

## MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairman Susan Wagle at 8:30 a.m. on March 15, 2011, in Room 548-S of the Capitol.

All members were present.

Senator Emler – excused

Committee staff present:

Ms. Margaret Cianciarulo, Committee Assistant

Mr. Ken Wilke, Office of the Revisor of Statutes

Mr. Reed Holwegner, Kansas Legislative Research Department

Ms. Dorothy Noblitt, Kansas Legislative Research Department

Conferees appearing before the Committee:

Mr. Eric Carter, Attorney, Carter LLP, on behalf of the Kansas Chamber.

Representative Mah

Mr. David Shauner, General Counsel, Kansas National Education Association (KNEA)

Ms. Jane Carter, Executive Director, Kansas Organization of State Employees (KOSE)

Others attending:

Please see attached list.

### **Hearing on HB2130 – an act concerning labor organizations; relating to political activities**

Upon calling the meeting to order, Chairperson Wagle announced they would be having a hearing on **HB2130** and called on Mr. Ken Wilke, Office of the Revisor of Statutes, who explained the bill which included:

1.) **HB2130** concerns political activities and the automatic deduction from paychecks for political activities.

2.) New Sec. 1 makes it unlawful for a labor organization to use dues/assessments taken from a member's paycheck for political activities. The idea being that if an employee belongs to a union and has authorized deductions for political activities, under the current law that is fine. This new section reads, the union could no longer take these authorized deductions, but the employee can still make a contribution for political activities by writing a personal check.

3.) Sec. 2. is similar to New Sec. 1 except that it applies to professional organizations.

4.) Sec. 3 applies to public employee organizations and again, is similar to New Sec. 1. He referred the Committee to page 3, subsection (b) making it a prohibitive practice for public employee organizations to endorse candidates, spending any of its incomes derived from dues, fees, assessments or other periodic payments required of members. The idea here is to do something similar for public employee organizations like the Kansas Organization for State Employees (KOSE). This section also offers the definition of what political activities are.

5.) Sec. 4 creates a penal section for Sec. 3 saying a public employer cannot collect, deduct, or assist in the collection or deduction of funds for political purposes. If used for political funds or mingled with funds collected by a public employer for political funds, this section sets forth the penalties for that. In summary, the bill has this idea spread through 3 types of organizations, labor unions, the state or public employee organizations, and professional organizations.

As there were no questions for Mr. Wilke, the Chair called on the only proponent conferee Mr. Eric Carter, on behalf of the Kansas Chamber who stated:

1.) The primary purpose of this bill is, the government should not be involved in supporting any organization's political activities, regardless of their merit. Public perception of the government's partiality can undermine confidence in representative government. Banning payroll deductions for political speech similarly furthers the government's legitimate interest in distinguishing between internal governmental operations and private speech.

## CONTINUATION SHEET

The minutes of the Senate Commerce Committee at 8:30 a.m. on March 15, 2011, in Room 548-S of the Capitol.

He went on to say he had the opportunity to review the testimony presented to the House of Representatives by the opponents to this bill and notes that the consistent theme of these testimonies appears to be the bill would somehow violate their First Amendment rights. However, he said. The United States Supreme Court in *Ysursa v. Pocatello Education Assn.*, 129 S. Ct. 1093 (2009), recently upheld Idaho's similar statute, the Voluntary Contributions Act, which banned public-employee payroll deductions for political activities.

He offered the ruling of the U.S. Supreme Court as follows:

While publicly administered payroll deductions for political purposes can enhance the unions' exercise of First Amendment rights, Idaho is under ***no obligation to aid the unions in their political activities***. And the State's decision not to do so, is not an abridgment of the unions' speech; they are free to engage in such speech as they see fit. ***They simply are barred from enlisting the state in support of that endeavor.*** *Id.* at 1098 (*emphasis added*).

Lastly, he offered two amendments, including:

1.) The first being mostly grammatical or clean up work. For example, on the first page, the change to New Sec. 1, the way the bill was phrased originally, it made it appear that the labor organization was the one that was doing the payroll deductions, but it is actually the employer. So by changing this it reads, to understand that it applies to the employer who does the deduction, with the same change shown in subsequent sections. On line 23, it obviously does not matter who creates the fund and beginning on lines 27 and 28, "where activities are not pertinent..." does not make sense in this context because they are talking about political activities that are not permitted and this is also repeated in subsequent sections. On page 3, line 24, they propose inserting: "in the form of or" after "any income." On page 4, there are also two replacement phrases (line 12, and 32) and one insertion beginning on line 33.

2.) The second amendment is a substantive change saying, as the bill has already gone through the House, they have had the opportunity to review the testimony of the opposition to the bill. With regard to New Sec. 1 only, they are adding a caveat that it permit the private labor organization to do the payroll deductions, however, they need to get the authorization in writing and do so annually.

A copy of his testimony is (Attachment 1) attached hereto and incorporated into the Minutes as referenced.

The Chair thanked Mr. Carter and announced they would hold questions until all testimony has been heard. She then stated there was one written opponent testimony offered from Mr. Derrick Sontag, State Director, Americans for Prosperity-Kansas. A copy of his written testimony is (Attachment 2) attached and incorporated into the Minutes as referenced.

The Chair then called on the first of three opponent conferees, Representative Ann Mah, who stated the bill is not about protecting workers or their money but silencing middle class workers and making sure corporate political action committees or PACs, gain an edge in 2012. She went on to say under current law, union members may choose to voluntarily have PAC donations taken out of their checks through payroll deduction, which are negotiated between the union and employer. This bill denies the union members' right to a negotiated benefit by eliminating payroll deduction. It means "game over" for union members who want to support candidates with a united voice. Also, if this bill had anything to do with protecting employees or their money, it would also include a provision that denies corporate PACs the opportunity to collect donations through payroll deduction.

Representative Mah stated, in the House they heard a lot of testimony about concern as a union member, their money was going for candidates they did not like. As a former employee of a Fortune 100 company, she donated to a corporate PAC and a lot of times they did not give money she personally supported, but she did have a choice to get out. The same choice unions have.

Lastly, she said either this bill should be rejected outright, or the playing field should be leveled so that corporate PAC payroll deductions are ended along with union deductions. A copy of her testimony is (Attachment 3) attached and incorporated into the Minutes as referenced.

## CONTINUATION SHEET

The minutes of the Senate Commerce Committee at 8:30 a.m. on March 15, 2011, in Room 548-S of the Capitol.

Chairperson Wagle said, because they will address questions at the end of testimonies she would give Representative Mah a few minutes to think about what corporations deduct political donations automatically from their payroll.

The second opponent called on was Mr. David Shauner, General Counsel, Kansas National Education Association who stated:

- 1.) That portion of the bill that limits KNEA's (on behalf of its members) use of dues or PAC monies either for advocacy on a "public question" or for *independent* advocacy to support or oppose a candidate for office, plainly violates KNEA's (on behalf of its members) First Amendment right to free speech under the U.S. Supreme Court's recent decision in *Citizens United vs. FEC*, 130 S.Ct. 876 (2010).
2. It also is unconstitutional because it singles out labor organizations for certain disfavored treatment, while allowing all other entities, including corporations and all other voluntary membership associations (such as the National Rifle Association, the NAACP, and the Right to Work Committee) to operate without similar constraints.
- 3.) Kansas is, by constitution, a right-to-work state. Members join and pay dues to KNEA, or any other union in Kansas, not because they are required to do so, but because they so choose.

A copy of his testimony is (Attachment 4) attached and incorporated into the Minutes as referenced.

