

MINUTES OF THE SENATE COMMITTEE ON LABOR, INDUSTRY AND TOURISM

The meeting was called to order by Sen. Bill Morris at
Chairperson

1:30 ~~am~~ p.m. on March 2, 19 83 in room 529-S of the Capitol.

All members were present ~~except~~.

Committee staff present:

Mark Burghart, Research Department
Bruce Kinzie, Revisor
Louise Cunningham, Secretary

Conferees appearing before the committee:

Arnold Berman, Department of Human Resources
Rob Hodges, Kansas Association of Commerce and Industry
Dennis McFall, Kansas Association of School Boards
Pat Lehman, Wichita, International Association of Machinists and Aerospace
Workers
Jim Yonally, National Association of Independent Business
Dr. Harvey Ludwick, Department of Human Resources

S.B. 335 - Employment security; concerning the filing of certain claims for benefits.

The Chairman explained that the purpose of this bill was to assist workers that come from areas of high unemployment and it is a burden to report weekly when there is no employment available. Under this bill if the unemployment rate is 7% or more they would not have to report weekly after the initial report.

Arnold Berman, DHR, said they had conducted preliminary evaluation of this and there were two problems. 1) It would put the bill out of conformity and 2) currently they are permitting, in instances such as this, the filing of weekly reports through the mails. The Department has requested an opinion from the regional office and would submit this report to the Committee as soon as it was available.

The Chairman said the deadline for bills was approaching and it was necessary to get this information as soon as possible.

S.B. 365 - Disqualifications for benefits under employment security, surcharge on negative accounts.

Rob Hodges, KACI, said they supported the "voluntary quits" disqualification part of the bill and opposed the negative surcharge portion of the bill. The policy board opposed a surcharge last December but that decision was made on tax rates that have since changed. A copy of his statement is attached. (Attachment 1).

Dennis McFall, KASB, said they support the voluntary quits portion of the bill.

Pat Lehman, Wichita, IAMAW, said they oppose the entire bill. They realize that there are a few abuses in the program but this bill would promote "economic slavery". Each case must be considered on a case by case basis. There is already a strong deterrent in the current law. Most Kansas employers are reasonable in their treatment of people but there are a few that are taking advantage of the current unemployment situation and are taking advantage of their employees. She cited several cases of such abuse. She said some employers were wanting to pay employees in cash rather than putting them on the payroll. Some employees had their working hours cut while new employees were hired. She suggested the reason for this was that they were getting federal tax credits in hiring these new employees. They could get a tax credit for \$3000 the first year on a new employee and then the credit would drop to \$1500 the second year. This was enough incentive

for employers to keep hiring new people. She said they had been flooded with calls of people who have no representation in unions and do not have money to hire an attorney. A copy of her statement is attached. (Attachment 2).

Yim Yonally, NFIB, said his group support the bill. They do not think it is appropriate to use unemployment funds for those who voluntarily quit or fail to seek suitable work.

Dr. Harvey Ludwick, DHR, said they were opposed to the bill. They felt the penalty was sufficient under the present law. A copy of his statement is attached. (Attachment 3).

A motion was made by Sen. Arasmith to recommend S.B. 365 favorably for passage. Motion was seconded by Sen. Werts.

A substitute motion was made by Sen. Karr to table the bill. Motion was seconded by Sen. Daniels. Motion did not carry.

The Committee voted on the original motion by Sen. Arasmith and the motion carried with Senators Feleciano, Daniels, Karr and Chaney voting against the measure.

Meeting was adjourned.

SENATE LABOR, INDUSTRY & TOURISM COMMITTEE

Date 3-2-83 Place 529-S. Time 1:30.

