

Approved: 1/31/94
Date

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on January 27, 1994 in Room 123-S of the Capitol.

Members present: Senators Burke, Downey, Gooch, Harris, Hensley, Kerr, Petty, Ranson, Reynolds, Salisbury, Steffes and Vidricksen

Committee staff present: Lynne Holt, Legislative Research Department
Jerry Ann Donaldson, Legislative Research Department
Jim Wilson, Revisor of Statutes
Bob Nugent, Revisor of Statutes
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee: Senator Bill Wisdom
Jim DeHoff, AFL-CIO
George Ledermann, Executive Director, Kansans for the Right to Work
John Weber, President, Kansas State Council of Machinists
Hal Hudson, National Federation of Independent Business
Larry Landwehr, President, Teamsters Local Union #795,
Terry Leatherman, KCCI
Myrlene Kelley, Director, Kansas Association of Public Employees
Roland Smith, Wichita Independent Business Association

Others attending: See attached list

Hearing on SB 204--Fair share representation fee for labor organizations from nonmember employees

Jerry Ann Donaldson, Legislative Research Department, explained SB 204 is an amended version of 1991 SB 174. The Attorney General, on March 24, 1992, issued Opinion No. 92-42 pertaining to SB 174 that stated unions could assess a representation fee only if the nonmember seeks the union's assistance. Since SB 174 would allow the employee the ability to exercise his or her freedom of choice regarding who shall represent him or her in the grievance matter, the bill would not violate the provisions of article 15, section 12 of the Kansas constitution, see attachment 1.

Senator Bill Wisdom appeared before the Committee in support of SB 204. He said this bill provides that a nonmember of the labor union may request the labor union to represent them for a fair share representation fee. The fair share representation fee assessable to employees who are not members of the labor organization shall not exceed the actual cost of representing such nonmember employees in any matter relating to an individual grievance concerning such nonmember employee. Such service fee shall not include the cost of any additional benefits provided to union members through their dues.

Jim DeHoff, Executive Secretary-Treasurer, Kansas AFL-CIO, testified in support of SB 204. He stated the Kansas AFL-CIO respects the right of anyone to join or not join any organization they choose. They are only asking for the right that everyone else in our free society has, the Doctrine of Unjust Enrichment. The doctrine that a person shall not be allowed to profit or enrich himself or herself at another's expense. The Kansas Right-To-Work law is the only law that has ever been passed in Kansas that presently is excluded from the Unjust Enrichment Doctrine, see attachment 2.

George Ledermann, Executive Director, Kansans for the Right to Work, testified in opposition to SB 204. Kansans for the Right to Work's opposition is based on the support for the principle of "freedom of choice" in the workplace regarding employment, as well as their view that SB 204 is clearly a form of "agency

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE, Room 123-S Statehouse, at 8:00 a.m. on January 27, 1994.

shop", see attachment 3.

John Weber, President, Kansas State Council of Machinists, testified some workers in Kansas are taking undue advantage of the benefits others have worked for and pay to maintain; they are receiving benefits without paying their "fair share". He requested the union be allowed to charge a reasonable fee for representing those non-union employees, see attachment 4.

Hal Hudson, State Director, National Federation of Independent Business, testified SB 204 would undermine Kansas' right-to-work statutes and would force some workers to pay support to an organization they have a constitutional right to choose not to join. SB 204 provides that it would be unlawful for a labor organization to discriminate against an employee for failure to pay the fee; however, failure of the nonunion member employee to pay the fee would give the labor organization the right to bring an action in court to receive payment, plus court costs and attorney fees. That provision could constitute discrimination.

Mr. Hudson reported the results of a survey in which 92.6% of the members indicated they were opposed to a "fair share representation fee", see attachment 5.

Larry Landwehr, President, Teamsters Local Union #795, Wichita, a proponent, explained if a nonmember requests the union to represent them, then the union should have the right to recover what it cost to represent the nonmember.

Terry Leatherman, Executive Director, Kansas Industrial Council, Kansas Chamber of Commerce and Industry, presented testimony opposing SB 204. He stated SB 204 proposes to require nonunion members of a workplace to pay a fee for union representation in a grievance proceeding. If the nonunion worker refuses to pay, SB 204 gives the union the right to sue the worker. If representing non-union employees has become a burden, labor organizations should urge Congress to relieve them of their exclusive bargaining responsibility. This bill demands they pay a fee for representation from a union they have chosen not to join, see attachment 6.

Myrlene Kelley, Executive Director, Kansas Association of Public Employees, appeared in support of SB 204. SB 204 means more involvement in self determination by the people affected, more fairness in bearing the costs associated with the maintenance of harmonious relationships between labor and management, and development of a clearer picture of the desires of the work force on the issue of unionization, see attachment 7.

Roland Smith, Executive Director, Wichita Independent Business Association, testified SB 204 basically calls for nonunion employees to pay tribute to the union. This is a violation of the employees right to make the choice to join or not join the union. Passage of SB 204 would be a strong disincentive for economic development in Kansas, see attachment 8.

Senator Burke moved, Senator Steffes seconded, to adopt the minutes of January 25, 1994. The motion carried by voice vote.

The Chairman adjourned the meeting at 9:00 a.m.

The next meeting is scheduled for January 31, 1994.

GUEST LIST

COMMITTEE: SENATE COMMERCE COMMITTEE

DATE: 1/27/94

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Janet Schallansky	Topeka	Workforce Dev/SNS
Hal Hudson	Topeka	: NFIB/Kansas
Leland Smith	Wichita	WIBA
Bob Draven	Wichita	Coleman Co.
Jim McHaff	Topeka	KS AFL-CIO
Myrlene Kelley	Topeka	KAPE
Wayne Maubel	"	KS AFL-CIO
Ivan Dunn	RR 2 Hutch 67501	MACHINIST
James A. Jack	Wichita	KS 77A
Mark Barcellina	Topeka	KDOT
Bill Jennings	Topeka	KAPE
Dan Dickhoff	TOPEKA	KAPE
Terry Denker	Topeka	Agriculture
D. WAYNE ZIMMERMAN	TOPEKA	KANSAS FOR RIGHT TO WORK
Bill Jarrell	WICHITA	BOERNB
TERRY LEATHERMAN	Topeka	KCCI
John Peterson	Tyrone	Beech
DON BRUNER	Topeka	KDHR
Gary Leitnaker	Topeka	D & Adm
B. Mariani	Topeka	Dept of Adm.
Michelle Clum	Topeka	atty Jon Small

SENATE BILL No. 174

By Senators Steineger and Strick

2-11

9 AN ACT concerning employment; providing for a fair share ~~service~~
10 ~~representation~~ fee to be paid to certain labor organizations under
11 certain circumstances; relating to procedures, rights and duties;
12 amending K.S.A. 44-803 and repealing the existing section.
13

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

15 Section 1. K.S.A. 44-803 is hereby amended to read as follows:
16 44-803. (a) Employees shall have the right to self-organization, to
17 form, join, or assist labor organizations, to bargain collectively
18 through representatives of their own choosing, and to engage in
19 concerted activities, for the purpose of collective bargaining or other
20 mutual aid or protection, and such employees shall also have the
21 right to refrain from any or all such activities.