The third and final opponent called to testify was Ms. June Carter, Executive Director, Kansas Organization of State Employees (KOSE), who stated the bill prohibits virtually all labor unions in Kansas, not just those who represent public service workers, from using membership dues and similar payments to engage in broadly defined "political activity" and includes a variation on the anti-union ruse misleadingly called "paycheck protection" by its proponents. Also,

- 1.) Labor unions are representative democracies and explained the Labor-Management Reporting and Disclosure Act of 1959 and the National Labor Relations Act.
  - 2.) Union membership is entirely voluntary and saying, in Kansas, a so-called "right-to-work" state, employees in a represented bargaining unit may choose not to join the union and may refuse to pay anything to support the union.
  - 3.) Union members strongly support union political advocacy - members have consistently opposed ballot measures and legislation to enact paycheck protection or schemes such as this bill that deny unions the same access to the political areas that other membership organizations and corporations enjoy.
- A copy of her testimony is (Attachment 5) attached and incorporated into the Minutes as referenced.

Written opponent testimonies were offered including:

- 1.) Mr. Ty Dragon, Director, United Transportation Union.
- 2.) Mr. Andy Sanchez, Executive Secretary-Treasurer, KS AFL-CIO.
- 3.) Mr. Fernando Harms, Business Agent, Teamsters Local Union 696.
- 4.) Ms. Lisa Ochs, President of American Federation of Teachers of Kansas.
- 5.) Mr. Jeremy Henderickson, Business Manager & Secretary/Treasurer, Laborers' Public Service Employees Union Local 129OPE.

Copies of the above written testimonies are (Attachment 6) attached and incorporated into the Minutes as referenced.

## CONTINUATION SHEET

The minutes of the Senate Commerce Committee at 8:30 a.m. on March 15, 2011, in Room 548-S of the Capitol.

As there were no further testimonies, Chairperson Wagle said she had previously asked the question to Representative Mah about corporations who take dues out for the corporate side other than labor union dues, that automatically take payroll deductions for political activities. (As a management employee at Southwestern Bell SBC, she donated through payroll deduction and just verified with employees who are still working there, that AT&T still allows payroll deductions for management employees.) Do you have to sign an authorization form, as this bill does require, to allow that deduction to be taken out of your payroll? (She does not recall if it was annually, but pretty much the same as the unions do.)

The Chair called on Mr. Carter to address the equity in the bill. (He feels Representative Mah hit on the key word which is management. The Chair's comment was on point which is, who are the employees that are asked to contribute? You do not see blue collar workers being asked, it is only the management level employees that are being asked to do that. And more importantly it is the level of coercion that you tend to find, many union members do feel coerced, maybe gently, to make those contributions whereas you do not see that level of coercion in the private market place) The Chair said she is just trying to point out that one is a voluntary authorization. (Correct and again, the difference being, in a private sector you see it targeted to management level employees rather than everybody, and you also have that difference in coercion.)

She then asked for questions from the Committee which came from:

Senator Merrick who asked Mr. Carter regarding KNEA's testimony which states that we are disregarding our oath and we are violating the constitution, will you address that issue? (You are not disregarding or doing anything to violate the constitution. The KNEA is correct in that you did take an oath to uphold the constitution. However, this bill does not do that. In the United States Supreme Court in the Idaho case, it specifically said that this is okay, and there is no obligation that the State of Kansas has, to provide the infrastructure for the Union to engage in its free speech. Nothing that says the state has to do payroll deductions for the unions. The members of the union can still engage in the political process, but it just begs the question, why the concern the opponents of this bill have? If the concern is, if money is not being taken out of your paycheck, you will not voluntarily write that paycheck?)

For Representative Mah, Senator Masterson stated his mother-in-law was a union member for years at Southwestern Bell and she did feel intimidation, but what struck him in her testimony she used the words "game over" for the union, where in the bill does it actually prohibit union members from contributing to their candidate? (There is no absolute prohibition, but it changes the rules so much it makes it really hard to contribute in an easy way.)

Senator Steineger asked Mr. Ken Wilke, Office of the Revisor of Statutes, how this bill does not violate freedom of association or speech? It seems to him that a union is something that you do not have to join, you have a choice. Also, he thinks there is a doctrine known as disparate treatment where you treat one group of people under the law in such a matter and a different group of people in a different way, I do not see how this would pass the test where you only apply this to members of the labor union, to him, this should apply to anybody who contributes political dues through their employers, so does this not mistreat the disparate treatment doctrine? (Regarding the doctrine, this is something the courts are going to have to assess based on a case that is brought to them and in this state the goal would consider to be constitutional until the courts say otherwise and what the Committee chooses to do with the bill is up to the Committee.)

For Ms. Carter, Senator Steineger asked if she knew if there were any other unions in Kansas, are they all allowed or require their members to sign this card? (First of all she only represents state workers, but because this is a right-to-work state, every member has to sign it voluntarily and affirmatively agree to donate money out of his or her paycheck.)

Senator Holland asked Mr. Carter, what gives him the expertise to comment on this bill today starting with his legal profession? (He works in the election law and has a number of clients that are larger companies that have employment issues.) Why are you saying we are keeping government out? (He thinks there is a distinction to be made between the operative sections, ex. Section 2 and 3 focus on the public employees and rely on the government to do their payroll deductions, Section 1 will continue to permit doing private sector deductions.) When you start dragging in private sector employees who are

## CONTINUATION SHEET

The minutes of the Senate Commerce Committee at 8:30 a.m. on March 15, 2011, in Room 548-S of the Capitol.

unionized, why aren't you tackling corporations? (Management and the labor unions within each of the private sectors, are annually asked to contribute each year.)

The Chair announced that the Committee does have to work this bill today because it has been sent to two Committees, first Commerce then Ethics and Elections, and work needs to finalize Friday. She stated the bill sits before them with two suggested amendments, what is the Committee's will? Senator Lynn made a motion to move the technical amendment and seconded by Senator Merrick. As there was no discussion a voice vote was taken and it appears the motion carried. A division was called with a raise of hand, six for with four opposed. The motion carried.

The Chair announced they were back on the bill and Senator Lynn made a motion to move the amendment that addresses concerns from opponents in Sec. 1 permitting private labor organizations from doing payroll deductions and must get annual permission. It was seconded by Senator Masterson. The motion appears to carry.

The Chair recognized Senator Schodorf who said she finds the bill highly offensive to working people and moves to table. The Chair stated there is a substitute motion to table the bill is in order. It was seconded by Senator Holland. The motion did not appear to pass. A division was called. The Chair asked those that is in favor of the substitute motion to table to raise their hands, there were four, those opposing were five. The motion failed.

The Chair announced they were back on the original motion. Senator Holland made a substitute motion to strike Section 1. It was seconded by Senator Schodorf. The motion appears to fail. The motion fails.

The Chair announced they are back on the original motion by Senator Lynn to adopt the secondary amendment, seconded by Senator Masterson. The motion appears to pass. A division was asked. A count of hands was taken and the motion carried. The Chair asked what was the will of the Committee on the bill? Senator Lynn made a motion to move the bill as amended. It was seconded by Senator Merrick and the motion carried. Senator Holland, Foust-Gaudeau, and Steineger asked to be recorded as no votes. The Chair again announced she is sorry to have to run this quickly through the Committee. It is going to another committee and it had no chance for a secondary hearing unless they worked it today.

### Adjournment

As there was no further business, the meeting was adjourned. The time was 9:30 a.m.

The next meeting is scheduled for March 16, 2011.

