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Testimony IN SUPPORT of HB 2151
Before the House Judiciary Committee
Submitted By: Rebecca Proctor
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Chairman Barker and Members of the Committee:

Thank you for allowing me to address you today. My name is Rebecca Proctor. I am a life-long Kansan, a labor and employee benefits attorney by trade, and currently serve as Executive Director for the Kansas Organization of State Employees (KOSE). KOSE is a public employee union representing over 8,000 executive branch employees in over 300 workplaces spread across all counties of our State. On behalf of those employees, I urge you to support HB 2151.

In 2013, the Kansas legislature passed HB 2222, requiring all school districts to have anti-bullying policies (covering parent-to-staff bullying, staff-to-staff bullying, staff-to-student bullying, and student-to-student bullying). Later that year, I joined KOSE as its Executive Director. I quickly discovered the single biggest driver of calls by state employees to the KOSE office is workplace bullying, only employees don't characterize it as "bullying." Most employees who call simply say, "I have a hostile work environment."

From a legal perspective, hostile work environment means something very specific...discrimination or harassment based on membership in a protected class (age, sex, race, national origin, etc). Upon questioning, it becomes apparent most workers are not experiencing legally actionable, hostile work environment harassment. Instead, they are being bullied. For context, we are not talking about good-natured joking or being teased. We are talking about systematic destruction of the employee's work environment...taking away key parts of the job the employee enjoys, hyper-critical evaluation of the employee's work without basis in established criteria or milestones, openly criticizing the employee in front of other employees, etc. This type of conduct is not good-natured, and it is no joke.

In June 2014, Forbes Magazine interviewed David Maxfield, a researcher who has been studying corporate culture since the 1980's, about a study he completed regarding workplace bullying. The study revealed that in many workplaces, bullying continues for years. 89% of bullies have been bullying for more than a year, and 54% for more than five years. 80% of bullies affect five or more people. Although workplace bullying can take

many forms, those Maxfield surveyed indicated that 62% saw bullying in the form of sabotaging an employee's work and 52% saw bullying in the form of browbeating, threats, or intimidation. This conduct impacts the employer's bottom line. 20% of study respondents reported workplace bullying costs them seven hours per week or more of work and productivity.

The fiscal note for this bill is, at best, incomplete as it does not even attempt to quantify time and productivity losses due to workplace bullying. In addition, the fiscal note states this bill "could result in multiple grievances or even legal actions." This statement misunderstands the bill. As noted above, 2151 is similar to 2013 HB 2222. The fiscal note for that bill cited no fiscal impact. Like 2013 HB 2222, HB 2151 does not provide or create any legal cause of action...it simply requires each state agency to have a policy prohibiting workplace bullying and to foster an environment of dignity and respect at work. Yes, the bill will require staff to draft policies, but it will require far less work and far less potential for legal action than the HR "Modernization" initiatives announced last week.

If the State is truly interested in modernizing its HR policies, anti-bullying policies should be an integral part of that modernization. Many entities (both public and private) have recognized the high cost of workplace bullying, in terms of employee turnover, absenteeism, and lost productivity. As a result, both the Society for Human Resource Management and the American Bar Association have sample/model workplace bullying policies that are free and available online. These sample policies provide templates that significantly reduce staff time required for policy drafting.

Anti-bullying policies are sorely needed at Kansas agencies. KOSE conducted its own workplace bullying survey of KOSE-covered State of Kansas employees. Our findings? 69% said they had been bullied at work within the past three months, and another 78% said they had witnessed someone else being bullied at work within the past three months. By the time employees call the KOSE office about their situation, they have usually made at least one to two visits to Human Resources in attempt to get the problem resolved. The response is the bully's conduct does not violate any existing State rule or policy.

I want to be very clear: we are not talking about conduct forbidden under anti-harassment/discrimination laws and policies. We are talking about conduct that is insidious and damaging, but not currently prohibited. For example, the thirty-eight year old, heterosexual, male employee who has been on the job fifteen years and is having his work sabotaged by a new, thirty-year old male supervisor who bullies to establish his authority and superiority. About the employee who has all meaningful job responsibilities taken from her and is made to spend full working days doing nothing but copying old files. About the employee who meets all performance criteria but is still belittled the supervisor. The examples are too numerous to share in detail.

The State employees KOSE represents work tough jobs. They are officers at state correctional facilities, care-givers at our state hospitals, KDOT employees who clear our highways, facilities services workers who clean legislative offices. These employees work hard, but the legislature has not approved an across-the-board pay increase for them since 2009. At the minimum, the State owes them a workplace where they are free of abuse and treated with dignity and respect. I urge you to vote in favor of HB 2151. Thank you for your time and attention; I will stand for any questions.