22 (b) *Any labor organization that has been certified or formally*
23 *recognized as the exclusive bargaining agent under the national labor*
24 *relations act and that is required by such federal act to represent*
25 *all members of the bargaining unit whether members of the labor*
26 *organization or not shall have the right to bargain for a fair*
27 *share service fee to be assessed may assess a fair share repre-*
28 *sentation fee to those nonmember employees who by federal mandate*
29 *the labor organization must represent to the same extent as dues*
30 *paying members of such labor organization for representation serv-*
31 *ices provided to such nonmember employee pursuant to a specific*
32 *request made by such nonmember employee to the labor organization*
33 *for representation of such nonmember employee by the labor or-*
34 *ganization in any matter relating to an individual grievance con-*
35 *cerning such nonmember employee.*

36 (c) *The fair share ~~service~~ representation fee assessable to em-*
37 *ployees not members of the labor organization shall not exceed the*
38 *actual cost of representing such nonmember employees in all aspects*
39 *of such nonmember employees' conditions of employment any*
40 *matter relating to an individual grievance concerning such nonmem-*
41 *ber employee as provided in subsection (b). Such service fee shall*
42 *not include the cost of any additional benefits provided to union*
43 *members through their dues but shall be no more than the actual*

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1 ~~cost of representing such nonmember employees to the extent~~
2 ~~required by the national labor relations act.~~

3 (d) Failure of a nonmember employee to pay such nonmember
4 employee's fair share ~~service~~ representation fee as provided in this
5 section shall give the labor organization the right to bring an action
6 in any court of competent jurisdiction for the payment of such service
7 fee, together with costs and attorney fees. An employee's failure to
8 pay such service fee shall not prejudice the employee's right to
9 continued employment with the employer. It is unlawful for a labor
10 organization or an employer to discriminate against an employee in
11 any way because of the failure of an employee to pay the fair share
12 representation fee. Payment or nonpayment of the fair share rep-
13 resentation fee shall in no way be a condition of employment.

14 (e) The labor organization may bargain with the employer, sub-
15 ject to the individual written authorization of a nonmember em-
16 ployee, for a deduction from the nonmember employee's wages the
17 amount of the fair share ~~service~~ representation fee determined as
18 provided in this section. The written authorization of such nonmem-
19 ber employee to have the fair share ~~service~~ representation fee de-
20 ducted from the employee's salary or wages shall remain effective
21 for not less than 100 days and shall be terminated anytime thereafter
22 upon 30 days' notice to the employer and the labor organization of
23 the employee's desire to terminate the authorization for the fair share
24 ~~service~~ representation fee deduction from the salary.

25 (f) ~~A change in the amount of the fair share service fee to~~
26 ~~be deducted cannot be made more often than twice in any~~
27 ~~fiscal year.~~

28 ~~(g)~~ A nonmember employee may renew an authorization to de-
29 duct the fair share ~~service~~ representation fee after such fee is ter-
30 minated as above provided upon 10 days' notice to the employer
31 and the labor organization.

32 (h) Payment of all moneys deducted from the employer's payroll
33 shall be paid by the employer to the labor organization.

34 Sec. 2. K.S.A. 44-803 is hereby repealed.

35 Sec. 3. This act shall take effect and be in force from and after
36 its publication in the statute book.

SESSION OF 1992

SUPPLEMENTAL NOTE ON SENATE BILL NO. 174

As Amended by Senate Committee on
Labor and Industry and Small Businesses

Brief*

S.B. 174 permits an authorized labor organization to assess a fair share representation fee to a nonmember employee who specifically requests representation in a grievance matter which involves the nonmember employee.

Background

Support for the measure was expressed by representatives from the Kansas AFL-CIO and the Kansas National Education Association. Letters of support were received from the Kansas State Council of Machinists and an individual. Opposition came from Kansans for the Right to Work and the Kansas Chamber of Commerce and Industry. A letter of opposition was received from an official with Pan-Western Petroleum, Inc.

* Supplemental Notes are prepared by the Legislative Research Department and do not express legislative intent.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

March 24, 1992

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION 296-3751
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ATTORNEY GENERAL OPINION NO. 92- 42

The Honorable Frank D. Gaines
State Senator, 16th District
State Capitol, 140-N
Topeka, Kansas 66612

Re: Constitution of the State of Kansas --
Miscellaneous -- Membership or Nonmembership in
Labor Organizations; Representation Fee

Labor and Industries -- Employer and Employee
Relations -- Rights of Employees

Synopsis: 1992 Senate Bill No. 174 does not violate the
provisions of article 15, section 12 of the Kansas
constitution. Cited herein: K.S.A. 44-803;
44-809; Kan. Const., art. 15, sec. 12.

* * *

Dear Senator Gaines:

As Senator for the sixteenth district you request our opinion
as to whether the provisions of 1992 Senate Bill No. 174
contravene the provisions of article 15, section 12 of the
Kansas constitution.

Senate Bill 174, as amended by the Senate committee on labor,
industry and small business, amends K.S.A. 44-803 by adding
the following language:

"(b) Any labor organization that has been
certified or formally recognized as the
exclusive bargaining agent under the
national labor relations act and that is

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required by such federal act to represent all members of the bargaining unit whether members of the labor organization or not shall have the right to bargain for a fair share service fee to be assessed may assess a fair share representation fee to those nonmember employees who by federal mandate the labor organization must represent to the same extent as dues paying members of such labor organization for representation services provided to such nonmember employee pursuant to a specific request made by such nonmember employee to the labor organization for representation of such nonmember employee by the labor organization in any matter relating to an individual grievance concerning such nonmember employee.

"(c) The fair share service representation fee assessable to employees not members of the labor organization shall not exceed the actual cost of representing such nonmember employees in all aspects of such nonmember employees' conditions of employment any matter relating to an individual grievance concerning such nonmember employee as provided in subsection (b). Such service fee shall not include the cost of any additional benefits provided to union members through their dues but shall be no more than the actual cost of representing such nonmember employees to the extent required by the national labor relations act.

"(d) Failure of a nonmember employee to pay such nonmember employee's fair share service representation fee as provided in this section shall give the labor organization the right to bring an action in any court of competent jurisdiction for the payment of such service fee, together with costs and attorney fees. An employee's failure to pay such service fee shall not prejudice the employee's right to continued employment with the employer. It is unlawful for a labor organization or an

employer to discriminate against an employee in any way because of the failure of an employee to pay the fair share representation fee. Payment or nonpayment of the fair share representation fee shall in no way be a condition of employment.