SENATE COMMERCE COMMITTEE GUEST LIST

DATE: March 15, 2011

NAME	REPRESENTING
Page Routhier	Hein Law Firm
Colab Reid	Tutor for Sen. Ayle
SUSAN ALLEN	LEGIS
Ty Draper	UTV
Mindy Brissay	AFT - Kansas
<del>JOHN PETERSON</del>	PCWS
Michelle Buller	Cap. Strategies
Stacy Probst	Lawrence Journal World
Karen Godfrey	KNEA
Dennis Phillips	KSCFF
Ed Redman	KSCFF
Megan Brooks	Legislative Intern - Rep. Don Hill
Joe Mosimann	PMCA of KS
Claudette Johns	KANSAS NEA
Pierre Suphin	KOSE
Gus Froemke	KOSE
Bray C. Miller	KOSE
Jane Carter	KOSE

Marten Hawver

Hawver's Capitol Report

## SENATE COMMERCE COMMITTEE GUEST LIST

DATE: March 15, 2011

[illegible]

March 14, 2011

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**Testimony before the Senate Committee on Commerce  
in Support of HB 2130 – Paycheck Protection**

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Dear Madame Chair:

Thank you for affording me the opportunity to testify on behalf of the Kansas Chamber in support of HB 2130.

**Overview of HB 2130**

HB 2130 consists of six sections, the first four of which are “substantive” and the subject of this testimony.

- “*New Section 1*” applies to “*labor organizations*” and prohibits payroll deductions for political activities. An individual member of the labor organization would still be able to make an individual contribution just as any of us in this room might choose to do.
- “*New Section 2*” applies to “*professional employees’ organizations*”, but is otherwise virtually identical to New Section 1.
- “*Section 3*” contains a number of “clean-up” changes (e.g., making references to individuals gender-neutral), and, in sub-section (d), modifies existing law to essentially parallel the provisions of New Section 1 and New Section 2, as applied to “*public employee organizations*”.
- “*New Section 4*” states the penalties for violations of the law.

**Background**

HB 2130’s primary purpose is to avoid the perception of government favoritism or entanglement with partisan politics. Simply put, the government should not be involved in supporting any organization’s political activities, regardless of their merit. Public perception of the government’s partiality can undermine confidence in



representative government, and for that reason alone it is necessary to keep our government wholly free of entanglement with political campaigns of any kind. Banning payroll deductions for political speech similarly furthers the government's legitimate interest in distinguishing between internal governmental operations and private speech. Additionally, HB 2130 serves the important purpose of ensuring no worker feels compelled to contribute to a cause with which they do not agree.

### Discussion

I have had the opportunity to review the testimony presented to the House of Representatives by the *opponents* to HB 2130, and note that the consistent theme of the bill's opponents appears to be that HB 2130 would somehow violate their First Amendment rights. This, however, is incorrect. The United States Supreme Court, in *Ysursa v. Pocatello Education Assn.*, 129 S. Ct. 1093 (2009), recently upheld Idaho's similar statute, the *Voluntary Contributions Act*, which banned public-employee payroll deductions for political activities. There, the U.S. Supreme Court ruled as follows:

While publicly administered payroll deductions for political purposes can enhance the unions' exercise of First Amendment rights, Idaho ***is under no obligation to aid the unions in their political activities.*** And the State's decision not to do so is not an abridgment of the unions' speech; they are free to engage in such speech as they see fit. ***They simply are barred from enlisting the State in support of that endeavor.***

*Id.* at 1098 (*emphasis added*).

Just as the government should not be involved in supporting an organization's political activities by providing payroll deduction services, no business should be obligated to do so either. HB 2130 is good public policy and eliminates the government's inappropriate role in supporting any organization's political activities.

Thank you.

CARTER LLP - ATTORNEYS

By:



Eric C. Carter



# AMERICANS FOR PROSPERITY

## K A N S A S

March 15, 2011

House Bill 2130  
Senate Commerce Committee

Madam Chair and members of the committee,

I am proud to provide testimony today, in representing the more than 41,000 members of Americans for Prosperity-Kansas.

AFP Kansas supports HB 2130 relating to political activities within labor organizations. The legislation commonly referred to as "paycheck protection", simply gives union members a choice, a choice to fund or not fund the non-bargaining and administration aspects of their union while still retaining their membership.

According to the James Madison Institute, labor reform experts believe that as much as 80 percent of union dues are spent on non-collective bargaining related activity. Some members of a union may not choose to support all union political activity. For example, Washington was the first state to enact paycheck protection laws. Once the law was implemented the number of teachers that contributed to the Washington Education Association's Political Action Committee dropped to 6.1 percent in 2004, compared to 81.7 percent a decade earlier.

Some opponents of paycheck protection have argued that the legislation will mute the voice of public sector unions. But what is often lost in that argument is that if a member is truly supportive of a union's political agenda then they will more than likely want to financially support the political action committee. The legislation will also compel labor organizations to clearly articulate its' political agenda in an attempt to garner financial support from its membership, another positive for the worker.

Paycheck Protection laws reflect the defense of liberty, perhaps best articulated by Thomas Jefferson when he said: "To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors is sinful and tyrannical."

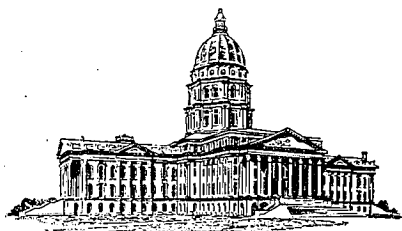
Thank you for the opportunity to provide testimony in support of HB 2130.

Derrick Sontag  
State Director  
Americans For Prosperity-Kansas  
[dsontag@afphq.org](mailto:dsontag@afphq.org)  
785.354.4237

*Senate Commerce Committee  
Date: March 15, 2011  
Attachment 2*

STATE OF KANSAS  
HOUSE OF REPRESENTATIVES

STATE CAPITOL  
TOPEKA, KANSAS 66612  
785-296-7668  
ann.mah@house.ks.gov



3351 SE MEADOWVIEW DR.  
TOPEKA, KS 66605  
785-266-9434

ANN E. MAH  
53RD DISTRICT

SENATE COMMERCE COMMITTEE  
CHAIRMAN - SEN. WAGLE  
TESTIMONY HB 2130

I stood silently by during the House debate on HB 2130 but felt that if the opportunity arose, I would speak to the Senate in opposition. (HB 2130 is not about protecting workers or their money. This bill is about two things – silencing middle class workers and making sure corporate PACs gain an edge in 2012.)

(Under current law, union members may choose to voluntarily have political action committee (PAC) donations taken out of their checks through payroll deduction. Payroll deductions are generally negotiated between the union and employer. To change state law to disallow those payroll deductions is wrong. First, it denies the union members' right to a negotiated benefit. Why would the state legislature want to jump in the middle of contract negotiations and remove from the table a benefit the employer may want to provide and employees want to receive? (Second, and more obvious, eliminating payroll deduction means "game over" for union members who want to support candidates with a united voice. But when you realize the main support for this bill came from large corporate sponsors who invest heavily in elections, the end game becomes more obvious.

If there is genuine concern about PACs spending union employees' money for candidates they don't personally support, the answer is also obvious – don't donate to the PAC. A union member can end the payroll deduction at any time. It would be difficult to imagine that many candidates would be supported by 100% of the membership. That's why they often vote on which candidates to support. In any case, participating in the PAC is voluntary.

If this bill had anything to do with protecting employees or their money, it would also include a provision that denies corporate PACs the opportunity to collect donations through payroll deduction. When I participated in a corporate PAC, the money sometimes went to candidates I didn't personally support. As with union PACs, I could choose to continue in the PAC - or not.

