

Approved February 27, 1992  
Date

MINUTES OF THE Senate COMMITTEE ON Labor, Industry and Small Business

The meeting was called to order by Alicia L. Salisbury at  
Chairperson

1:30 ~~a.m.~~ p.m. on February 6, 1992 in room 254-E of the Capitol.

All members were present except:

Members present: Senators Ehrlich, Feleciano, Martin, Morris, Oleen, Petty, Salisbury, Sallee, Strick and Thiessen

Committee staff present:

Jerry Donaldson, Legislative Research Department  
Gordon Self, Revisor of Statutes Office  
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

Jim DeHoff, Executive Secretary, Treasurer, Kansas AFL-CIO  
Craig Grant, Kansas NEA  
Senator John Strick, Jr.  
Dorothy States, Kansans for the Right to Work, Wichita  
Louis E. Weiss, Kansans for the Right to Work, Augusta  
Terry Leatherman, Executive Director, KCCI  
Roger Grund, Executive Director, Homeowners Trust  
Kansas State Council of Machinists, Wichita  
Toby Elster, Pan Western Petroleum, Inc., Wichita  
Mabel Barker, Oswego

**HEARING ON SB 174 - Fair share service fee to be paid to labor organizations for nonmember employees**

Jim DeHoff, Executive Secretary Treasurer of the Kansas AFL-CIO, testified in support of SB 174. The Federal Labor Law states that any group of people who form an organization have to represent everyone in the bargaining group. This means that when an individual, who pays no fees whatsoever to the group as a whole, has a problem with grievances, arbitration or any other contract problems with the employer, they contact the Business Representative and they can be represented free. This representation comes out of fees voluntarily paid by the people in the organization. The cost of some arbitration can be as high as \$4,000 or more for attorney fees. **SB 174** asks for service fees from nonmembers to cover the costs of negotiating contracts, health and welfare problems, pensions, vacations, etc. He said lines 24 and 25 state the labor organization "shall have the right to bargain for a fair share service fee", see Attachment 1.

Craig Grant, Kansas NEA, informed the Committee it takes hard work and money to adequately negotiate and represent employees in a collective bargaining agreement. Kansas NEA believes legislation must be enacted which will mandate a fair representation fee for nonmembers. **SB 174** would allow that fair share fee to be negotiated "between the employer and employees through the negotiations process, see Attachment 2.

Senator John Strick, Jr., explained **SB 174** gives unions a service fee to represent non-union members that shall not exceed the actual cost of representing such nonmember employees.

Dorothy States, Kansans for the Right to Work, Wichita, testified a so-called "fair share" provision in a collective bargaining agreement violates Article 15, Section 12, of the Kansas Constitution, commonly known as the "right to work" amendment. She opposed passage of **SB 174**, see Attachment 3.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Labor, Industry and Small Business,  
room 254-E, Statehouse, at 1:30 ~~am~~/p.m. on February 6, 1992

Louis E. Weiss, Kansans for the Right to Work, Augusta, informed the Committee he was the first president of Right to Work when it was organized in 1954 and is presently the Director of Kansans for the Right to Work and Director of the National Organization. He stated they will test the constitutionality of this bill if it is passed.

Terry Leatherman, Executive Director, KCCI, testified in opposition to SB 174. This bill demands non-union members of a workplace represented by a labor organization pay the union a fee for representing them. If the AFL-CIO feels they are being wronged by being required to represent non-union workers, they should ask Congress to relieve them of the responsibility, see Attachment 4.

Written prepared testimony from Kansas State Council of Machinists, Wichita, see Attachment 5, Pan Western Petroleum, Wichita, see Attachment 6, and Mabel Barker, Oswego, see Attachment 7; was distributed to the Committee.

Roger Grund, Executive Director of Homeowners Trust, Wichita, stated the unions are asking for a fee to represent the non-union employees. They represent the non-union employees only in the bargaining process. He said the unions lobbied to obtain the right to represent all employees in a company, whether they were members of the union or not.

There being no further conferees, the hearing on SB 174 was closed.

The Chairman requested the Committee to reconsider its action on Senator Petty's motion to introduce a bill concerning safety standards for state employees.

Senator Petty moved to introduce a bill based on a Connecticut statute that would cover state employees under OSHA. Senator Martin seconded the motion. The motion passed.

The Committee meeting was adjourned at 2:30 p.m.