"(e) The labor organization may bargain with the employer, subject to the individual written authorization of a nonmember employee, for a deduction from the nonmember employee's wages the amount of the fair share **service** representation fee determined as provided in this section. The written authorization of such nonmember employee to have the fair share **service** representation fee deducted from the employee's salary or wages shall remain effective for not less than 100 days and shall be terminated anytime thereafter upon 30 days' notice to the employer and the labor organization of the employee's desire to terminate the authorization for the fair share **service** representation fee deduction from the salary.

"(f) A change in the amount of the fair share **service** fee to be deducted cannot be made more often than twice in any fiscal year.

"(g) A nonmember employee may renew an authorization to deduct the fair share **service** representation fee after such fee is terminated as above provided upon 10 days' notice to the employer and the labor organization.

"(h) Payment of all moneys deducted from the employer's payroll shall be paid by the employer to the labor organization."

Article 15, section 12 of the Kansas constitution has been interpreted as "prohibiting compulsory membership in a labor organization as a condition of employment or continued employment, includ[ing] by necessary implication a prohibition against forced payment of initiation fees, union dues and assessment, or the equivalent, by a worker to a labor

organization as a condition of employment or continued employment." Higgins v. Cardinal Manufacturing Co., 188 Kan. 11, 23 (1961). (Emphasis added).

Furthermore, K.S.A. 44-803, while allowing employees to join labor organizations, also spells out that such employees "shall also have the right to refrain from any or all such activities" and no person shall be allowed to use means to "coerce or intimidate any employee in the enjoyment of his or her legal rights (K.S.A. 44-809)."

These provisions and the case law interpreting them emphasize that article 15, section 12 of the Kansas constitution and K.S.A. 44-801 et seq. were drafted so as to prohibit "agency shops" and therefore allow employees the right to work without being forced into the membership of the union.

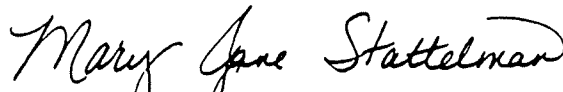
Senate Bill No. 174 states that if a nonmember requests the union to represent the nonmember regarding a grievance then the union may assess a fair share representation fee. The bill goes on to state that "[s]uch service fee shall not include the cost of any additional benefits provided to union members through their dues."

It is our opinion that because the provisions of Senate Bill No. 174 allow unions to assess a representation fee only if the nonmember seeks the union's assistance, this allows the employee the ability to exercise his or her freedom of choice regarding who shall represent him or her in the grievance matter. There does not appear to be any language which coerces or intimidates the employees in this decision making process.

Very truly yours,

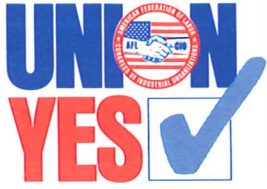


ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Mary Jane Stattelmaier
Assistant Attorney General

RTS:JLM:MJS:bas



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Dale Moore

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David Han
Jim Hastings
John Hoover
Greg Jones
Frank Mueller
Dwayne Peaslee
Craig Rider
Wallace Scott
Debbie Snow
Tony Stattelmann
John Weber
Jack Wilson*



Testimony Presented To
Senate Commerce Committee
on
Senate Bill 204
Fair share representation fee for
labor organizations from nonmember employees
by
**Jim DeHoff, Executive Secretary-Treasurer
Kansas AFL-CIO
January 27, 1994**

Madame Chairperson and Members of the Committee:

I am Jim DeHoff, Executive Secretary of the Kansas AFL-CIO. I appear before you today on behalf of the 95,000 members who belong to the Kansas AFL-CIO. These members and families have a very strong interest in the passage of SB 204. (See attached labor organizations in Kansas.)

Under the Kansas Constitution, Article 15, Section 12, it states: "No person shall be denied the opportunity to obtain or retain employment because of membership or non-membership in any labor organization, nor shall the state or any subdivision thereof, or any individual, corporation or any kind of association enter into any agreement, written or oral which excludes any person from employment or continuation of employment because of membership in any labor organization."

The problem all labor organizations face on an on-going basis is that under federal labor law, there is a requirement that when employees form organizations, that organization must represent everyone in the bargaining group, if it is requested, even in states where there is a right-to-work law. This means when an individual who pays no fees whatsoever has a problem with a grievance they want filed against an employer, they simply contact the Business Representative of the local union for representation. The cost of representing these members is funded by the dues money voluntarily paid by the individuals who choose to support the organization.

The opponents of SB 204 will say to you that those who pay nothing for the organization's services are forced into acceptance of the labor organization's services because of federal labor law. This is totally false. They have a right to represent themselves in grievances with the

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employer, but they don't because they know they can get representation free. They do not want to spend their own funds. Section 9A of the Labor Relations Act states that an individual or group of individuals can represent themselves with a grievance to the employer.

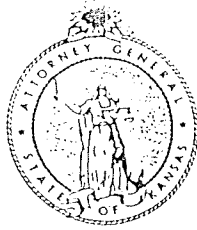
It is very expensive to file grievances against an employer. In many cases, it requires the services of an attorney. Examples on some cases are attached to this testimony. One single grievance can and usually does run into several thousand dollars.

The Kansas AFL-CIO respects the right of anyone to join or not join any organization they choose. We are only asking for the right that everyone else in our free society has - the Doctrine of Unjust Enrichment. The doctrine that a person shall not be allowed to profit or enrich himself or herself at another's expense. This is common law in all of the United States. (See attachment Unjust Doctrine.) I would like to point out to you that the Kansas Right-To-Work Law is the only law that has ever been passed in Kansas that presently is excluded from the Unjust Enrichment Doctrine.

We are asking for equal treatment that all other citizens, businesses and organizations now have and have had for many years. Labor organizations should not be penalized because we choose to pay dues to improve our working conditions and economic well being. We ask that you pass SB 204 favorably, and that you look at this issue as a question of fairness and not as a question of labor vs. business.

Thank you.

Attachments: Attorney General's opinion - Local Unions in State of Kansas
 Doctrine of Unjust Enrichment
 Examples of cases filed by non-members
 Member organization list



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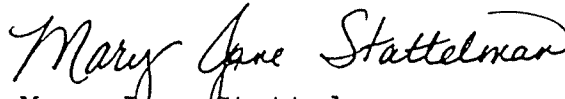
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Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Mary Jane Stattelmar
Assistant Attorney General

RTS:JLM:MJS:bas

UNIVERSITY COURT — UNLAWFUL

of conferring degrees, and forming institution for promotion of education in higher and more important branches of learning. *West v. Board of Trustees of Miami University and Miami Normal School*, 41 Ohio App. 367, 181 N.E. 144, 149.

UNIVERSITY COURT. See Chancellor's Courts in the Two Universities.

UNIVERSUS. Lat. The whole; all together. Calvin.

UNJUST. Contrary to right and justice, or to the enjoyment of his rights by another, or to the standards of conduct furnished by the laws. *U. S. v. Oglesby Grocery Co.*, D.C.Ga., 264 F. 691, 695; *Komen v. City of St. Louis*, 316 Mo. 9, 289 S.W. 838, 841.