(Either this bill should be rejected outright, or the playing field should be leveled so that corporate PAC payroll deductions are ended along with union deductions.) Since there is no benefit to our citizens in denying first amendment rights, I recommend the former. I appreciate your consideration.

*Senate Commerce Committee  
Date: March 15, 2011  
Attachment 3*



Making public schools great for every child

KANSAS NATIONAL EDUCATION ASSOCIATION / 715 SW 10TH AVENUE / TOPEKA, KANSAS 66612-1686

David Schauner, testimony  
Senate Commerce Committee  
March 15, 2011  
**House Bill 2130**

Chairperson Wagle, members of the Committee, as General Counsel for the Kansas National Education Association, I thank you for the opportunity to present this testimony in opposition to **House Bill 2130**.

KNEA strongly opposes H.B. 2130.

On January 10, 2011, each of you, as members of this body, met for the first time for this session of the Kansas legislature. On that first day, each one of you took and subscribed to the following as your oath of office:

“We and each of us, do solemnly swear or affirm, that we will support the constitution of the United States and the constitution of the State of Kansas, so help us God.” (Journal of the House, First Day, January 10, 2011, p.8.)

You surely disregard your oath by voting to advance H.B. 2130, because H.B. 2130 violates the U.S. Constitution.

First, that portion of H.B. 2130 that limits KNEA’s (on behalf of its members) use of dues or PAC monies either for advocacy on a “public question” or for *independent* advocacy to support or oppose a candidate for office, plainly violates KNEA’s (on behalf of its members) First Amendment right to free speech under the U.S. Supreme Court’s recent decision in *Citizens*

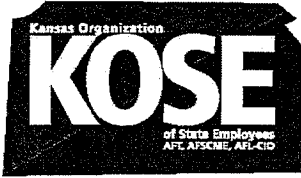
*Senate Commerce Committee*  
*Date: March 15, 2011*  
*Attachment 4*

*United v. FEC*, 130 S.Ct. 876 (2010). The constitutionality of this portion of H.B. 2130 is not saved by allowing members to contribute individually to a KNEA political action committee. This bill clearly denies KNEA's constitutional right to speak freely in a political forum. Nothing is more sacred than the right to participate equally in the election of representatives in our democracy. H.B. 2130 strikes at the heart of that guaranteed right.

H.B. 2130 is also is unconstitutional because it singles out labor organizations for certain disfavored treatment, while allowing all other entities—including corporations and all other voluntary membership associations (such as the National Rifle Association, the NAACP, and the Right to Work Committee)—to operate without similar constraints. H.B. 2130 is, therefore, a classic instance of viewpoint discrimination, which “is almost universally condemned and rarely passes constitutional scrutiny.” *Mesa v. White*, 197 F.3d 1041, 1047 (10th Cir. 1999). See also *First Nat'l Bank of Boston v. Bellotti*, 435 U.S. 765 (1978) (“Especially where ... the legislature's suppression of speech suggests an attempt to give one side of a debatable public question an advantage in expressing its views to the people, the First Amendment is plainly offended”)

Furthermore, Kansas is, by constitution, a right-to-work state. Members join and pay dues to KNEA, or any other union in Kansas, not because they are required to do so, but because they so choose. Likewise, KNEA's members voluntarily contribute money to be used for political advocacy by KNEA. Besides being the blatant attack on unions that H.B. 2130 is, it is also an attack on each of those Kansas citizens who makes the free choice to become a union member.

Because it is an unconstitutional infringement on all unions' First Amendment right to free speech, and for the other reasons discussed, I urge you to vote against **H.B. 2130**.



## A New Day... A Better Way... For State Employees

Testimony before the  
Senate Commerce Committee

On  
HB 2130

By  
**Jane Carter, Executive Director**  
Kansas Organization of State Employees

Madam Chair and Members of the Committee:

My name is Jane Carter, and I am the Executive Director of the Kansas Organization of State Employees (KOSE), which represents 11,000 working men and women who are executive branch employees and on whose behalf I am privileged to appear today. I thank you for the opportunity to speak with you about HB 2130. KOSE opposes HB 2130 because it is an unnecessary, unfair and unconstitutional scheme to undermine union democracy and the institutional integrity of unions themselves, and to silence working families and the unions who stand up for them in political and legislative affairs.

### I. Introduction

HB 2130 prohibits virtually all labor unions in Kansas, not just those who represent public service workers, from using membership dues and similar payments to engage in broadly defined “political activity.” For public employee organizations – that is, for KOSE<sup>1</sup> – HB 2130 includes a variation on the anti-union ruse misleadingly called “paycheck protection” by its proponents. Proponents of this ruse speak with high-minded fervor of the need to protect the rights of individual union members and other workers to be free of the compulsion to pay for speech with which they disagree. But, paycheck protection is disfavored by union members and is not a workers’ rights cause. It is a strategy of retaliation against working families and their unions for opposing corporate and anti-worker agendas.

As I will discuss, labor unions are representative democracies governed by their members, who join voluntarily. Union members overwhelmingly support labor’s political advocacy. They recognize that labor’s political and legislative advocacy is strongly correlated with the economic interests of working families, and that the removal of labor unions from the political playing field would leave the field to be dominated by the same corporate groups that have forced a race to the bottom for workers – outsourcing jobs, slashing wages and eliminating benefits and retirement security. This is precisely why backers of HB 2130 and similar measures have singled out unions and do not even purport to apply such restrictions to corporations and other membership organizations, and it is precisely why we oppose it.

<sup>1</sup> The Kansas Public Employer Employee Relations Act (“PEERA”) as it exists today prohibits KOSE from “spend[ing] any of its income, directly or indirectly, for partisan or political purposes or engage[ing] in any kind of activity advocating or opposing the election of candidates for any public office.” See K.S.A. 75-4333(d). Although KOSE fully complies with this prohibition, it opposes HB 2130’s amended and expanded version of the prohibition and it opposes the enactment of any law that would similarly prohibit any other union, whether in public or private sectors, from engaging in political activity.

## II. Labor Unions Are Representative Democracies

Unions are America's most vibrant private mass democratic institution, empowering the millions of workers who combine together to govern them. The decisions unions make to support or oppose legislation or candidates for public office, and the decisions unions make to expend resources in support of these decisions, reflect the views of the majority of union members.

Unions are the result of a democratic decision-making process. Under the National Labor Relations Act ("NLRA"), in order for a labor organization to represent a bargaining unit for the purpose of collective bargaining, a majority of the employees in that bargaining unit must designate or select the labor organization as the unit's representative for that purpose.<sup>2</sup> Typically, a secret ballot election is held to test that support, and a union that loses the support of a majority of the employees can be decertified.<sup>3</sup> PEERA sets forth a similar procedure (also requiring a majority vote in a secret ballot election) for recognition (or decertification) of a union as the recognized employee organization.<sup>4</sup>

After their voluntary formation, unions are required by law to operate democratically. The Labor-Management Reporting and Disclosure Act ("LMRDA") of 1959<sup>5</sup> requires that local union officers must be elected at least every three years by secret ballot, and national union officers must be elected every five years by secret ballot or at a convention of delegates who are themselves chosen by secret ballot; that member dues may be increased only by these same methods; and, that all union members have an equal right to nominate candidates to run for union office, vote in union elections without fear, favor or discrimination, and exercise the freedoms of speech and association within their unions. Similarly, PEERA requires every recognized employee organization to maintain "democratic procedures and practices, including periodic elections by secret ballot and the fair and equal treatment of all members."<sup>6</sup> Thus, decisions in unions are made by either the membership as a whole or by individuals who are both democratically elected by and accountable to that membership.

