

## SENATE BILL No. 119

By Senator Smith

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1 AN ACT concerning state legislatures; relating to re-employment.

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3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. (a) Any person who is elected or appointed to the state  
5 legislature and who gave notice thereof to the person's employer, upon  
6 return from the legislative session, failure to be re-elected to the legislature  
7 or retirement from the legislature, shall be reinstated in or restored to the  
8 position of employment, except a temporary position, which the person  
9 held at the time the person was elected or appointed to the state legislature.  
10 The person shall report to the person's place of employment within 72  
11 hours upon return from the legislative session, failure to be re-elected to  
12 the legislature or retirement from the legislature. The person's employer or  
13 the employer's successor in interest, whether an agency of the state, a  
14 political subdivision of the state or a private employer, shall reinstate or  
15 restore the person in the same position which the person left at the time of  
16 the person's election or appointment to the legislature at no less  
17 compensation than that which the person was receiving at the time of the  
18 person's election or appointment to the legislature or to a position of like  
19 seniority, status and pay. However, if the person is not qualified to perform  
20 the duties of the same position by reason of disability occurring during the  
21 person's service in the state legislature but is qualified to perform another  
22 position in the employ of the employer or the employer's successor, the  
23 employer or the employer's successor in interest shall employ such person  
24 in another position, the duties of which the person is qualified to perform,  
25 that will provide like seniority, status and pay or the nearest approximation  
26 thereof consistent with the circumstances of the case.

27 (b) Any person who is restored to the person's position in accordance  
28 with the provisions of subsection (a) shall be considered as having been on  
29 temporary leave of absence during the period for which the person is  
30 serving in the state legislature, shall be restored without loss of seniority,  
31 shall be entitled to participate in any benefits offered by the employer  
32 pursuant to established rules and practices relating to employees on leave  
33 of absence in effect with the employer at the time the person was elected  
34 or appointed to the state legislature and shall not be discharged from the  
35 person's position without cause within one year after restoration to the  
36 position.

1 (c) It is understood and declared to be the intent of this section that  
2 any person who is restored to a position in accordance with the provisions  
3 of subsections (a) and (b) shall be restored in such manner as to give the  
4 person such status in the person's employment as the person would have  
5 enjoyed if the person had continued in such employment continuously  
6 from the time of the person's being elected or appointed to the state  
7 legislature until the time of the person's restoration to such employment.

8 (d) An application on behalf of a person claiming to be entitled to any  
9 right or benefit under this section may be made to the attorney general. If  
10 the attorney general is reasonably satisfied that the person is entitled to the  
11 right or benefit sought, the attorney general may appear on behalf of, and  
12 act as attorney for, the person on whose behalf the application is submitted  
13 and may commence an action in the district court of the county for  
14 appropriate relief for the person. The district court of the county, where  
15 the employer of a person claiming a right or benefit under this section, or  
16 the successor in interest to such employer maintains a place of business,  
17 shall have jurisdiction of any action filed by or on behalf of such person.  
18 If the court determines that the employer or the employer's successor in  
19 interest has failed to comply with the provisions of this section, the court  
20 may order the employer or the employer's successor in interest to: (1)  
21 Comply with the provisions of this section; and (2) compensate the person  
22 for any loss of wages or benefits suffered by reason of the failure of the  
23 employer or employer's successor in interest to comply with the provisions  
24 of this section. In addition, the court may order the employer or the  
25 employer's successor in interest to pay the person an additional amount  
26 equal to the amount authorized by subsection (d)(2) if the court determines  
27 that the employer or the employer's successor in interest willfully failed to  
28 comply with the provisions of this section. No fees or court costs shall be  
29 taxed against any person commencing an action under this subsection.  
30 The employer or the employer's successor in interest shall be deemed the  
31 only necessary party defendant to any such action.

32 (e) (1) An employer or an employer's successor in interest shall not  
33 be required to re-employ a person under this section if:

34 (A) The circumstances of the employer or the employer's successor in  
35 interest have so changed as to make re-employment of the person  
36 impossible or unreasonable;

37 (B) re-employment of the person would impose an undue hardship on  
38 the employer or the employer's successor in interest; or

39 (C) the employment from which the person leaves to serve in the state  
40 legislature is for a brief, nonrecurrent period and there is no reasonable  
41 expectation that such employment will continue indefinitely or for a  
42 significant period.

43 (2) As used in subsection (f)(1), "undue hardship" means actions

1 requiring significant difficulty or expense, when considered in light of:

2 (A) The nature and cost of the action needed under this act;

3 (B) the overall financial resources of the facility or facilities involved  
4 in the provision of the action; the number of persons employed at such  
5 facility; the effect on expenses and resources or the impact otherwise of  
6 such action upon the operation of the facility;

7 (C) the overall financial resources of the employer or the employer's  
8 successor in interest; the overall size of the business of the employer or the  
9 employer's successor in interest with respect to the number of employees;  
10 the number, type and location of its facilities; and

11 (D) the type of operation or operations of the employer or the  
12 employer's successor in interest, including the composition, structure and  
13 functions of the work force of such employer or successor in interest; the  
14 geographic separateness, administrative, or fiscal relationship of the  
15 facility or facilities in question to the employer or successor in interest.

16 Sec. 2. This act shall take effect and be in force from and after its  
17 publication in the statute book.