UNJUST ENRICHMENT, DOCTRINE OF. Doctrine that person shall not be allowed to profit or enrich himself inequitably at another's expense. *American University v. Forbes*, 83 N.H. 17, 183 A. 860, 862. Under this doctrine a defendant has something of value at the plaintiff's expense under circumstances which impose a legal duty of restitution. *Herrmann v. Gleason*, C.C.A.Mich., 126 F.2d 936, 940. Doctrine permits recovery in certain instances where person has received from another a benefit retention of which would be unjust. *Seckins v. King*, 66 R.I. 105, 17 A.2d 869, 871, 134 A.L.R. 1060. Doctrine is not contractual but is equitable in nature. *State v. Martin*, 59 Ariz. 438, 130 P.2d 48, 52.

"Unjust enrichment" of a person occurs when he has and retains money or benefits which in justice and equity belong to another. *Hummel v. Hummel*, 133 Ohio St. 620, 14 N.E.2d 923, 927. Thus one who has conferred a benefit upon another solely because of a basic mistake of fact induced by a nondisclosure is entitled to restitution on above doctrine. *Conkling's Estate v. Champlin*, 183 Okl. 79, 141 P.2d 569, 570.

UNKOUTH. Unknown. The law French form of the Saxon "uncouth." Britton. c. 12.

UNLAGE. Sax. An unjust law.

UNLAWICH. In old Scotch law. That which is done without law or against law. Spelman.

UNLAW. In Scotch law. A witness was formerly inadmissible who was not worth the king's *unlaw*; i. e., the sum of £10 Scots, then the common fine for absence from court and for small delinquencies. Bell.

UNLAWFUL. That which is contrary to law or unauthorized by law. *State v. Chenault*, 20 N.M. 181, 147 P. 283, 285. That which is not lawful. *State v. Bulot*, 175 La. 21, 142 So. 787, 788. The acting contrary to, or in defiance of the law; disobeying or disregarding the law. While necessarily not implying the element of criminality, it is broad enough to include it. *Sturgeon v. Crosby Mortuary*, 140 Neb. 82, 299 N.W. 378, 383.

"Unlawful" and "illegal" are frequently used as synonymous terms, but, in the proper sense of the word, "unlawful," as applied to promises, agreements, considerations, and the like, denotes that they are ineffectual in law because they involve acts which, although not illegal, i. e., positively forbidden, are disapproved of by the law and are therefore not recognized as the ground of legal rights, either because they are immoral or because they

are against public policy. It is on this ground that contracts in restraint of marriage or of trade are generally void. Sweet. And see *Hagerman v. Buchanan*, 45 N.J.Eq. 292, 17 A. 918, 14 Am.St.Rep. 732; *Tatum v. State*, 68 Ala. 467. *People v. Chicago Gas Trust Co.*, 130 Ill. 268, 22 N.E. 798, 8 L.R.A. 497, 17 Am.St.Rep. 319.

UNLAWFUL ACT. Act contrary to law, and presupposes that there must be an existing law. *State v. Campbell*, 217 Iowa 848, 251 N.W. 717, 92 A.L.R. 1176.

In criminal jurisprudence, a violation of some prohibitory law and includes all willful, actionable violations of civil rights, and is not confined to criminal acts. *State v. Halley*, 350 Mo. 300, 165 S.W.2d 422, 427.

The "unlawful acts" within manslaughter statutes consist of reckless conduct or conduct evincing marked disregard for safety of others. *State v. Newton*, 105 Utah 561, 144 P.2d 290, 293; *State v. Thatcher*, 108 Utah 63, 157 P.2d 253, 261.

UNLAWFUL ASSEMBLY. At common law. The meeting together of three or more persons, to the disturbance of the public peace, and with the intention of co-operating in the forcible and violent execution of some unlawful private enterprise. If they take steps towards the performance of their purpose, it becomes a riot; and, if they put their design into actual execution, it is a riot. 4 Bl. Comm. 146. To constitute offense it must appear that there was common intent of persons assembled to attain purpose, whether lawful or unlawful, by commission of acts of intimidation and disorder likely to produce danger to peace of neighborhood, and actually tending to inspire courageous persons with well-grounded fear of serious breaches of public peace. *State v. Butterworth*, 104 N.J.L. 579, 142 A. 57, 60, 58 A.L.R. 744.

Three or more persons who assemble peaceably without violent or tumultuous manner to do lawful act, but who thereafter make attempt or motion to do any act whether lawful or unlawful, in either tumultuous, violent, or unlawful manner to the terror or disturbance of others, become an "unlawful assembly." *Koss v. State*, 217 Wis. 325, 258 N.W. 860, 862.

UNLAWFUL BELLIGERENTS. Enemies passing the boundaries of the United States for purpose of destroying war industries and supplies without a uniform or other emblem signifying their belligerent status or discarding that means of identification after entry. *Ex parte Quirin*, App.D.C., 63 S.Ct. 2, 15, 317 U.S. 1, 87 L.Ed. 8.

UNLAWFUL DETAINER. The unjustifiable retention of the possession of lands by one whose original entry was lawful and of right, but whose right to the possession has terminated and who refuses to quit, as in the case of a tenant holding over after the termination of the lease and in spite of a demand for possession by the landlord. *McDevitt v. Lambert*, 60 Ala. 536, 2 So. 438; *Silva v. Campbell*, 84 Cal. 420, 24 Pac. 316; *Brandley v. Lewis*, 97 Utah 217, 92 P.2d 338, 339.

Actions of "unlawful detainer" concern only right of possession of realty, and differ from ejectment in that no ultimate question of title or estate can be determined. *McCracken v. Wright*, 159 Kan. 615, 157 P.2d 814, 817.

Where an entry upon lands is unlawful, whether forcible or not, and the subsequent conduct is forcible and tortious, the offense committed is a "forcible entry and detainer."

K.S.I.U.C.
La. ce Central Labor Council
Bu. no & Constr. Trades Cn..Kansas City
Ks. St. Building & Constr. Trades Cn.
Building & Constr. Trades Cn..Topeka
Building & Constr. Trades Cn..Manhattan
Bldg.& Constr.Tr.Cn.Central/Western KS
Central Labor Union
Tri-County Labor Council
Topeka Fed.of Labor
Wichita/Hutchinson Labor Federation
Building & Constr. Trades Cn., St.Joseph
Union Label & Serv. Tds. Cn.
Atchison Labor Committee
Aluminum Wkrs. #1856
Insulation Production Workers #1
Asbestos Workers #27
Asbestos Workers #15
UAW #2366
Auto Workers #249
Ks.St. UAW CAP Council
Auto Workers #710
Gr. Kansas City UAW-CAP
Auto Workers #1021
Auto Workers #31
Auto Workers #93
Bakery,Conf.& Tobacco Wkrs #218
Bakery, Conf.& Tobacco Wkrs. #245
Boilermakers #1256
Boilermakers #34
Cement Wkrs.-Boilermakers #D93
Cement Wkrs.-Boilermakers #D109
Cement Wkr-Boilermakers #D194
Cement Wkrs.-Boilermakers #D75
Boilermakers #83
Cement Wkrs.-Boilermakers #D76
Cement Wkrs.-Boilermakers #D73
Boilermakers #84
Boilermakers #1500
Bricklayers #24
Bricklayers #2
Bricklayers #1
Bricklayers #14
Marble Masons #39
Bricklayers #18
Bricklayers #4
Marble Masons #3
Carpenters #1445
Carpenters #499
Carpenters #2279
Carpenters #1635
Carpenters #714
Carpenters #1022
Carpenters #1095
Ks. St. Cn. of Carpenters
Carpenters #1724
Carpenters #110