## III. Union Membership is Entirely Voluntary

Union membership is entirely voluntary. No one can be forced against their will to join a union. A person who does join the union is afforded full membership rights, including the right to vote and to participate in the governance of the union.

In Kansas, a so-called "right-to-work" state, employees in a represented bargaining unit may choose not to join the union and may refuse to pay anything to support the union. Even if they do not join the union, it is the union's duty, as exclusive representative, to adhere to a duty of fair representation of them.

Unions, like political parties and other voluntary associations, operate on the principle that it is the majority's right to decide the duties of membership, and that those who desire to enjoy the privileges of membership, such as electing union leadership participating in union decision-making, are required to become members of the organization and accept the responsibilities that come with membership. Union members typically cannot refuse to pay their dues, in whole or in part, because members choose to join the union in the first place and they exercise all participatory rights as members. Union members' rights are like those of members of any democratic organization: they choose their leaders in elections, speak

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<sup>2</sup> 29 U.S.C. § 159(a).

<sup>3</sup> 29 U.S.C. § 159(c).

<sup>4</sup> K.S.A. § 75-4327.

<sup>5</sup> 29 U.S.C. § 401 *et seq.*

<sup>6</sup> K.S.A. § 75-4327(h).

out and vote on policy decisions, and participate in meetings and other events – and they abide by the basic democratic principle of majority rule.

But, a union member who is so dissatisfied with the decisions of the majority – concerning political or legislative action, collective bargaining or anything else – can take the step of resigning from membership. In Kansas, this means an employee is entitled the benefits and prerogatives of union representation in the workplace without paying any dues or representation fee, shifting a greater burden of paying for representational costs to their fellow workers who remain members.

Union-represented workers are offered more financial choices in their union than they enjoy in society at large. A taxpayer, like a union member, has full political rights in society and can't reduce his or her taxes in order not to pay for a particular disfavored government program. But a union member, unlike a taxpayer, can take the extra step of relinquishing political rights within the union in order to cease dues support for the union or for programs that extend beyond basic workplace representation. Of course, every member who takes that step weakens the union – the chief reason why the National Right to Work Committee, the Chamber of Commerce and other groups that oppose unions favor the spread of so-called "right-to-work" laws that encourage full free-riding by non-members.

This bill, HB 2130, would – aside from prohibiting unions from engaging in political activity - take the additional extraordinary step of permitting a member of a public employee organization - that is, an individual who has voluntarily joined the union and voluntarily agreed to pay membership dues with full knowledge that the union operates on the democratic principle of majority rule – to bring a court action against the union for using membership dues and similar receipts to fund political activity in which the union engages on behalf of all of its members. The very idea is anathema to the principle of representative democracy according to which unions and other democratic institutions, like the United States and the State of Kansas, operate. Not only would it undermine union democracy, but it is entirely unnecessary; every dissenting union member may resign his or her membership in the union and cease paying dues at any time.

Apart from the issue of union membership, no employee is required to have money automatically deducted from his or her paycheck to finance *any* of the union's activities. Unions and employers may negotiate payroll deduction authorization clauses, pursuant to which employees – as a matter of their own convenience – *may* authorize their employer to deduct dues or fees from their paychecks and remit them directly to the union, rather than having the employees make the payments personally.<sup>7</sup> Without the employee's express authorization, however, such deduction from represented employees who decline to authorize a payroll deduction for membership dues or agency fee payments (which are prohibited in Kansas), may fulfill his or her financial obligation by other means of payment, such as mailing a check or paying at a monthly membership meeting.

#### **IV. Union Members Strongly Support Union Political Advocacy**

Union members have consistently and overwhelmingly opposed ballot measures and legislation to enact paycheck protection or schemes such as HB 2130 that deny unions the same access to the political arena that other membership organizations and corporations enjoy. And while union members have opposed these restrictive measures, they solidly support union political and legislative involvement. Three-quarters of all union members – regardless of party affiliation – approve of investing time and money in politics and legislation to counter the influence that corporations and special interests have. Jobs, health

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<sup>7</sup> KOSE and the State of Kansas have negotiated such a clause in their Memorandum of Agreement. KOSE compensates the State of Kansas for the full cost of administering the check-off.



care, retirement security, taxes, fair trade, workplace safety and environmental protection are critically important to workers. Unions help make working families' voices heard on all of these issues.

The agenda of unions reflects the agenda of their members. On Election Day 2010, 53% of AFL-CIO members said their top voting issues were the economy and jobs, 36% said health care, 22% said government spending/the deficit, 19 percent said Social Security, 17 percent said taxes, 12% said terrorism/national security and 11 % said social issues.

Additionally, 90% of AFL-CIO members favor action by Congress to pass a major new job creation tax credit for business that create jobs here in the United States in the next two years. Eighty-six percent favor creating jobs by investing to rebuild roads, bridges, schools and energy systems; 80% favor investing in jobs to maintain U.S. competitiveness with China, India and Germany; 75% favor continuing federal unemployment insurance benefits for those who have lost their jobs and are unable to find new ones.

By contrast, 68% oppose cutting taxes for people who make more than \$250,000 a year; 73% oppose raising the Social Security retirement age; 87% oppose allowing insurance companies to deny coverage to people with pre-existing medical conditions; and 84% oppose reducing or eliminating the minimum wage. As this demonstrates, claims that union members do not support the agenda of union leaders are blatantly false.

The relationship between union political and legislative activity and worker economic interests is something that virtually every union-represented worker knows. Our members know that their unions work to advance their interests through political and legislative action. They know this when they vote for union representation; when they elect their leaders; when they vote to approve collective bargaining agreements; when they vote on the level of dues they are willing to pay; and when they vote to authorize union programs and activities. Workers make these decision with their eyes wide open about how their unions participate in the political and legislative spheres. Certainly, no one contends that the labor movement makes a secret of these activities.

#### **V. HB 2130 Is Intended to Favor Business Interests at the Expense of Working Families**

Unions and working families have no less stake in public affairs than other institutions and citizens. As Justice Felix Frankfurter explained, "It is not true in life that political protection is irrelevant to, and insulated from, economic interests. It is not true for industry or finance. Neither is it true for labor."<sup>8</sup> Despite the fact that business and corporate interests are, under Kansas law, able to fully and freely engage in political activity, HB 2130 unfairly and unconstitutionally singles out the First Amendment activities of working families and their unions, and takes special aim at public service workers that the unions that represent them.

The purpose of H.R. 2130 is to force unions and their members to abandon the political playing field which already heavily – and increasingly – favors corporations and the wealthy. In 1994, corporate interests spent almost \$500 million on national elections – 10 times more than unions spent. In 2010, corporate spending increased to over \$1 billion – 19 times more than unions spent.<sup>9</sup>

According to the Kansas Governmental Ethics Commission, of the 20 Kansas PACs who contributed the most to candidates in 2008 (the most recent year for which data is readily available), only one was a

<sup>8</sup> *International Ass'n. of Machinists v. Street*, 367 U.S. 740, 814-15 (1961) (dissenting opinion).

