

TESTIMONY ON SB 352
Submitted By Michelle Walters
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My name is Michelle Walters. I am a state employee employed by the Department of Social and Rehabilitation Services and am the President of the Kansas Organization of State Employees (KOSE). As both a public employee and an elected Union officer, I am very concerned about the changes proposed by SB 352.

K.S.A. 44-702 sets out the State's public policy with regard to unemployment benefits and includes the following statement, "Economic insecurity, due to unemployment, is a serious menace to the health, morals, and welfare of the people of this state...the achievement of social security requires protection against this greatest hazard of our economic life." The purpose of the State's unemployment program is to serve the public good by setting aside funds to assist the unemployed. The proposed changes do not serve or achieve this stated policy, but actually move our state farther away from its stated goals, as they make it more difficult for employees to qualify for and collect unemployment.

PROVIDING UNEMPLOYMENT INSURANCE IS GOOD PUBLIC POLICY

There is a common misperception that lots of people are on the unemployment rolls. In December 2011, CNN published some data and common myths about unemployment insurance. According to the Economic Policy Institute (as quoted by CNN) many people who are unemployed never receive any unemployment benefits, either because they did not work long enough to be eligible or earn enough money to be eligible. SB 352 would reduce the number of eligible employees in Kansas further by eliminating the use of the alternate computation period for determining eligibility and by modifying the criteria used to determine if the circumstances of employment separation qualify the employee for benefits. Reducing eligibility for unemployment benefits is a mistake, because unemployment benefits generate economic activity.

Mark Zandi, chief economist at Moody's Analytics looked at the economic effect of unemployment benefit spending. He found that unemployment benefits can actually lower the unemployment rate because the benefit payments are spent on necessities such as food, clothing, and housing. He estimates every \$1.00 spent on unemployment insurance benefits generates \$1.61 in economic activity. Maintaining current eligibility requirements for unemployment insurance in Kansas will help insure that this economic activity continues in our state. Reducing eligibility for unemployment insurance, on the other hand, will result in increased spending on other social programs.

Senate Commerce Committee
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From 2009 to 2011, the Heldrich Center conducted a national survey of workers who lost jobs during the recession. Even with the support of unemployment insurance, seven out of ten workers in the study described their financial condition as "poor." The study found that without unemployment insurance, costs of other social programs (such as food stamps and Medicaid) would increase as the unemployed turned to those programs for support.

Overall, providing unemployment benefits at the current eligibility levels allow the State to meet its public policy goal of preventing economic insecurity while generating economic activity. Thus far, neither the Department of Labor or the Office of the Budget has shown any pressing need to implement the suggested changes. Additionally, neither has provided any widespread analysis of the overall impacts associated with the proposed changes.

THE FISCAL NOTE IS INCOMPLETE

Interestingly, the fiscal note on SB 352 (submitted by Budget Director Steven Anderson on February 2, 2012) does not consider the impact that reduced eligibility for unemployment might have on other programs. It simply looks at Department of Labor anticipated cost changes for the administration of the unemployment insurance program.

The fiscal note contains no indication of how many individuals who currently qualify for unemployment insurance would be excluded under the new requirements. The fiscal note contains no analysis of whether excluding these individuals would result in income drops sufficient to qualify for other social programs. The fiscal note also does not consider an increase in unemployment appeals due to the vague and unclear standards set out by SB 352.

All the fiscal note does is summarize the changes made by SB 352. It does not trace any financial impact of these changes to other departments or other programs. It would be irresponsible to vote for this bill without receiving some hard numbers showing how many current applicants/recipients would be excluded under the new standards.

The last sentence in the fiscal note states that "enactment of SB 352 would have a negligible effect on Department expenditures and no effect on agency revenues." I am confused why the State would even consider enacting a bill that is inconsistent with the State's expressed public policy if that bill completely lacks a financial "upside."

Overall, the fiscal note provides very little justification for moving forward with such drastic changes to a program that appears to function effectively under its current standards.

SB 352 RESULTS IN INCONSISTENCY

The new standards in SB 352 do not provide any sort of clarity, but are instead extremely vague and undefined. This will result in inconsistency, which will very likely increase appeals and costs.

SB 352 substantially broadens what actions can be considered misconduct that will disqualify an employee from unemployment eligibility. For example, previously only an employee who was repeatedly absent from work would be considered to have engaged in misconduct. Under SB 352, this provision is changed to also apply to employees who are late to work "without good cause." This section never provides a clear definition of what will or will not be considered "good cause" and never indicates who will have authority to determine if an employee's lateness was for "good cause."

While SB 352 does not define "good cause," it places the burden of proof on the employee to establish and prove that the employee's tardiness was for good cause. I have served as a Union steward for several years, and I can verify from experience that it is extremely difficult for an employee to meet expectations and/or burdens when those expectations/burdens are not clearly defined. If an employee may only be absent or tardy for good cause, good cause must be objectively defined, as everyone will have their own individual ideas about what does and does not constitute good cause.

I can also verify from experience that when there is no defined standard, inconsistency results. What is "good cause" for one employer may not be "good cause" for another employer. This creates a situation where two employees with different employers can be late or absent for exactly the same reason and one will qualify for unemployment benefits and the other will not. This is not good public policy for the State's employment security program.

The same sort of inconsistency results from SB 352's new notice procedures. Currently, if an employee's repeated absences are going to be considered misconduct warranting termination, the employer is required to send written notice to the employee at the employee's last known address that future absences may or will result in discharge. SB 352 now simply requires that the employer give notice to the individual. There is no longer any objective definition of what form that notice must take or how the notice must be delivered.

In my experience as both a state employee and a Union steward, I have seen many differences in how supervisors put employees "on notice" of performance issues. Some will formally document the performance issues in writing and review the document with the employee. Others will simply make an off-handed verbal mention to the employee in passing. Under SB 352, both actions would count as notice to the employee.

This is not at all consistent with the policy statement which says the goal is to help employees avoid and mitigate periods of unemployment. The current requirement is designed to insure that the employee has adequate notice and is aware that behavior changes are necessary. The notice is in writing and sent to the employee's home address so that there can be no doubt that notice was given and delivered. Under SB 352, no written document showing that notice was given is required.

The ultimate impact of having no clear and defined standards or criteria is more appeals (and increased costs to the State associated with hearing those appeals).

CONCLUSION

Overall, there is no compelling reason to vote in favor of restricting access to unemployment benefits. These are tough financial times, and the State has a clear and expressed public policy to try and limit economic insecurity caused by unemployment. I encourage you to keep those policy goals in mind as you consider this bill. Please vote in favor of keeping unemployment insurance standards clear and defined, and vote against SB 352. Thank you.