Carpenters #168
Carpenters #201
Carpenters #918
Kaw Valley Dist. Cn. Carpenters
Carpenters Dist. Cn.
Millwrights #1529
Carpenters #61
Millwrights #1529
Carpenters #311
Carpenters #499
Chemical Workers #210
Chemical Workers #188
Chemical Workers #605
Clothing & Textile Wkrs #2547
Clothing & Textile #874
Clothing & Textile #451
Clothing & Textile Wkrs.
Clothing & Textile Workers #1525T
Clothing & Textile #970
Clothing & Textile #64
Clothing & Textile Wkrs. #501
CWA #6409
CWA #6407
ITU Typo. CWA Local #80M7
CWA #6412
ITU Typo. CWA Local #470
CWA #6391
ITU Typo. CWA Local #14604
ITU Typo. CWA Local #14604
Communications Workers #6325
ITU Typo. CWA Local #14606
ITU Typo. CWA Local #14603
CWA #6410
Kansas State CWA Cn.
Communications Workers #6450
CWA #6401
CWA #6327
ITU Typo CWA Local #14605
ITU Typo. CWA Local #14612
ITU Typo. CWA Local #14607
CWA #6402
CWA #6321
CWA #7476
CWA #6411
CWA #6406
CWA #6333
ITU Mailer CWA Local #14609
Distillery Workers #74
Electrical Workers #1613
Electrical Workers #124
Electrical Workers #271
Electrical Workers #1523
Electrical Workers #1464
Electrical Workers #53
Electrical Workers #661
Electrical Workers #304
Electrical Workers #1056

Electrical Workers #226
Electrical Workers #95
IUE #1116
IUE #1004
Elevator Constructors #12
Elevator Constructors #94
Operating Engineers #101
Operating Engineers #119
Operating Engineers #123
Operating Engineers #6
Operating Engineers #101
Operating Engineers #418
Operating Engineers #647
Operating Engineers #642
Ks.St.Cn.Fire Fighters
Fire Fighters #83
Fire Fighters #3012
Fire Fighters #179
Fire Fighters #2119
Fire Fighters #2736
Fire Fighters #1371
Fire Fighters #2234
Fire Fighters #782
Fire Fighters #3083
Fire Fighters #265
Fire Fighters #2360
Fire Fighters #135
Fire Fighters #64
Fire Fighters #2101
Fire Fighters #1596
Fire Fighters #3030
Fire Fighters #2612
Fire Fighters #2991
Fire Fighters #2275
Firemen & Oilers #1
Firemen & Oilers #235
United Food & Comm. Wkrs. #340
United Food & Comm. Wkrs #322
United Food & Comm. Wkrs. #58
Food & Comm. Wkrs. #1131
Food & Comm. Wkrs. #576
ILGWU Central States Region
United Garment Workers #47
United Garment Workers #509
United Garment Workers #451
United Garment Workers #431
United Garment Workers #409
United Garment Workers #344
Glass, Molders, Pottery #122
GMPPAW #198
GMPPAW #233
Glass, Molders, Pottery #122
AFGE #1737
AFGE #2324
AFGE #834
AFGE #738
AFGE #919

AFGE #2936
AFGE #477
AFGE #3061
AFGE #482
AFGE #3849
AFGE #85
AFGE #2799
Grain Millers #158
Grain Millers #73
Grain Millers #335
Grain Millers #200
Grain Millers #99
Grain Millers #107
Grain Millers #57
Graphic Comm. #575
Graphic Comm. #729
Graphic Comm. #238
Graphic Communications #16-C
Graphic Comm. #49C
Graphic Communications #235
Graphic Communications #560S
Graphic Comm. #275C
Graphic Communications #60B
Graphic Comm. #147C
Hotel & Rest. Empl. #803
Hotel & Restaurant Empl. #64
Allied Industrial Wkrs. #856
Allied Industrial Wkrs. #161
Iron Workers #606
Iron Workers #520
Iron Workers #717
Iron Workers #10
Iron Workers #10
Laborers' #605
Public Service Empl. #1422
Public Service Emp. #1132
Laborers #775
Laborers #94
Laborers #1290
Laborers #579
Laborers #663
Western MO & KS Laborers' Dist. Cn.
Laborers #142
IL, KS & MO Pub. Serv. & Ind. Dist. Cn.
Letter Carriers #104
Letter Carriers #1157
Letter Carriers #1018
Letter Carriers #1171
Letter Carriers #499
Letter Carriers #201
Letter Carriers #2115
Letter Carriers #834
Letter Carriers #477
Letter Carriers #2722
Letter Carriers #1055
Letter Carriers #141
Letter Carriers #194

Letter Carriers #5521
Letter Carriers #582
Letter Carriers #486
Letter Carriers #1035
Ks. St. Letter Carriers Assn.
Letter Carriers #873
Letter Carriers #695
Letter Carriers #1122
Letter Carriers #485
Letter Carriers #766
Letter Carriers #1412
Letter Carriers #10
Letter Carriers #2161
Letter Carriers #4635
Letter Carriers #185
Letter Carriers #1579
Letter Carriers #4720
Machinists #314
Machinists #1077
Machinists #693
Machinists Dist. Lodge #142
Machinists Dist. Lodge #70
Machinists #990
Machinists #834
Machinists #1650
Machinists #2556
Machinists #733
Machinists #774
Machinists #708
Machinists #293
Machinists Dist. Lodge #71
Machinists #778
Machinists #2540
KS ST CN of Machinists
Kansas AFL-CIO
Machinists #639
Machinists #2255
Machinists #1077
Machinists #92
Machinists #2328
Machinists #1992
Machinists #2791
Maintenance of Way #1365
Maintenance of Way #2400
Maintenance of Way #934
Maintenance of Way #344
Maintenance of Way #2720
Maintenance of Way #341
Maintenance of Way #1133
Maintenance of Way #376
Maintenance of Way #800
Maintenance of Way #1601
Maintenance of Way #518
Maintenance of Way #1025
Maintenance of Way #1540
Maintenance of Way
Maintenance of Way #487

