: ack Jim Stanley DATE: 3-7-90
LEAVE AUTHORIZED: YES _____ NO _____ IF NO, GIVE REASON: _____
SUPERINTENDENT'S SIGNATURE: WGN 3/8 DATE: _____

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DEPT OF ADMINISTRATION
& GROUNDS SERVICES
ON FOR SERVICES

DATE- 4-23-1990

WGN BUILDINGS AND GROUNDS SERVICES (Superintendent)

(EMPLOYEE)

OF APPOINTMENT: 100%

PE OF LEAVE:

E VACATION 2
K SICK 6
MILITARY LEAVE
WITHOUT PAY

FUNERAL
JURY
DISCRETIONARY
COMP. TIME

LEAVE TO BEGIN: 4-20-90 8:00 am TO END: 4-20-90 4:30 pm
DATE TIME DATE TIME

REASON- NO REPORT, THEN REPORTED SICK. 1/2 Point. Total 9 points.

EMPLOYEE'S SIGNATURE: _____ DATE: 4-24-90

SUPERVISOR'S SIGNATURE: *Jim Stanley* DATE: 4-24-90

LEAVE AUTHORIZED: *ab 4/24/90* YES _____ NO _____ IF NO, GIVE REASON: _____

SUPERINTENDENT'S SIGNATURE: *W. H. Moore 4/24/90* DATE: _____

**Testimony To The
SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION**

By

**D. Keith Meyers, PHR
Personnel Administrator
Department of Administration**

Mr. Chairperson, members of the Committee, thank you for this opportunity to present testimony in opposition to Senate Bill 127. My name is Keith Meyers and I am the Personnel Administrator for the Department of Administration. In my capacity as Personnel Administrator, I work with the divisions within the agency to develop policies to address human resources related matters, including attendance.

In developing attendance policies, a need exists to strike a balance between an employee's ability to request and be approved for vacation leave and sick leave in accordance with K.A.R. 1-9-3, 1-9-4, and 1-9-5 and K.S.A. 75-2949e(a)(5) and (6) which establish that habitual or flagrantly improper use of leave privileges and a habitual pattern of failure to report for duty at the assigned time and place and to remain on duty are grounds for dismissal, demotion, and suspension.

Other important concepts to factor into attendance policies include:

*G. O. Comm.
Attachment 4
2/9/93*

- 1) **consistent application** (in order to avoid charges of disparate treatment);
- 2) **progressiveness** (in order to give employees the opportunity to correct inappropriate behavior); and
- 3) **reasonableness** (in order for suspensions and dismissals to be upheld if appealed to the Civil Service Board).

Under the policies developed in the Department of Administration, absences from work are defined as non-disciplinary and disciplinary. Points are assessed only for disciplinary absences. It is important to understand that points by themselves are not discipline. Points accumulate toward progressive disciplinary action (3 points - verbal warning; 4 points - written warning; 6 points - 1 day suspension proposal; 8 points - 3 day suspension proposal; and 9 points - dismissal proposal). Points keep employees apprised of their standing with the organization.

Points and discipline are maintained on a twelve month rolling basis. In other words, once a point or disciplinary action has aged twelve months, it may no longer be considered for future disciplinary action. This approach maximizes progressiveness and keeps employees from being permanently penalized for making improvement. However, the policy also has cumulative discipline provisions to deal with employees who do not make sustained improvement during a twelve month rolling period.

Used in conjunction with an advisory letter process, the policy can be an effective management tool for addressing problems with attendance. [Exhibit #1] An attendance policy was implemented at the Division of Printing in 1987. At that time, 24 employees (26% of the total employees) with an average length of service of 9.75 years were carrying sick leave balances of less than 40 hours. This number dropped to 4 by 1991.

[Exhibit #2] In addition, the total number of employees with leave balances less than 100 hours decreased from 34 to 20.

Advisory letters under this policy are given to any employees with five or more days' worth of undocumented sick leave use during each six month period. If this continues an additional six months, employees are then required to provide doctor's verification of absences until improvement occurs. If documentation is not provided, absences are subject to point assessment.

[Exhibit #3] In 1988, the division issued 17 advisory letters to employees meeting this criteria. This number dropped to 3 in 1991. After the first six months in 1988, 7 employees met the criteria which required them to provide doctor's verifications. This dropped to 2 in 1991.