<sup>9</sup> [Opensecrets.org](http://Opensecrets.org)

union PAC. Of the 20 PACs with the most income that year, only one was a union PAC. Of the top 20 PACs in terms of spending in 2008, only one was a union PAC.<sup>10</sup>

While HB 2130 makes every attempt to squelch the voices of working families and their unions, it makes no attempt to similarly restrict corporate interests. That is likely because the proponents of HB 2130 and other such proposals are part of a concerted effort by corporate groups who have been forcing a race to the bottom that includes outsourcing jobs, slashing wages and eliminating benefits and retirement security – all efforts vigorously opposed by unions and their members. Backers of these efforts to silence the political voice of unions include the U.S. Chamber of Commerce, which, in 2010 spent over \$100 million on lobbying and political activities to support a pro-corporate, anti-worker agenda; the National Right to Work Committee and the National Right to Work Legal Defense Foundation, whose single purpose is to undermine working families and their unions; Americans for Tax Reform, which has consistently promoted anti-worker ballot initiatives and legislation, and, among others, the American Legislation Exchange Council (ALEC), which claims to be a nonpartisan, individual membership association of state legislators, but 45 percent of its members represent private industry, nonprofits and public policy organization, including Walmart, PhRMA, Verizon and BlueCross BlueShield. ALEC is at the forefront of the effort to introduce state legislation and initiatives to silence working families and their unions.

The perniciousness and inequity of HB 2130 and like measures are underscored by the fact unions alone are unfairly and unconstitutionally singled out, despite the fact that unions are operated in a far more democratic manner than corporations. Unlike union members, corporate shareholders do not have equal votes; *money* determines voting power in a corporation. Shareholders are typically not even informed of the corporation's political activities. It is quite possible that a *majority* of corporate shareholders would stop or change the corporation's political activities if they had equal votes and a real opportunity to participate in the decisions of the corporation, just as union members do in their unions.

Under Kansas law, employees who object to a union's political activities can refrain from paying dues to the union, while continuing to enjoy the benefits derived from the union's performance of its duties as the exclusive bargaining representative for labor-management issues. Corporate shareholders are not afforded similar rights. As a result, *the funds available for a union's political activities more accurately reflect members' support for the organization's political views than does a corporate treasury*. It is unfair and unconstitutional to single out unions for spending their funds on constitutionally protected speech, and any such proposal to restrict the constitutional rights of unions and their members should likewise prohibit corporations from using shareholder assets without authorization of individual shareholders.

This Committee is likely familiar with the many other membership organizations whose diverse programs and activities include political, legislative and other advocacy: the Chamber of Commerce, the National Rifle Association, the Christian Coalition, and the Kansas Contractors Association to name a few. It is undeniable that none of these organizations operates through the democratic procedures that unions follow, and that no law commands that they do so. There is no proposal, of which we are aware, that would prohibit these groups from using their membership dues, fees and assessments for political activity. Yet, if there is a problem of compelled political speech among private institutions, the appropriate solution is to confer the same rights upon shareholders and members of other membership organizations that union members enjoy. And, if the government intends to prohibit unions from using their funds for political activity, corporations and other membership organizations should be equally subject to such a restriction.

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<sup>10</sup> Kansas.gov/ethics

I note that, although HB 2130 affects all labor unions, its aim is especially directed at unions representing public service workers. It may be suggested that this bill restricting the use of funds collected, in part, through the government's payroll system as a result of paycheck deductions affirmatively authorized by some government employees. But, the bill only restricts the use of union dues payments. It does not prohibit corporations from using health care or insurance premiums or various other payments they collect from government employees through paycheck deduction. Plainly, HB 2130 is unfairly targeted at working families and the unions who represent them.

## **VI. Conclusion**

Again, the motivation behind HB 2130 is to remove from public policy debates the view of working families – as expressed through their unions – and leave the playing field to be dominated almost exclusively by corporations and other business interests. But the democratic principles on which our legislative and political processes are based support free access by all to the public debate, and government decision-making that accommodates competing interests. Kansas – and our nation – needs a more level playing field for working people and their unions in politics, not one that is more skewed in favor of corporations and other influential organizations lacking democratic accountability. KOSE opposes HB 2130 as an unconstitutional attempt to punish unions for having the temerity to stand up for the working families we are privileged to represent. We respectfully request that you will protect the rights of our members to participate on a full and equal basis in public decisions by opposing this bill.

*The Kansas Organization of State Employees (KOSE) is the largest certified, State recognized employee organization for state employees in the executive branch, representing more than 11,000 state employees.*

# ***united transportation union***

TY E. DRAGOO  
DIRECTOR/CHAIRMAN

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March 15, 2011

The Honorable Susan Wagle  
Chairman of Standing Committee on Commerce  
Distinguished Members of the Committee  
Kansas State Legislature Senate  
State Capitol, Room 548-S  
Topeka, KS 66612

Re: **HB 2130**--AN ACT concerning labor organizations; relating to political activities; amending K.S.A. 75-4333 and repealing the existing section.

Dear Sen. Wagle and Members of the Committee:

The United Transportation Union (UTU) is an opponent of HB 2130.

Despite what paycheck deception advocates would have you believe, you are not required to contribute to political causes with which you disagree. First of all, UTU members are **not required** to contribute to our PAC. Members who object to their voluntary donations to the PAC fund have the protected right to have their voluntary donations stopped immediately at any time

Non-members who contribute also are not required to support UTU's political activities, and as such if they wish at anytime may have their contributions stopped.

Labor unions are democratic institutions. Unions operate on the principle that it is the majority's right to decide the duties of the union. When the director of our organization convenes the members every year for political endorsements, every endorsement is democratically voted on and governed by majority rule.

Union members also elect representatives who decide how to disperse the voluntary PAC monies. Our members voice their views on issues and we factor that into the decision-making. Ultimately, if they don't like the way union leaders are making decisions, they'll vote out the leadership.

-1-

*Senate Commerce Committee  
Date: March 15, 2011  
Attachment 6*

# ***united transportation union***

TY E. DRAGOO  
DIRECTOR/CHAIRMAN

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HB 2130 is an attempt to penalize unions for being involved in the democratic process.  
We respectfully ask you oppose HB 2130 and not make working families struggle more to have their voices heard.

Thank you for your consideration.

Sincerely,



Ty Dragoo  
United Transportation Union  
Kansas State Legislative Board  
Director/Chairman

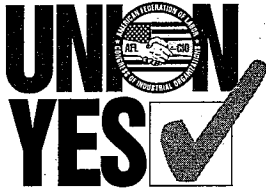
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Brian Threadgold  
Jason Vellmer*

## TESTIMONY

Written in Opposition to HB 2130  
for the Senate Commerce Committee  
March 15, 2011

By Andy Sanchez, Executive Secretary-Treasurer  
Kansas AFL-CIO

Thank You Chairwoman Wagle and members of the committee. I appreciate this opportunity to provide our written testimony in opposition of HB 2130.

HB 2130 actively seeks to restrict people from participating in the electoral process by effectively silencing the voice of working people. The bill discourages participation in the electoral process which continually suffers from a low turnout in Kansas. HB 2130 does exactly opposite of what we should be doing which is encourage Kansans to be involved politically and fulfill their civic duty for the betterment of their community. We believe that we must preserve the founding principles of our country, promote community involvement and allow one another to share our diverse ideas.

Currently, union members have a choice. No worker can be forced to fund a union's political and legislative activities. Union members choose whether to join a union, set their own dues, elect their own leaders and vote on where and how their money is spent. The minority of workers who disagree with union political activities can choose not to belong to the union. In states where they still pay a fee to cover the union's representation, they are not required to pay the amount that goes for political and legislative activities. By contrast, corporations don't give shareholders, employees or customers any say in their political activities.

HB 2130 makes unions the exception and targeted. It does not restrict others from participating in the political process. It makes no attempt to deal with other dues collecting organizations and targets only Kansas workers. The bill makes no attempt at other paycheck deductions including charities of choice. We ask that you be weary of a proposal that uses public policy to quiet the perspective of working families.