Maintenance of Way #455
Maintenance of Way #2403
United Mine Workers Dist. #14
Molders & Allied Wkrs. #162
Molders & Allied Wkrs. #450
Musicians #36665
Musicians #452
Musicians #755
Musicians #169
Musicians #110
Musicians #36665
Musicians #34-627
Musicians #297
Musicians #620
Musicians #512
Luggage & Novelty Wkrs. #66
OPEIU #277
Office & Prof. Emp. #320
OPEIU #277
OCAW District Cn. #5
OCAW #5114B
OCAW #5348
OCAW #5474
OCAW #5558
OCAW #5446
OCAW #5617
OCAW #5348
OCAW #5114
OCAW #5348
OCAW #5508
OCAW #5571
OCAW #5613
OCAW #5241
OCAW 5266
Glaziers #558
Painters #397
Painters #229
Sign & Pictorial Painters #820
Painters #96
Painters #9
Painters District Cn. #3
Painters #76
Painters #754
Res. Floor & Dec. Cover. Wkrs #1179
Painters #1594
Floor Lavers #1179
MO St. Conf. of Painters
United Paperworkers #510
Paperworkers #179
United Paperworkers #29
United Paperworkers #765
Paperworkers #1350
Plasterers & Cement Masons #294
Plasterers & Cement Masons #23
Plasterers & Cement Masons #44
Cement Masons #518
Plumbers & Pipe Fitters #363

Ks. St. Pipe Trades Assn.
Plumbers & Pipe Fitters #171
Pipe Fitters #533
Plumbers & Pipe Fitters #8
Building & Constr. Trades Cn., Lawrence
Plumbers & Pipefitters #165
Plumbers & Pipe Fitters #45
Plumbers & Pipe Fitters #664
Plumbers & Pipe Fitters #763
Postal Workers #890
Postal Workers #639
Postal Workers #2021
Postal Workers #693
Postal Workers #270
Postal Workers #1145
Postal Workers #2009
Postal Workers #447
Postal Workers #588
Postal Workers #4990
Postal Workers #735
Postal Workers #743
Ks. Postal Workers Union
Postal Workers #959
Postal Workers #194
Postal Workers #6862
Postal Workers #1274
Postal Workers #439
Postal Workers #238
Postal Workers #4458
Postal Workers #886
Postal Workers #393
Central States Cn. RWDSU
RWDSU #184L
Roofers #20 & #20B
URW #307
United Rubber Workers #851
AFSCME #1440
AFSCME #1419
AFSCME #3475
AFSCME #1689
AFSCME #1417
Service Employees #107
Service Employees #806
Service Employees #96
Service Employees #513
Sheet Metal Workers #2
Sheet Metal Workers #29
Sheet Metal Workers #77
Sheet Metal Gr. Plns. Dist. Cn.
Railway Signalmen #8
Railway Signalmen #3
Railway Signalmen #116
Railway Signalmen #72
Bro. of Railway Signalmen
Railway Signalmen #21
Ks. St. Assn. IATSE
I.A.T.S.E. #M-464

I.A.T.S.E. #D-170
IATSE #190
IATSE #414
IATSE #498
I.A.T.S.E. TWU-810
I.A.T.S.E. #M-555
I.A.T.S.E. #S-31
IATSE #910
I.A.T.S.E. #S-43
IATSE #368
AFSCME #1439
AFSCME #2463
AFSCME #1357
AFSCME #1469
AFSCME #2777
AFSCME #1438
AFSCME Council #64
AFSCME #1270
AFSCME #3371
AFSCME #1593
Steelworkers #507U
Steelworkers #4991
Steelworkers #15312
Steelworkers #12606
Steelworkers #4706
Steelworkers #5301
Steelworkers #2351
Steelworkers #507U
Steelworkers #12561
Steelworkers #15402
Steelworkers #6943
Steelworkers #327U
Steelworkers #1957
Steelworkers #1965
Steelworkers #5783
Steelworkers #12788
Steelworkers #13417
Steelworkers #14777
Steelworkers #15162
Steelworkers #2720
Steelworkers #7467
Steelworkers #14436
Steelworkers #12458
Steelworkers #12329
Railway Carmen Div. TCU #6850
Ks. Fed. of Teachers #8014
Wichita Fed. of Teachers #725
Garden City Fed. of Teachers #4377
KAPE
Teamsters #795
Teamsters #838
Teamsters #696
Teamsters #498
Teamsters #552
Teamsters #541
Teamsters #696
Teamsters #838

Teamsters #41
Amalgamated Transit Union #1287
Amal. Transit Union #1360
TCU Santa Fe System Bd.
TCU #121
TCU #208
TCU #6504
TCU #427
TCU Ks. Legis. Board
TCU #6844
TCU #343
TCU #6076
TCU #6363
TCU #6850
TCU #6340
TCU #427
TCU #6225
TCU #179
TCU #6759
TCU #6762
TCU #6770
TCU #598
TCU #6770
TCU #6887
TCU #6644
TCU #51
TCU #72
TCU #6213
TCU #136
TCU #150
TCU #174
TCU #628
TCU #218
TCU #314
TCU #395
TCU #536
TCU #6026
TCU #888
TCU #921
TCU #6036
TCU #6054
TCU #6843

A non-member employee in Kansas City demanded the local union represent him in a grievance against a contractor who was not paying the applicable wages and fringes. The local represented the employee in the grievance and the employee received \$758 in wages and fringes. Cost to Laborers' Local #1290, including attorney fees, \$1,547.

In Topeka, a non-member was fired for stealing company property. He demanded the local union file a grievance for him. The grievance went to arbitration and the employee was dismissed. Cost to Rubber Workers Local #307 - \$6,000.

Non-member employees in Hutchinson, Kansas received back pay of \$2,500 each, through litigation, including hearing before 10th Circuit Court in Denver, Colorado. Total cost to union for representation - \$20,000.

Non-member employees in Newton, KS, received payments equal to \$1,500.00, through a class action grievance, court hearings and litigation. Total cost to union - \$5,000.

KANSANS

~~DEPT. OF COMMERCE~~
EXECUTIVE DIRECTOR

George H. Ledermann

GEORGE TROMBOLD
PRESIDENT

CHARLES BENSCHIEDT
VICE PRESIDENT

E. TOM HENDERSON
SECRETARY

ROBERT D. LOVE
TREASURER

for THE RIGHT TO WORK

P.O. BOX 2457

PHONE: (316) 838-9166

WICHITA, KANSAS 67201

January 27, 1994

To: Members of the Kansas State Commerce Committee of the State Legislature.

Fr: Kansans for The Right to Work.

Attached is a copy of my prepared remarks regarding Senate Bill No. 204 which is scheduled for hearing before your committee this date.

They cover a little background on the issue, our appraisal of the bill, and the reasons we strongly oppose it.

Our opposition is based, as you will note, on both our support for the principle of "freedom of choice" in the workplace regarding employment, as well as our view that SB 204 is clearly a form of "agency shop". Agency shop, as you know, has previously been ruled invalid by the Supreme Court of Kansas. (See attached — Higgins case).

Thank You for the opportunity to express our views on this matter.