GUEST LIST

| <u>NAME</u> | <u>ADDRESS</u> | <u>ORGANIZATION</u> |
|------------------|----------------|------------------------------|
| Larry Wolgast | Topeka | DHR |
| Steve Goodman | Topeka | Dept. Human Res. |
| Ph. Holzer | Topeka | KACI |
| Arnold Beran | Topeka | DHR |
| Herman S. Ludwig | Topeka | DHR |
| Bonnie Smith | Topeka | Budget |
| Robert C. Clark | 1111 1/2 S | " |
| Ruth F. Clark | " | " |
| Mrs. B. J. Clark | " | " |
| BARB REINERT | TOPEKA | Ks. WOMEN'S POLITICAL CAUCUS |



Legislative Testimony

Kansas Association of Commerce and Industry

500 First National Tower, One Townsite Plaza

Topeka, Kansas 66603

A/C 913 357-6321

KANSAS ASSOCIATION OF COMMERCE AND INDUSTRY

Testimony Before the

SENATE COMMITTEE ON LABOR, INDUSTRY, AND TOURISM

Regarding SB 365

March 2, 1983

Mr. Chairman and Members of the Committee:

My name is Rob Hodges and I am Executive Director of the Kansas Industrial Council, a major division of the Kansas Association of Commerce and Industry (KACI). I appreciate the opportunity of appearing before the Committee today to discuss our views on SB 365.

The Kansas Association of Commerce and Industry (KACI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KACI is comprised of more than 3,000 businesses plus 215 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KACI's members having less than 25 employees, and 86% having less than 100 employees.

The KACI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

The Kansas Association of Commerce and Industry supports a portion of SB 365 and opposes another part. Our organization supports the part of the bill commonly

referred to as "voluntary quits" disqualification, but has a policy in opposition to a surcharge on employers with a negative balance in their U.C. account.

The "voluntary quits" disqualification, as its commonly called, also includes disqualification for persons discharged for breach of duty and for those who refuse to seek or accept suitable work. While state laws vary on the disqualification and requalification provisions, 43 states require that a disqualified claimant return to work to requalify for benefits if that person voluntarily left the job without good cause. This disqualification for the duration of unemployment is obviously the rule and not the exception in these cases. KACI supports the concepts of SB 365 pertaining to disqualification of benefits for those who voluntarily quit their job, are discharged for a breach of duty, or who refuse to seek or accept suitable work.

The section of SB 365 which pertains to reimposing the surcharge on employers with a negative balance in their U.C. account presents a dilemma for KACI. While our organization has never had a policy in favor of such a surcharge, our current policy in opposition to a surcharge, adopted only last December, is based on what we've now learned is faulty information. We understood that negative account employers would be the only group paying the new maximum tax rate of 5.4%. We now learn that at least one rate group of positive account employers will be paying the same maximum rate. While our policy in opposition has not been changed, the tax rates recently announced by the Department of Human Resources are not the tax rates we were given in developing our policy.

I thank you for your time in permitting KACI to make input in these matters, and will attempt to answer your questions at this time.

(2)

Senator Morris, Senators of the Committee, I am Pat Lehman, representing the members of District Lodge #70, of the International Association of Machinists and Aerospace Workers.

I appear today to offer evidence and testimony against passage of S.B. 365.

I want to make clear that as a responsible service organization, we do not support the concept that all Kansas residents who voluntarily quit a job should be entitled to unemployment compensation.

We fully realize that there are a few individuals who will abuse any law that provides compensation or monetary remuneration such as unemployment compensation or tax credits.

We, on the other hand, are not interested in supporting or promoting any law which in effect promotes economic slavery, which is very bit as real as physical slavery.

Rather, we believe that applications for unemployment compensation, after the worker has voluntarily quit a job, must be considered on a case-by-case basis as it is today.

The current penalty imposed, denial of compensation for 10 weeks, plus the "waiting week", and the subtraction of 10 weeks from the total compensation allowed is very harsh, and a strong deterrent.

Among the services to which our members are entitled, is representation at unemployment compensation hearings, when that member finds it necessary to file an appeal, or in the normally few cases, following a so-called "voluntary quit" cases.

We have found that these cases, usually few in number, have increased during this economic depression as our members have been forced to seek work where no written contract with the employer exists, and therefore, no formal, legal method is available to them to resolve problems. In many, many cases, they are forced to do what any reasonable person would do under similar circumstances, that is quit a job in order to seek full-time employment elsewhere, and in these cases, employers virtually automatically dispute, forcing the employee to go to the appeal process in order to be compensated.

