



## Senate Committee on Commerce

March 11, 2015

*Testimony on:*

**SB 179**

Written Testimony By:

Phyllis Gilmore

Secretary

Kansas Department for Children and Families

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**Testimony of:**

Phyllis Gilmore, Secretary  
Kansas Department for Children and Families  
Topeka, Kansas

**Testimony on:**

SB 179

**Chairwoman Lynn, Vice Chair Wagle, and Ranking Member Holland, and Members of the Committee:**

The Kansas Department for Children and Families (DCF) stands in strong support of the portions of SB 179 which impact our agency operations.

DCF has 2,257 employees as of Feb. 14, 2015. Of that total, 1,731 employees are in Kansas Organization for State Employees (KOSE)-covered positions. This number represents 76.6 percent of the DCF workforce. The agency's history with KOSE includes several concerns.

**Grievance Process**—The current KOSE Memorandum of Agreement (MOA) requires employees to bring complaints through the KOSE grievance process, which includes binding arbitration as the last step of the process. In FY2012, DCF received 69 KOSE grievances, and of those, 18 went to Step 3. In FY2013, DCF received 71 KOSE grievances, and of those, 48 went to Step 3. In FY2014, DCF received four KOSE grievances, and of those, one went to Step 3.

Many of the KOSE grievances filed are for issues such as dress attire or not receiving the highest possible rating on a performance review. A minimum of eight to 10 hours of staff time is spent on each step of the grievance process, which is not a wise use of taxpayer dollars. This legislation would remove grievances from the list of topics that DCF is required to negotiate with a labor union.

Employees who believe they have been treated unfairly still have a mechanism to have their concerns addressed if this legislation passes. DCF currently has an avenue available to address grievances for all agency employees. The DCF policy states, "All Department for Children and Families (DCF) employees have a right to file a grievance about working conditions, work relationships with other employees, or other matters which relate to their employment."

There is no need to have employees within the same agency divided between two different grievance processes. The DCF grievance process ends with the Secretary. Whereas, through the KOSE grievance process, if an employee is dissatisfied with the response from the Secretary his/she can take it to binding arbitration where a decision is made by an outside arbitrator who may have little to no knowledge about DCF. DCF has twice received notice of KOSE's intent to take a grievance to arbitration under the current MOA. However, we were able to come to an agreement short of that process.

**Union Activities, During Work Time**—Under the current MOA, KOSE representatives can have up to 90 minutes per week to represent employees, and if this time is not sufficient, they can request additional hours. They also get additional time off for labor management meetings. KOSE representatives can have a total of 1,200 hours per calendar year for attending training. This time is considered work time and the representative does not have to use any of his/her personal leave time. This results in taxpayers paying for employees to work on union-related activities rather than performing functions that benefit our clients.

**Hiring Requirements**—The current civil service system requires every vacant position be posted for a minimum of seven days. Positions covered by the KOSE MOA have to be posted for 10 days. By the time the required process is completed, the candidate may have already accepted employment with an employer who has more flexible hiring practices.

**Promotion Requirements**—The KOSE MOA requires that performance and length of service be considered for promotional selection instruments. Our goal is to have an agency that includes a high performance workforce of employees, which may or may not be the employees who have worked for the state the longest. Length of service should not be included as a deciding factor when making a determination for a promotional position. It should be based on performance, skills, and experience in relation to the position.

**Disciplinary Requirements**—For all agency investigations that may result in formal disciplinary action, the KOSE MOA requires that a KOSE covered person be allowed to have a union representative present during the interview process. The interview shall be recessed to allow the employee a reasonable opportunity to secure union representation, which could be up to eight hours. This delays the investigative process, and also results in the employee using work time to obtain union representation as well as time to discuss the situation with the representative prior to proceeding with the process.

The KOSE MOA states that disciplinary action or a notice of contemplated action is to be issued after no later than 45 days. There have been times when DCF has taken informal disciplinary action when more strenuous action was warranted but fell outside of the 45 day timeframe. These strict timeframes have sometimes tied our hands in being able to appropriately discipline employees as warranted.

**Summary**—In summary, this important reform legislation gives DCF and other State agencies the additional flexibility needed to hire and retain quality staff and to ensure that the most qualified workforce is employed. Kansas taxpayers deserve to have a greater level of accountability from State employees than what is currently built into the MOA. This legislation provides more accountability so that agencies can more effectively address employee issues without the burdensome time constraints. Additionally, the passing of this legislation would put an end to the waste of taxpayer dollars as well as agency resources that are being used for union related activities rather than for work related functions that benefit Kansans. DCF fully supports passage of SB 179.