Respectfully Yours,

George H. Ledermann
George H. Ledermann

Executive Director, KRTW

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January 27, 1994

Remarks by George H. Ledermann, executive director of Kansans for The Right to Work at a hearing on Senate Bill No. 204 held before the Senate Commerce Committee on January 27, 1994.

Madam Chairman and Members of the Senate Commerce Committee -

First, let me express my personal gratitude to members of the committee and its supporting personnel for their kindness and efficiency in outlining proper committee procedures to allow me to speak here today. It was most helpful.

As all of you know, our Right to Work Amendment gives all workers in Kansas the opportunity, if qualified, to be considered for employment, regardless of union or non-union affiliation and to pursue a living and a better life without being forced to bow to an outside force.

We call that "Freedom" -- That's the way I grew up -- and that's the way my kids grew up -- and I hope that's the way my grandkids grow up.

However, sometimes things that seem so basic and simple, somehow get a little mixed up. Which leads me to the problem at hand.

Early on in the union movement unions fought furiously for "exclusive bargaining rights" to represent all workers of a bargaining unit, whether those employees wanted to be in the union or not, and whether they were or not.

They maintain that "exclusive representation" right still today (and the attendant responsibility, as well, I might add) still today.

Hopefully, from the union's standpoint, they figured that non-members soon could be brought into line.

Well, it didn't quite work out that way, so the "agency shop" was born and non-union members were forced to pay for this representation which they didn't want in the first place.

In the meantime states started passing Right to Work laws banning closed shops and agency shops.

Finally the U.S. Supreme Court held that state laws which prohibit compulsory union membership and agency shop arrangements are valid and effective and, of course, Section 14 (b) of the Taft-Harley law later preserved the right of states to pass Right to Work laws.

NOW ALL OF THIS IS PERTINENT TO SENATE BILL 204 which you are currently considering.

It clearly points out that, indeed, unions still have exclusive bargaining and attendant responsibility to both union and non-union employees alike but to keep money coming in they've re-verted back to agency shop to make non-members pay — and this is unbelievable — if the non-member fails to pay for services that he didn't ask for in the first place (that's under section D of the bill you are considering) the union can then sue the employee.

Need I say much more???

It's sad — a back door approach with punitive damages to boot.

The illegal agency shop in Kansas is outlined on the attached.

I trust that the members of this committee will keep this bill right where it is. — May SB 204 rest in peace.

Freedom in the workplace — where a family's livelihood is at stake — must be preserved. The laws must be obeyed.

Thank you for time and attention.

The following is the exact text of the laws governing Right to Work in Kans:
Possible drop in-s (boxed)

Federal --

Section 14 (b) of the Taft-Hartley Act authorizing states to pass Right to Work laws reads as follows:

"Nothing in this act shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any state or territory in which such execution or application is prohibited by state or territorial law."

Kansas Right to Work Law (Constitutional Amendment)

"No person shall be denied the opportunity to obtain or retain employment because of membership or nonmembership in any labor organization, nor shall the state or any individual, corporation, or any kind of association enter into any agreement, written or oral, which excludes any person from employment or continuation of employment because of membership or nonmembership in any labor organization."

- - - - -

"Agency Shop" Illegal in Kansas

read
In Higgins vs. Cardinal Mfg. Co., 188 Kan. 11 the Supreme Court of the State of Kansas ruled on March 17, 1961, that so-called "agency shop" agreements are invalid under the Kansas Right to Work law. On April 13, 1961, the Supreme Court denied the Teamsters a rehearing of this same "agency shop" case. Thus it became unlawful to negotiate contracts giving unions the right to collect "service fees" from Kansans who do not choose to join unions.

In 1963, the U.S. Supreme Court, by unanimous decision, upheld the right of states to ban "agency shop" agreements.

**Testimony Presented To
Senate Commerce Committee
on
Senate Bill 204
Fair share representation fee for
labor organizations from nonmember employees
by
John Weber, President
Kansas State Council of Machinists
January 27, 1994**

Madame Chairperson and members of the committee:

My name is John Weber. I am President of the Kansas State Council of Machinists.

If you know of an exclusive group that is taking undue advantage of the benefits others have worked for and pay to maintain, would you not want to correct this injustice? Some workers in Kansas are doing just that; they are receiving benefits without paying their "fair share."

Any viable organization must have a source of revenue in order to maintain and properly represent everyone who receives the benefits. When a collective bargaining unit reaches an agreement the benefits are for all to enjoy. "Paid vacations, paid holidays, sick leave, seniority rights, pensions, insurance plans, safety rules, etc." I think it is safe to say that many employers would not grant these benefits voluntarily.

I know the right-to-work people will say a person has the inherent right to a job without joining a union. What rights does a person have when applying for a job? Does he or she have the right to start at 9:00 if the employer wants them to start at 8:00? Does he or she have the right to smoke if no smoking is the rule of the employer? Does he or she have the right to employment without a physical examination or drug test if the employer demands one? Does he or she have the right NOT to enter in a health or safety program that is required of all employees? Does he or she have the "right" to demand a pay raise every six months or yearly? Here they have their first "right", the "right" not to accept the job.

The point I am making is when a person applies for a job anywhere they know in advance that they will be subject to highly restrictive conditions of employment. They will conform to these conditions or lose their job. That is what a job consists of - doing what you are hired to do under the conditions prevailing in the place you work. Now you have your second "right", the "right" to quit.

There is another "right." The right to a free ride. So let's quit this pious concern about the worker's rights. Employees are free-riding the union in a plant where he or she is employed. Let's at least be fair and realistic about the true nature of this issue. Former Senator Jack Steineger said, "Union dues-paying member should not be required to provide free representation services to non-union employees. The union should be

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allowed to charge a reasonable fee for representing those non-union employees."

All we are asking for is that a fair representation fee would be permitted. We must represent both members and non-members.

Senate bill 204 will help correct the injustice that now exists. Madame Chairperson, I appreciate the opportunity to appear before you today in support of SB 204. I respectfully urge the committee to recommend SB 204 favorable for passage.

Thank you.

**Testimony of
Hal Hudson, State Director
National Federation of Independent Business
Before the
Kansas Senate Commerce Committee
Thursday, January 27, 1994**

Senator Salisbury and members of the Committee: Thank you for this opportunity to appear before your committee. My name is Hal Hudson, and I am the State Director for the Kansas Chapter of National Federation of Independent Business. NFIB is the State's largest small-business advocacy group, with over 8,000 members who employ nearly 100,000 Kansans.

As most of you know, NFIB's position on legislative issues is determined by ballots, surveys and questionnaires, through which we ask our members for their opinion. We do not have a Kansas board of directors who set legislative policy.

On our 1994 Kansas State Ballot we asked:

"Should legislation be enacted to allow labor unions to assess a 'fair share representation fee' from non-unions employees?"

The response was: 3.6% - YES; 92.6% - NO; and 3.8% - undecided.

And so, I am here today to oppose passage of SB 204.

Article 15, Section 12 of the Kansas Constitution, approved as an amendment by the voters of Kansas in 1958, established Kansas as a "right-to-work" state. This means that membership in a union cannot be required as a condition of employment.