Beyond being an effective management tool, I would like to review just how many employees are affected by points. In the Division of Facilities Management, 40% of the employees under the policy have points. The average point balance for employees with

points is 1.7. Although 13 employees have been dismissed since the implementation of the policy, no Facilities Management employees have been dismissed since November, 1990.

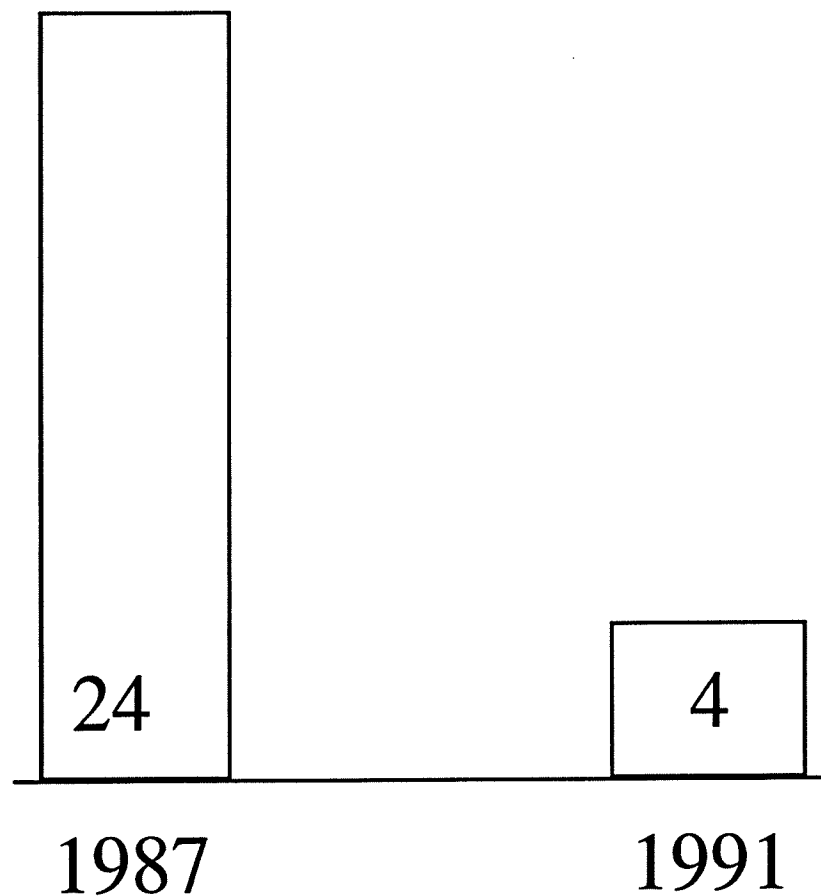
In the Division of Printing, 9% of the employees under the policy have points. The average point balance for employees with points is 2. Only 3 employees have been dismissed since the implementation of the policy at the Division of Printing.

With regard to reasonableness, this type of attendance policy has been tested by four Civil Service Board hearings involving dismissals. In each case the Board has upheld the policy; however, in one case a dismissal was modified due to outstanding medical circumstances, and in another case, a dismissal was modified due to outstanding cultural circumstances. When there truly is an issue around reasonableness, the Civil Service Board is available to address it.

The Department of Administration values its employees highly. Our divisions invest a great deal in their employees to make them productive. To utilize a policy that would have the effect of unreasonably discharging employees would not be in their best interests. Management needs the flexibility to establish attendance policies as it sees fit within current statutes and regulations that will allow it to meet the objectives of the organization with efficient use of taxpayer dollars. The approach I have discussed provides a consistent, progressive, and reasonable approach toward that end.