In light of the challenge of maintaining a middle class in this country, we offer this testimony on this legislation because we believe it is an infringement on the Constitutional Right of Freedom of Speech for workers in Kansas.

We respectfully ask that HB 2130 not be advanced for further action.



6-3





# Union Members and Politics

## Members solidly support union political and legislative involvement

### WHY UNIONS ARE INVOLVED IN POLITICS

■ **The concerns of working families are every bit as valid as those of corporate interests.**

Union members know that working families have the right to be heard in the American political process. Without their voice, there would be no employer-provided health care, no minimum wage, no overtime pay, no job safety protections and no retirement or job security.

■ **The work lives of America's workers are shaped by local, state and federal laws.** Congress and state legislatures can wipe out all protections and gains won by unions at the bargaining table. And whether legislation helps or hurts working families depends on the votes of our representatives.

■ **Union education about workers' concerns is essential.** When it comes to issues affecting the economic well-being of working families, unions educate not only their own members but also the public at large.

■ **As individuals, workers can't take on Big Business and their allies.** They can't effectively challenge the corporate interests that lobby for big tax breaks for the wealthy and deep cuts in health care, retirement benefits and job safety benefits. But through unions, workers have a say in the laws and policies that protect jobs, health care and education.

### SURVEYS OF UNION MEMBERS SHOW

■ An overwhelming majority of union members wants their union involved in the legislative and political process. Three-quarters of all union members—regardless of party affiliation—approve of unions investing “time and money in politics and legislation to counter the influence that corporations and special interests have.” Jobs, health care, retirement security, taxes, fair trade, workplace safety and environmental protection are critically important to workers. Today's unions help make working families' voices heard on all of these issues.

■ The AFL-CIO's agenda reflects AFL-CIO members' agenda. On Election Day 2010, when asked about their top one or two voting issues, 53 percent of AFL-CIO members said the economy and jobs, 36 percent said health care, 22 percent said government spending/the deficit, 19 percent said Social Security, 17 percent said taxes; 12 percent said terrorism/national security and 11 percent said social issues.

■ In addition:

- 90 percent of AFL-CIO members favor action by Congress to pass a major new job creation tax credit for businesses that create jobs here in the United States in the next two years;
- 86 percent favor creating jobs by investing to rebuild roads, bridges, schools and energy systems;
- 80 percent favor investing in jobs to maintain U.S. competitiveness with China, India and Germany; and
- 75 percent favor continuing federal unemployment insurance benefits for those who have lost their jobs and are unable to find new jobs.

■ By contrast:

- 68 percent oppose cutting taxes for people who make more than \$250,000 a year;
- 73 percent oppose raising the Social Security retirement age;
- 87 percent oppose allowing insurance companies to deny coverage to people with pre-existing medical conditions; and
- 84 percent oppose reducing or eliminating the minimum wage.

■ Claims that union members do not support the agenda of union leaders are blatantly false.

SOURCE: Surveys conducted among union members by Peter D. Hart Research Associates.

# Teamsters Local Union No. 696

Affiliated with the International Brotherhood of Teamsters



## OFFICERS

WILLIAM A. MOORE, PRESIDENT  
JEFFREY HEWITT, SECRETARY-TREASURER  
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Testimony before the  
**Senate Commerce Committee**



**Fernando Harms, Business Agent**  
Teamsters Local Union 696  
March 15, 2011

## OPPOSE HOUSE BILL 2130

Mr. Chairman and members of the committee:

My name is Fernando Harms and I am a Business Agent at Teamsters Local Union 696, which represents more than 1,200 members in Kansas.

Teamsters Local Union 696 strongly opposes HB 2130, which would effectively silence the voices of thousands of Kansans. House Bill 2130, which should be more appropriately titled "Paycheck Deception," is an unjust attack on the middle class and the organizations which represent those workers every day.

As we have seen throughout the country, there is certainly a war on workers in an attempt to silence the voices of the middle class. By pursuing the passage of Paycheck Deception/HB2130, the State of Kansas would be moving closer to that of Wisconsin, where partisan ideologies trump bringing us together to ensure Kansans get back to work.

Within the Teamsters Union, member dues provide vital services for those members, including safety and education programs, necessary trainings, and support during difficult economic times. Additionally, the Teamsters commonly reimburse employers for the cost of payroll deductions. Finally, it is worth noting that no dues are directed towards a specific partisan agenda. Instead, dues ensure that members receive and maintain strong contracts that benefit the employers, Teamster members, and the community as a whole.

With workers struggling to put food on their tables and maintain a roof over the heads of their families, we should be working together to ensure much-needed jobs come to Kansas. Pushing an ideological legislative agenda will ensure unnecessary divisiveness rather than bringing us together.

6-5





March 14, 2011

The Honorable Susan Wagle  
Senate Commerce Committee  
Statehouse, Room 548-South  
Topeka, KS 66612

#### Testimony on House Bill 2130

Thank you for the opportunity to present testimony in opposition of House Bill 2130.

My name is Lisa Ochs. I am the President of the American Federation of Teachers -Kansas (AFT-Kansas) and the Kansas Organization of State Employees (KOSE) and between the two, we represent approximately 20,000 employees. Accordingly, I appear before you today both as a state employee and as the elected union representative of my brothers and sisters in Kansas civil service. In both capacities, I urge you to vote against HB 2130.

Supporters of HB 2130 contend the objective of this bill is to give employees more control over what is deducted from paychecks. However, when current laws and facts are examined, it becomes obvious that this stated objective is more than a little misleading.

First, as I am sure all of you know, Kansas is a right-to-work state. In right-to-work states, all participation in an employee union is voluntary, including the payment of dues. Because Kansas is a right-to-work state, there are no closed shops where employees must join the union as a condition of employment. No Kansas employee can be required to remit any dues, fees, or other assessments to any union. Each employee has the right to choose whether to become a member of a union; only those who become members pay dues. No one is coerced or forced to join, as the unions must provide fair and appropriate representation to all employees covered by the bargaining units, regardless of whether those employees are dues paying members. Those employees who do pay dues do so not because they must, but because they have made a conscious choice to join their union.

Second, under the terms of the Kansas Wage Payment Act, for any money at all to be withheld from an employee's paycheck for union dues, fees, or assessments, the employee must authorize the withholding in writing. So, workers in Kansas already have the ability to completely control not only their participation in their employee union, but also any and all deductions made from their paychecks.

Third, those unions that do operate political action committees do not fund those political action committees out of general dues income, but instead require a separate and additional signed authorization regarding withholding for political purposes. This is required in the private sector even in states with closed shops due to the United States Supreme Court decision in *Communication Workers of America v. Beck*, 487 U.S. 735 (1988). The Beck decision states that

in closed shop situations where employees are required to belong to a union, employees can only be required to contribute for the costs of representation and may not be required to support or fund a union's political activities. All union employees, whether working in Kansas or in states that allow closed shops, already have the ability to refrain from contributing to the union's political activities.

Fourth, for public employee unions in Kansas that fall under the Public Employee/Employer Relations Act (PEERA), it is already a prohibited practice to "endorse candidates, (or for the union to) spend any of its income, directly or indirectly, for partisan or political purposes or engage in any kind of activity advocating or opposing the election of candidates for any public office." K.S.A. 75-4333(d).

Considering all of these facts, it becomes evident that employees already have the kinds of options and protections proponents of HB 2130 are purportedly trying to provide. The supporters of HB 2130 conveniently do not discuss the fact that these protections already exist, and do not acknowledge that political activity by public employee unions is already limited by Kansas law.