SB 204 proposes payment of a "fair share representation fee" by non-union employees in lieu of dues. Passage of this bill would be viewed by many as nothing less than an

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attempt to subvert the State Constitution, and the will of the people.

Such a proposal not only would undermine Kansas' right-to-work status, but would force some workers to pay support to an organization they have a Constitutional right to choose not to join.

SB 204 provides that it would be unlawful for a labor organization to discriminate against an employee for failure to pay the fee, and that payment or nonpayment shall not be a condition of employment.

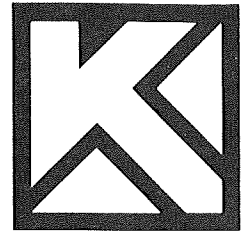
However, failure of the nonunion member employee to pay the fee would give the labor organization the right to bring an action in court to receive payment, plus court costs and attorney fees. If that provision does not constitute discrimination, by what name would you call it?

Any employee in any firm where a union is certified as the bargaining agent is free today to join that union if he or she chooses to do so. In any situation where a nonunion member employee requests representation, that employee should also be free either to join the union, or voluntarily agree to pay a fee in lieu of dues, if he or she deems such payment appropriate. However, we do not believe any employee should be required by law to join a union, or to pay any fee in lieu of dues, under any circumstance.

Therefore, on behalf of the 8,000+ members of NFIB, I respectfully request that the committee report SB 204 unfavorable for passage.

Thank you.

LEGISLATIVE TESTIMONY



Kansas Chamber of Commerce and Industry

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SB 204

January 27, 1994

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

Senate Committee on Commerce

by

Terry Leatherman
Executive Director
Kansas Industrial Council

Madam Chairperson and members of the Committee:

My name is Terry Leatherman. I am the Executive Director of the Kansas Industrial Council, a division of the Kansas Chamber of Commerce and Industry. Thank you for this opportunity to explain why the Kansas Chamber opposes SB 204.

The Kansas Chamber of Commerce and Industry (KCCI) 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.

KCCI is comprised of more than 3,000 businesses which includes 200 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 KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI 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.

SB 204 proposes to require non-union members of a workplace to pay a fee for union representation in a grievance proceeding. If the non-union worker refuses to pay, SB 204 gives the union the right to sue the worker.

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It is important to understand that representing non-union workers is not a burden which unions must endure, but a privilege which the national labor movement has fought long and hard to retain. Certification under the National Labor Relations Act grants a union exclusive bargaining rights for all employees with management. Without exclusive bargaining rights, unions would have to compete with non-union workers in management negotiations. (If representing non-union employees has become a burden, labor organizations should urge Congress to relieve them of their exclusive bargaining responsibility.)

From the non-union worker's perspective, current law requires them to accept a union as their representative before management and abandon any desire to represent themselves. Now, SB 204 demands they pay a fee for representation from a union they have chosen not to join.

Kansas' long tradition of Right-to-Work grants its citizens the right to work at the labor they choose and the right to support the organizations they wish to join. The Kansas Chamber urges you not to attack this traditional value by passing SB 204.

Thank you for the opportunity to comment on SB 204. I would be happy to attempt to answer any questions.



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TESTIMONY OF MYRLENE KELLEY

EXECUTIVE DIRECTOR, KANSAS ASSOCIATION OF PUBLIC EMPLOYEES

In Support of
Senate Bill 204

Distinguished members of the legislature, good morning. My name is Myrlene Kelley and I appreciate the opportunity to appear here today in behalf of the Kansas Association of Public Employees to speak in favor of S.B. 204.

S.B. 204 seeks to establish a fee to be charged to those non-member employees who are represented by various labor organizations. Under current law, an employee organization may be certified by the federal government through an election process as the exclusive representative of a particular grouping of employees. Once that action has been completed, the selected organization is empowered, and obligated to speak in behalf of that group, whether member or not. In many instances, in spite of the fact that a majority of the employees want representation, not all of those employees choose to become members of the organization. That leads to a condition where the dues paying members set the agenda for the entire group. One, if not the greatest value of a formalized collective bargaining relationship is the establishment of a structured communications forum wherein the differences between labor and management may be resolved without the interruption of



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commerce. Hopefully we can agree that the development of that kind of harmonious relationship is in the best interests of our state, and to be encouraged. Unfortunately, the employee costs associated with maintaining that relationship are born by the few while the benefits derived are enjoyed by the entire group.

Under existing labor relations laws, a certified employee representative has the obligation to represent members and non-members alike. As such, many employees choose not to participate as dues paying members despite the valuable contributions they may have otherwise been able to offer. The decision to participate or to refrain from participation then, becomes one made on an economic basis rather than one made on their level of interest. The establishment of a fair share assessment of fees would remove the financial consideration since everyone would share equally in that cost, and encourage a much more broad level of participation in their self determination. A significant resulting benefit would be the ability to fashion better decisions based upon vastly increased employee input. Another benefit may be the reduction of fees assessed due to the increased numbers over which the costs are divided. One possible side effect of the passage of the provisions of S.B. 204 would be a more critical analysis of whether the employees, indeed, want representation. Under today's provisions, an employee may vote for representation even if they are only marginally convinced of its ability to address their interests. If, however, they were aware that they would be responsible for helping to pay for those services if the organization were, in fact, certified, they would be more inclined to vote their

convictions rather than their wallet.

S.B. 204 contains provisions which, if implemented, carry with them several positive effects. More involvement in their self determination by the people effected, more fairness in bearing the costs associated with the maintenance of harmonious relationships between labor and management, and development of a clearer picture of the desires of the work force on the issue of unionization.

Certainly there are those who oppose the very concept of employee involvement in the decision making process of management. I would submit to you, however, that the progressive unions, as well as progressive management of today are well aware that the health and well being of the employer is essential to the health and well being of the employees. We are committed to the task of helping our employers maintain their vitality in the face of ever increasing competition from home as well as from abroad. We are democratically run organizations who desire the input of the greatest numbers of workers to assist in formulating the direction of the union. And we believe in the concepts of equity and fairness. In our opinion, S.B. 204 is a healthy and appropriate step in the right direction toward attainment of those goals. For those reasons, KAPE endorses S.B. 204 and encourages its passage.

Thank you for your consideration of my comments and I would be happy to answer any questions you may have.



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ROLAND E. SMITH, *Executive Director*

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January 27, 1994

STATEMENT TO: Senate Commerce Committee
SUBJECT: Opposition to SB 204

FROM: Roland Smith, Executive Director for the Wichita Independent Business Association

This bill basically calls for non-union employees to pay tribute to the union and we feel this is a violation of the employees right to make the choice to join or not join the union; in reality it would be forced union dues. "Fair share" is a misnomer and contrary to the intent of the "Right to Work" that now exists in Kansas.

We urge you to kill this bill now and oppose the concept in any other proposed legislation. To pass such a bill would be a strong disincentive for economic development in Kansas.

Thank You!

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