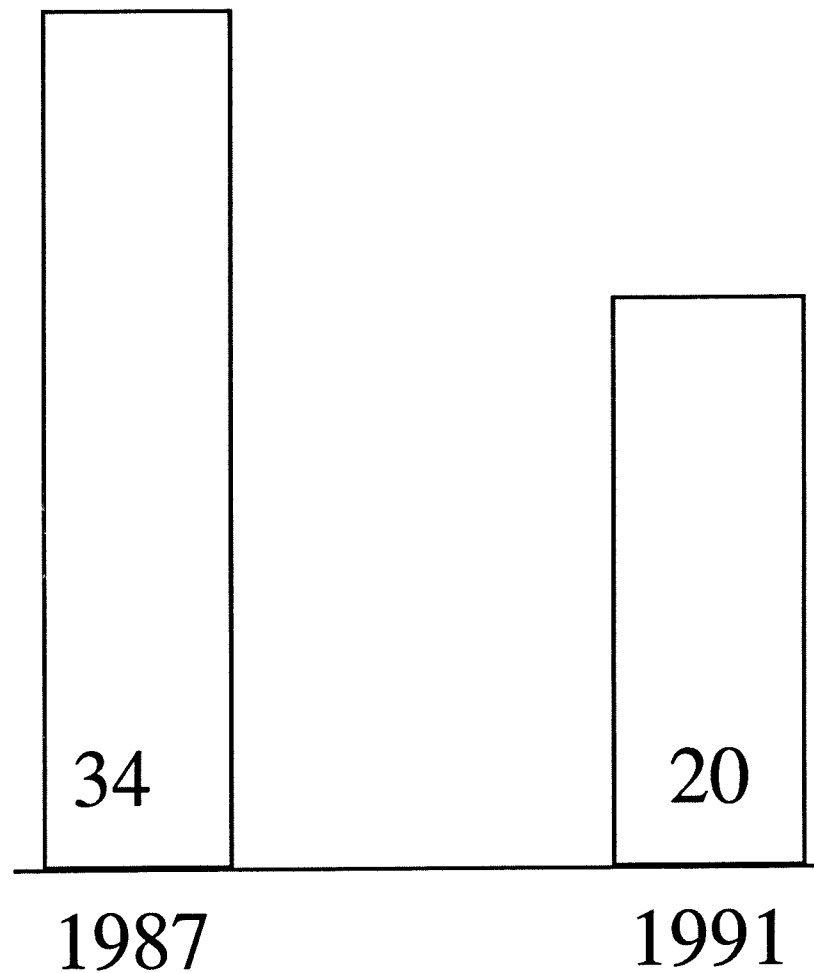
EMPLOYEES WITH SICK LEAVE BALANCES LESS THAN 40 HOURS

DIVISION OF PRINTING



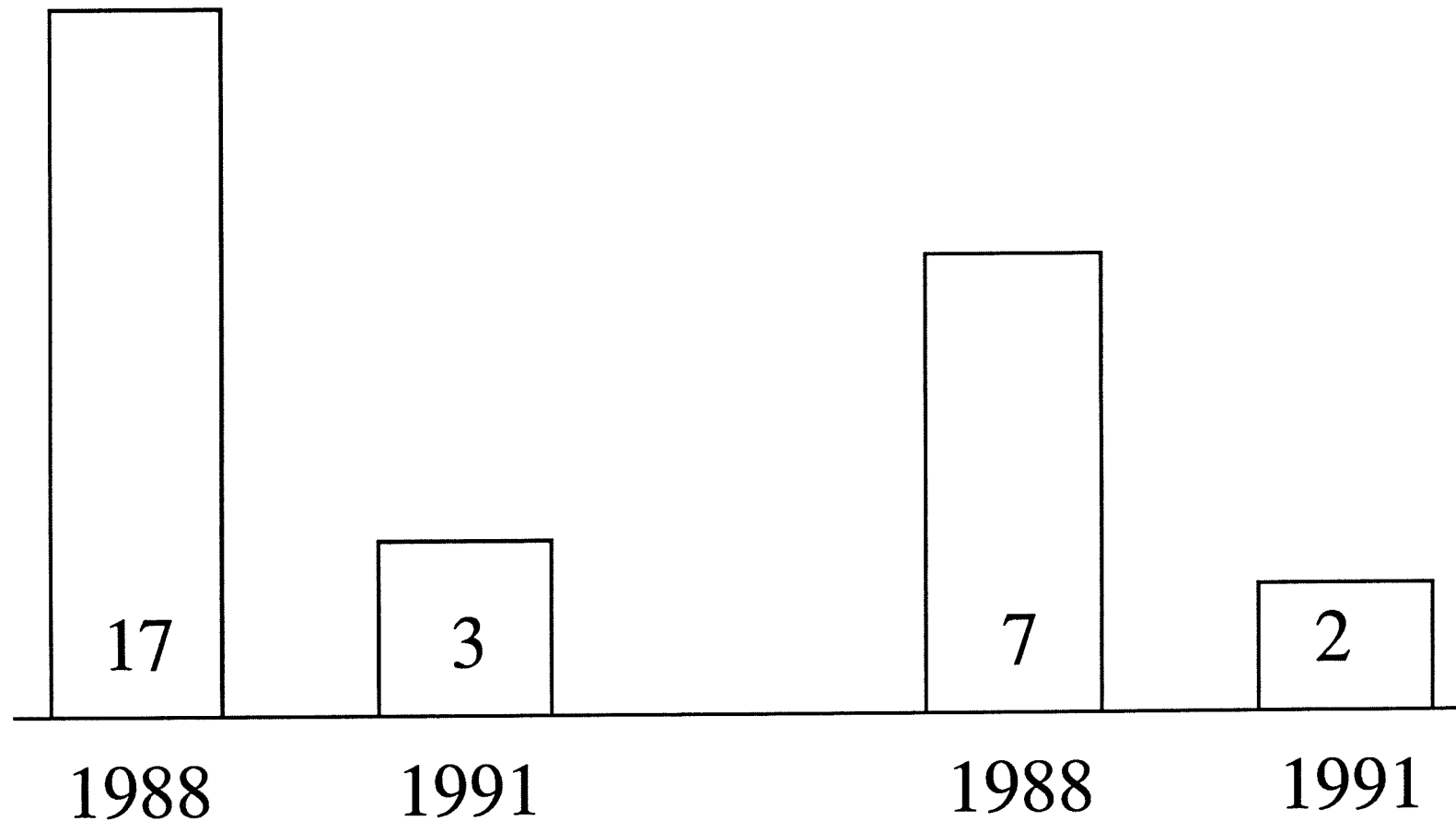
EMPLOYEES WITH SICK LEAVE BALANCES LESS THAN 100 HOURS

