

**Testimony in Opposition Senate Bill 292**  
**Senate Commerce Committee**  
**Wayne Maichel, Director of Employment Security**  
**Kansas Department of Labor**  
**13 February 2007**

Chairpersons Brownlee and Jordan and Members of the Committee:

Thank you for this opportunity to appear and share the concerns of the Kansas Department of Labor and our opposition to Senate Bill 292. The bill strikes language in the Employment Security Laws that provides that general contractors may be held responsible for the unpaid unemployment taxes of subcontractors. This statutory language has been the policy in Kansas law since 1961, with the passage of 1961 Senate Bill 232.

This statutory language has been a very effective tool of assuring that subcontractors operating in Kansas pay unemployment taxes owed by them. The agency rarely has to use this provision, but its mere existence provides a good insurance that the taxes are paid. This dual responsibility ensures taxes are paid into the UI Trust Fund as required by law. In doing so, all employers benefit since their tax rates are ultimately affected by the trust fund balance.

Last Thursday, the Employment Security Advisory Council met and considered this legislation. As you know, the Council is comprised of representatives of the business and labor communities and the public and provides advice on policy matters affecting the Employment Security laws. Attached is a list of current members of the Council. The council discussed this proposal and voted to recommend that this change in policy not be pursued. I urge the Committee to consider this advice from the Council.

It is my belief that this proposed change in law is a result of the agency's recent efforts to implement 2006 House Bill 2772 and enhance awareness and enforcement of misclassification of workers. As part of the agency's education campaign on misclassification of workers, the agency sent a reminder flyer to contractors in Kansas about the legal requirement that contractors can be held responsible if their subcontractors do not pay their taxes. Attached is a copy of the flyer distributed by the agency.

Removing this language will make it easier for unscrupulous subcontractors to avoid paying their fair share of UI taxes – especially subcontractors that come from outside Kansas. This results in the burden of funding the UI System to fall on other employers. The language in the current law helps ensure a level playing field and that all subcontractors play by the rules.

It is also important to note that KDOL currently provides a means to free prime contractors from potential liability for subcontractors' taxes. The general contractor can file an application to be released from liability. Attached is a copy of the application form. The contractor completes the form and sends it to KDOL and the agency ensures that the taxes are paid by the subcontractor and then forwards a release to the general contractor. This has worked well for those who have used it in the past.

Thank you for the opportunity to share these concerns and comments in opposition to Senate Bill 292.