Given that current law already protects employees, what does HB 2130 actually do? It does only one thing: it takes away employee choice and protections by eliminating a mechanism (payroll deduction) that many employees use to actively participate in their unions. It is important to note that HB 2130 eliminates this mechanism **for all unionized employees within the state, in both the public and private sectors.**

If the true goal is to protect employee paychecks from coerced deductions, this bill would go beyond unions and union political activity. For example, one common and widespread use of payroll deduction is to make donations to the United Way.

Consider, if you will, how United Way deductions originate. Employers run campaigns where employees are solicited, in the workplace, for donations. Many employers set participation and/or contribution goals, and employees are encouraged to help the employer meet these goals. Most, if not all, employers track what employees have returned a pledge card. United Way campaign materials and websites encourage pledges to be collected via payroll deduction. These materials give two reasons why payroll deduction is preferred: it eliminates the need for employees to remit hard-copy checks (while also insuring all installments are timely received) and it allows employees to contribute more by spreading the donation over time.

While I certainly acknowledge the United Way is a good cause, it does not make sense that employees can be solicited in the workplace to give to a charity of the employer's choosing via payroll deduction, but cannot make the conscious choice, without workplace solicitation, to assign funds to a union for political purposes. Workplace solicitation, with follow-up by supervisors to determine if a pledge card has been returned, contains far more potential for coercion than an employee's individual election to contribute to a union's political activity. HB 2130, with its limited focus on unions and political activity, was clearly not drafted to protect employees' paychecks.

It is evident that HB 2130's true aim is to dilute organized labor's role in the political process. Unions have long been vital and influential players in the political arena. In a February column, renowned economist Paul Krugman wrote:

In principle, every American citizen has an equal say in our political process. In practice, of course, some of us are more equal than others. Billionaires can field armies of lobbyists; they can finance think tanks that put the desired spin on policy issues; they can funnel cash to politicians with sympathetic views...On

paper, we're a one-person, one-vote nation; in reality, we're more than a bit of an oligarchy, in which a handful of wealthy people dominate.

Given this reality, it's important to have institutions that can act as counterweights to the power of big money. And unions are among the most important of these institutions.

You don't have to love unions, you don't have to believe that their policy positions are always right, to recognize that they're among the few influential players in our political system representing the interests of middle- and working-class Americans, as opposed to the wealthy.

As Krugman notes, our political process is not a level playing field. Middle- and working-class individuals can only be heard effectively when they combine their resources and act collectively. This is most easily and most commonly done through union activity. When unions' political activity is limited, an important balance is lost.

In closing, when you consider HB 2130, please do not fall for the paycheck protection rhetoric. Recognize this bill for what it is: an attempt to make it more difficult for unions and the employees they represent to participate in the political process. If you really support employee choice and protection, vote against HB 2130. Thank you for your time. I stand for questions.

Respectfully Submitted,



Lisa Ochs, President  
AFT-Kansas & KOSE  
785-235-0262  
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# **LABORERS**

## **Public Service Employees**

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Written testimony before the  
Senate Committee on Commerce

On  
HB 2130

By  
Jeremy Hendrickson, Business Manager and Secretary/Treasurer  
Laborers' Public Service Employees Union Local 1290PE  
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Mr. Chairman and members of the committee:

My name is Jeremy Hendrickson and I am the Business Manager and Secretary/Treasurer of Laborers' Public Service Employees Union Local 1290PE. I am submitting written testimony to express my opposition, and the opposition of the members I represent, to HB 2130.

My first "real job" was as a public employee of the Unified Government of Wyandotte County, and I have been involved with public sector unions throughout my career. I also have exposure to private sector unions through my affiliation with the Laborers International Union of North America. As a long-time Kansas union member, I want to express that not once in my career have I felt coerced or forced into paying dues or other fees to my union.

Becoming Business Manager gave me a great understanding of just how voluntary any and all union participation is in Kansas. Kansas, as I am sure you know, is a right-to-work state, so no employee can be required to join a union and pay dues. My local union can only collect dues from employees who choose to join the union and sign an authorization card. So, despite what the text in HB 2130 would lead you to believe, there are no dues, fees, or other assessments that are required of all employees. However, my local, and I as Business Manager, are required to provide the same representation to all employees within the bargaining units, whether or not those employees pay dues. The employees who join and actively participate in my local union are men and women who recognize the benefits of collective bargaining and want to play a role in determining the terms and conditions of employment for themselves and their co-workers.

Supporters of this bill say that employees are entitled to make a choice as to whether to pay for their union's political activity. As a former public employee, union member and union officer, I can say from experience that freedom to choose already exists. Unions are democratic organizations. Members elect their leaders and vote on whether to ratify agreements. If members are unhappy with their union leadership, or with the decisions made by the leadership, those leaders can be voted out of office.

This bill's supporters deemphasize the voluntary nature of union activity, the democratic structure of labor unions, and the fact that my union, and other public employee unions covered by the Kansas PEERA (Public Employee/Employer Relations Act), are already prohibited from endorsing candidates or spending any income, directly or indirectly, for partisan or political purposes or engaging in any kind of activity advocating or opposing the election of candidates for any public office. K.S.A. 75-4333(d).

Through my affiliation with the Laborers International Union of North America (LIUNA), I also know that in most Kansas LIUNA locals, member funding for any political activity comes not through regular dues deductions, but through a separate member authorization. Employees choose to belong to their union and then make a separate and distinct choice regarding whether to contribute to the union's political activities.

Since my local's political activities are limited by law, you may wonder why I am speaking before you today. The answer is simple. As a union member and officer, I am an advocate for worker's rights. This bill aims to minimize worker political participation and increase the political strength of corporations.

This bill is what is commonly referred to as a "paycheck protection" measure, supposedly designed to insure that employee money is not being spent on political causes the employee does not support. However, this bill does not even make an effort to provide blanket protection for everyone. It focuses only on unions. It does not grant any protections to shareholders in Kansas corporations that would allow them to insure their monies are not spent politically or spent on political causes the shareholders don't support.

Basically, this bill holds only unions accountable for their political activity but gives corporations and big business free rein.

A December, 2000 report by the Institute for Policy Studies revealed some interesting facts about the world's top 200 corporations. 82 of those top 200 corporations were U.S. companies. Those 82 companies contributed \$33,045,832 to election campaigns during the 2000 election cycle. During that election cycle, corporations in general outspent labor unions by a ratio of 15-to-1.

The Center for Responsive Politics calculated that this same ratio existed during the 2007-2008 federal election cycle, where corporations again outspent labor unions at a ratio of 15-to-1.

Fair and democratic political proceedings require all views to be expressed and considered. More and more, average citizens are having their views overshadowed by corporate interests. Individual citizens, acting alone, cannot compete with corporate financial might. I can tell you from my own experience from working as an entry-level public employee that most union workers, particularly in the public sector, do not receive large paychecks. They do not have the freedom to go out and write a big check to a political candidate or political cause, and can most effectively participate in politics through coordinated collective action. Because these citizens do not usually have large financial reserves, payroll deduction gives them the ability to contribute a small amount every paycheck. Again, we are talking about a voluntary and knowing donation, not a donation that is required or forced. It makes no sense to limit the ability of these hard-working citizens to participate in politics, while leaving corporations free to do as they please.

Kansas law provides several protections to insure workers do not unknowingly contribute to any cause. This bill does nothing to strengthen those protections, but instead only makes it harder for working people to have a meaningful voice in the political arena.

I encourage you to join me and my membership in opposing HB 2130. Thank you for your time.