While most Kansas employers are fairly reasonable in their treatment of employees, it appears to us that several are taking advantage of the economic depression and this is reflected in the treatment of their

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employees.

Details of some of the cases we have received in recent months may be of interest to the committee.

Two laid off workers from Salina, Kansas were forced to seek employment in McPherson, Kansas. They, and other employees, were forced to work eight straight hours, continuously standing and walking, with NO break time allowed for rest, eating, or to use the bathroom. In checking with other employees, they found that only one had managed to make a hasty trip to the bathroom during the previous two weeks. Other employees had literally run to cover his assignment so that he could make a hasty trip to the bathroom when it became apparent to him that he would foul himself if he did not get to the restroom.

At the end of a week's work under these conditions, both men were unable to walk because their feet were covered with raw, bleeding blisters. They could not walk. Both employees, for whom we filed cases, as well as five others, not our members, quit that week.

Both were denied unemployment compensation until their appeal was upheld some four months later by the U.C. Review Board.

L. W. is a single parent supporting herself and two children. Following her lay-off from a plant at Strother Field, she sought employment at a facility in Ark City where she had previously been employed. Although the \$4.75 per hour wage she was promised was not much more than she would have received from unemployment compensation, and in fact her net income was less when transportation costs, child care costs, taxes, and medical insurance costs were deducted, L. W., like the overwhelming majority of Kansas citizens, preferred to work rather than to be unemployed. She also felt that the medical insurance available, though costly, was essential for her and her children.

Though she had previous experience in this job, six hours after starting work on her first day of employment, L. W. was informed that her wages would not be \$4.75 per hour, but would only be \$3.35 per hour.

At this rate of pay, L. W. would have earned \$15.00 per week less than her unemployment compensation, and after subtracting taxes, insurance, child care, and transportation costs, she found that she could not even meet her basic needs costs of food, shelter, utilities, and basic living needs.

When she quit to seek other full-time employment at a living wage for herself and her children, she too, was denied unemployment compensation.

T. L. had been gainfully employed for 16 years for the same employer. When his job was phased out, he was employed at another location for some seven months before a lay-off due to the current economic depression. Further, his employer wrote a letter of appreciation and commendation for his work.

Following that lay-off, T. L. was employed by a firm in Wichita. At his hire-in interview, T. L. was offered one wage if he would agree to payment in cash, and if he would agree not to file a W-4 income tax withholding form, a not uncommon practice, we have discovered.

It was further suggested to T. L. that he could accept this cash payment and still collect unemployment compensation payments. When he refused to comply with this illegal practice, T. L. was hired for \$4.00 per hour. T. L. was required to disassemble machinery and clean the parts in a tank of chemicals. NO information as to the content, or possible side effects of these chemicals was provided, nor was any safety equipment provided except a pair of torn rubber gloves which T. L. wisely decided not to wear.

After two weeks work, T. L.'s hands were burned so badly that he could no longer work, nor did he have money to seek medical treatment.

He quit this job because his health was so severely affected, applied for Unemployment Compensation and was denied.

He and his family were without any income from September until December when the Board of Review reversed an appeal's hearing ruling. It appears that T. L. has suffered some permanent physical damage due to this prolonged, unprotected exposure to these chemicals. He has been unable to find a job since this exposure, and is still suffering some problems with his hands.

One of the major industries where our laid-off members, particularly women are trying to work, is the restaurant industry, and one where we have found many, many problems.

C. B. is a single parent, supporting herself and two children. Like many Kansas workers, she has become a job hunting gypsy, searching frantically for any job. She finally found work in a small restaurant in Blackwell, Oklahoma. After one and a half months at this job, she was offered a better paying job in a business located directly across the street from her newly-found home in Braman. She gave a week's notice, was promptly replaced, only to find two days before reporting for the new job, that due to a sudden change in circumstances, the new job was no longer available.

Unable to find any other job in either of the two towns, she returned to Wichita, filed for Unemployment Compensation and was denied. She was forced to reunite with an abusive husband in order that she and the children could survive while awaiting for the appeal process to be completed.