DIVISION OF PRINTING



IMPROVED PATTERN/HABITUAL USE

DIVISION OF PRINTING



Advisory
Letters

Require Dr
Verification

Mr. Chairman

Committee Members

Dir of Printing
I am Rich Gonzales and it is a pleasure to be here today to share with you some of the benefits that we have received at the Division of Printing from our association with the attendance policy.

Also, I would like to make it very clear that not all of these benefits were a direct result of the policy but that the policy did play an important part in their implementation.

1. Improved moral among Division employees.
2. FTE's were reduced from 109 in 1988 to a current low of 90.
3. Employee attendance improved greatly.
4. Increased sales and service.
5. Reduced printing rates.

In conclusion, I would like to say that the attendance policy has worked well at the Division of Printing and I would not hesitate to recommend its use to anyone.

If there are any further questions, I would be glad to answer them.

*G.O. Comm.
Attachment 5
2/9/93*

TESTIMONY: SB 127
February 9, 1993

Department of Administration
Division of Facilities Management

Orion M. Jordan, Director

K.S.A. 75-2949 prohibits the habitual or flagrant misuse of leave. The purpose of this law is straight forward. Good attendance means that more employees are working and more work is being accomplished. High sick leave balances are beneficial to employees as protection to income if major illness strikes the employee.

The point system is a tool that can be applied if habitual or flagrant misuse of leave is occurring in a portion of the work force. The law does not define habitual or flagrant misuse. However, statistics provided by the Division of Personnel Services show that the Division of Facilities Management has the lowest sick leave balances of all the divisions in the Department of Administration. This is an indicator of poor attendance. For this reason the point system is being used as a tool in the Division of Facilities Management. If I see improvement in this situation, I will be the first to consider discontinuation of the point system in the division.

I would not recommend that the Legislature mandate the discontinuance of this tool. The point system is a tool that can be applied, discontinued, and reapplied as circumstances dictate. Passage of Senate Bill 127 would eliminate this flexibility.

I believe that attendance in the Division of Facilities Management can be improved. The point system is only one aspect of an improvement effort.

*Attachment 6
2/9/93*

The Division has recently implemented a number of activities that may indirectly improve attendance. These activities include: a pilot employee of the month program for custodial workers; a customer based evaluation system that enables staff to be recognized for excellent work; a reorganization of housekeeping and maintenance functions which eliminates a layer of bureaucracy and improves communication in the division.

I believe that activities as those listed above plus the point system provide a varied and balanced set of management tools.