

is committed to the process which is why, on Select File, we met, discussed a lot of amendments which I had drafted and put into the bill on Select File. I understood that there were still some areas of disagreement, this is one of them. I would try to tell you about four reasons why I think the amendment is unnecessary and really counter-productive to the bill, so much so that the bill really has not a great deal of value without these sections. First, this really doesn't shift the burden of proof much. You know why? Because the state already has the burden of proof. When an employee is fired now, and they go to the grievance process, the state has to prove up why they are firing them. So it is not as if there is a great burden of proof shift here. The state always has to keep their records, that is why they have personnel folders. That is why they have warning systems, written warnings. That is why they have yearly evaluations. So you are looking at an employer with a rather considerable data base with which to justify their actions. There is not much of a fear, I think, of the state being placed behind the eight ball because they have far greater resources in assessing an employee's performance, in gathering facts, in carrying those facts to a grievance procedure. They are represented by counsel. And all of that occurs with the power of the state. The individual who is resisting this effort has none of those resources. A level playing field, between David and Goliath, is unnecessary. You can put Goliath at the down side with a down wind and it will be okay. We don't have to worry about the unfairness to Goliath in that case. That is what you have here. You have David and Goliath with respect to their resources. Third, picture this scenario under the Beutler amendment, somebody complains of waste, it is reported, it is found, it comes to light, there is some embarrassing publicity the next day, the employer goes down, finds that this employee was late coming back from coffee break, bang, a written reprimand. That afternoon there is a phone call that comes in, calls home, PTA meeting or something like that, makes a personal call on state time, bang, second reprimand, you are fired. That is right. And with that scenario it is all over, the guy is fired, the case is laid, and at that point then Senator Beutler would have the employee try to erect or divine the intention of the employer...

SPEAKER NICHOL: One minute.