K. W. was promised \$3.25 per hour in pay at a Wichita restaurant, but found after working one day that she was only being paid \$2.25 per hour, in cash, and was not given the opportunity to fill out a W-4 tax form. She quit to look for a more stable, legal job, and was denied Workers Compensation while she conducted a further job search.

J. C. was employed as a management trainee by a Wichita fast food restaurant chain. The training was to last for six weeks, and was informed no permanent job would be offered until she successfully passed the required written tests. J. C., a non-U. S. born citizen, found after three tries, although she is fluent in six languages, her ability to write English was not good enough to pass the test. Not wanting to be fired after the training, she begged to be released from the training, but was refused. With the pressure of both husband and wife laid off, which brought about a divorce, three children to support, no job, no Unemployment Compensation, J. C. suffered a nervous breakdown, was confined to the hospital for some time. She and her children are now awaiting eviction from their home. She can't make the payments, and can't sell the house due to the depressed market.

M. C., supporting herself and one child lives in Augusta. She found a job in a Wichita restaurant for \$1.80 per hour, a common restaurant wage. She was promised at least 37 to 44 hours per week. In order to work, she drove 40 miles round trip each work day, plus paid \$10 per day in child care. She supplemented her earnings with her savings until that ran out, then was forced to use her child's future college fund. She wanted to work, rather than draw Unemployment Compensation, as is usual among our members.

Her hours were erratic and fell far short of the number promised to her. Ultimately, she was forced to quit to try to find regular, full-time employment, and was denied Workers Compensation.

D. W. and J. T.'s daughters encountered another frequent problem that we find in the restaurant business. That is, they were initially hired for full-time employment, but after about a year of good work habits, their hours were greatly reduced and their work schedule very erratic. Needing full-time work, they like M. C., begged for more hours even as new employees were added at their place of employment.

We could not understand why this practice of greatly reduced hours of a good employee kept cropping up, until we saw that the majority of Kansas employers using the Targeted Jobs Tax Credit sum to be restaurant operators.

We have questioned its use and value in allowing up to \$3,000 per first year of employment for these low-paying, low-skill jobs, knowing that the monetary incentive for the employer is greater if these employees are so discouraged after one year on the job that they quit to look for full-time work, and are denied Unemployment Compensation.

We believe there might be a connection and have so reported our concerns to the Department of Labor in Washington.

The above cases are but a few, a small few examples of the abuse of Kansas workers that seem to be abound in our state.

We have been flooded with telephone questions from non-members who have no one to represent them in Unemployment Compensation hearings, and who do not understand the process.

We find employers virtually automatically contesting any payment of Unemployment Compensation for any quit, because they understand the appeal process, and know that it can be conducted by telephone, also realizing the ignorance of the law, particularly among the working poor in our state, also realizing that few can hire an attorney to represent them in an Unemployment Compensation appeal and are therefore frightened and discouraged from even appearing in an appeal hearing.

Therefore, Mr. Chairman and members of the Committee, we believe that these good, and decent employers in our state, of whom there are many, do not need this sort of economic slavery legislation for their protection. Our current law is already overly harsh in its penalty and is a great deterrent to voluntarily quitting even the lowest wage job. And certainly, I believe that this committee would agree that these unscrupulous employers who abuse their employees and flaunt the current law, should not be afforded the protection and sanction of their shoddy actions which we believe would be further intensified if S. B. 365 is passed.

I would respectfully urge the committee in the name of decency, and to insure some small measure of fair treatment for Kansas find-working people, to reject S. B. 365.

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Testimony of
The Kansas Department of Human Resources
Before the Senate Labor, Industry and Tourism Committee
Wednesday, March 2, 1983
S.B. 365

Mr. Chairman and members of the Senate Labor, Industry and Tourism Committee, for the first time, since the introduction in 1979 of S.B. 130 which considered "voluntary quits," the Department appears before you today stating a position other than neutral. We do so with the full knowledge of the past events on this topic and yet with a desire to assist you in your deliberations.

The topic of voluntary quits has traditionally centered around the philosophical question of the degree of the penalty that should be assessed upon an employee who voluntarily quit their job without good cause. In the past we have felt that "the degree" was something you should decide and we should administer.

However, since you have only two classifications, proponents and opponents, and not departmental reports, we stand before you as an opponent.

First, I must admit some surprise that this topic surfaced again this year. I was under the impression based on conversation last year that the bill passed last year, S.B. 876, would put this question "to rest for awhile." I was unaware that it was just until the next legislative session.

Secondly, I think you should look at what problems you solved last year.

a. Penalty for quitting

Prior to the passage of S.B. 876, the penalty was set at seven weeks.

It was felt that after seven weeks the individual was considered unemployed and the act of quitting was forgiven. Under the present law the individual is considered unemployed after a penalty of eleven

weeks and then the act is forgiven. Under S.B. 365 the act is not forgiven until they go back to work which could be three weeks or three years. We support the present law. Eleven weeks after the act of quitting should be sufficient time to move our relationship to that claimant from you're a quitter to you're unemployed.

b. Claimants vacationing seven weeks and then drawing benefits

Prior to the passage of S.B. 876, the clock started on a claimant's penalty when separation occurred. It was a concern of many legislators that claimants could quit and then loaf for seven weeks before they filed and were required to look for work. You corrected that last year. Now the clock doesn't start until the individual comes into the office and files. In S.B. 365, since the penalty goes on until the claimant goes back to work, the start of the clock is not a factor.

c. Individuals quit - draw maximum weeks with no real intent to return to work

Again, last year you solved this problem. In addition to raising the penalty from seven weeks to eleven weeks you added an additional penalty of forfeiting benefit entitlement equal to ten times the individual's weekly benefit amount. This had a profound affect upon the individuals whose intent it was to quit and draw all they were eligible for.

After listening to the testimony of the past two days, I am sure some of you are concerned that the Department has so liberalized the voluntarily quit provision that anyone with an excuse could receive benefits.

Please consider the following:

Voluntary Quit Issues, Initial Claims,
and Percent of Initial Claims
Calendar Years 1978 - 1982
Kansas

| Year | Voluntary Quit | | | Percent Denied | Initial Claims | Voluntary Quit as a Percent of Initial Claims |
|--------------|----------------|---------|--------|----------------|----------------|---|
| | Total | Cleared | Denied | | | |
| 1982..... | 13,402 | 3,307 | 10,095 | 75.3 | 207,072 | 6.5 |
| Jan-June.... | 6,124 | 1,305 | 4,819 | 78.6 | 98,706 | 6.2 |
| July-Dec.... | 7,258 | 2,002 | 5,276 | 72.7 | 108,366 | 6.7 |
| 1981..... | 12,689 | 2,460 | 10,229 | 80.6 | 128,225 | 9.9 |
| 1980..... | 14,236 | 2,561 | 11,675 | 82.0 | 158,873 | 9.0 |
| 1979..... | 13,285 | 2,924 | 10,361 | 77.9 | 97,860 | 13.6 |
| 1978..... | 13,127 | 3,590 | 9,537 | 72.7 | 84,766 | 15.5 |

During calendar year 1982, a total of 5,191 individuals of the 10,095 denied or approximately 50 percent returned to receive at least one payment.

Of that 5,191, 4,125 workers were disqualified for seven weeks and returned to receive 7.4 million in benefits following disqualification. Under S.B. 876, 1,066 were disqualified for eleven weeks and subsequently received \$760,000. This amount is .6 of one percent of the total benefits paid during that same period.

A point of clarification should be made. There are individuals who are shown as denied who still are waiting their eleven weeks and are not included in the 1,066 worker figure.

Continuing the Department's testimony, the last two days we have received some criticism in regard to our appeals process. We stand ready to accept any properly founded criticism but to explain our side, Mr. Arnold Berman, Chief Counsel, will speak at this time.

REPORTS OF STANDING COMMITTEES

Mr. President:

Your committee on Labor, Industry and Tourism

Recommends that S.B. 365

"AN ACT concerning the employment security law; relating to benefits and contributions; surcharge on negative accounts; disqualification for benefits.

be passed.

Chairman.