GUEST LIST

COMMITTEE: LABOR, INDUSTRY & SMALL BUSINESS

DATE: Feb. 6, 1992

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
<i>Frey</i>	Topeka	RTHA
TERRY STEVENS	TOPEKA	:Ks. F.O.P.
Michelle Lester	Topeka	KGC
Bill GILES	Pittsburg, Ks	H.M.W.A. DIST #14
Bob Elliott	Wichita	WFT
Wayne Maubry	Top	Ks AFL-CIO
Bill Thompson	Topeka	KDOC
Ruth McNeal	Towanda	
Arthur McNeal	Towanda	
<b>D. WAYNE ZIMMERMAN</b>	<b>OLATHE, KS</b>	<b>KANSANS FOR RIGHT TO WORK</b>
Tom Statterg	Topeka	AGC of Ks
Bill Curtis	Topeka	Ks. Assoc. of School Bds.
R.A. Caraway	Topeka	AFSCME/Ks Council 64
HARRY D. HELSER	WICHITA	K. AFL-CIO
Craig Grant	Topeka	ITNEA
B. Mariani	Topeka	Def.A.
Marty Bertelli	Topeka	Public Emp. Relations Bd.
James A. Joell	Wichita	KS 77A
Gerry Marlatt	Topeka	KRC 77
B. P. Morrissey	Topeka	KDHR/Work Comp
Louis E. Weiss	1705 Garnet Dr. Augusta, Ks 67010	Kansan For R to W
Norothy States	Wichita	Ks for Right to Work
Gregory Trombello	Wichita	Ks for R to W
Roger M. Grund, Sr.	Wichita	Home Owners Trust
TERRY LEATHERMAN	TOPEKA	KCCI



Senate Labor & Industry Committee

Madame Chairperson and Committee Members:

I am Jim DeHoff, Executive Secretary Treasurer of the Kansas AFL CIO. I appear before you today on behalf of the 90,000 members who belong to the Kansas AFL CIO and have a very strong interest in the passage of SB 174. (See attachment B - lists all the labor organizations that support SB 174.)

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." Now the problem is, Federal Labor Law states that any group of people who form an organization have to represent everyone in the bargaining group. So this means that when an individual, who pays no fees whatsoever to the group as a whole, has a problem with grievances, arbitration or any other contract problems with the employer, they just contact the Business Representative and they are represented free. This representation comes out of the fees voluntarily paid by the people in the organization. The cost of some arbitration can be as high as \$4,000 or more for attorney fees.

Lines 24 and 25 of SB 174 state, "shall have the right to bargain for a fair share service fee". It does not state that there will be one, only the right to bargain. How many of you would like to belong to the Chamber of Commerce and not pay anything and receive all the benefits and services the organization provides, or belong to the Kansas Farm Bureau and not pay a penny. Did you know that you can't purchase Farm Bureau Insurance unless you buy a membership or an associate membership. The associate member has no voting rights.

The question comes to mind if you are a person working for a living, paying your way and being an active part of an organization to improve your working conditions. Why is it one way for working people and another way for business associations? Is this fair? Absolutely not! You will hear

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*2/6/92*

*Attachment 1-1*

opponents expand on the fact that this gives organizations more power - just remember that is totally false. Its just a question of correcting a wrong imposed on individuals that choose to be an active part of an organization. We are asking for the right to make people pay for their services, just like you and I pay for utility bills or whatever.

Your consideration with passage of Senate Bill #174 would help alleviate a very serious injustice to the working people of this state who choose the free right of collective bargaining.

Thank you.

Jim DeHoff

See Attachment A

Representation - US Supreme Court

Examples - Costs of Representation

*LDG+LB*  
*2/6/92*

*Attachment 1-2*

Attachment A

UNIONS ARE REQUIRED TO REPRESENT NON-MEMBERS

Once a labor organization becomes the bargaining representative for a group of employees, it is required to represent the interest of all the employees within the unit, not just the union members. This is a well established rule under the National Labor Relations Act and it was verbalized by the U. S. Supreme Court in the case of *Wallace Corporation v. National Labor Relations Board*, 156 LRR1.1 697, wherein the Court said:

"The duties of a bargaining agent selected under the terms of the Act extend beyond the mere representation of the interest of its own group members. By its selection as bargaining representative, it has become the agent of all the employees, charged with the responsibility of representing their interest fairly and impartially. Otherwise, employees who are not members of a selected union at the time it is chosen by the majority would be left without adequate representation."

After the bargaining rights are won by a labor organization, the initial steps in bargaining are placed into operation. In no case are the employees expected to negotiate without a skilled negotiator from the labor organization. Most negotiations are lengthy sessions and require many hours of negotiations, and, in some instances, travel time and lodging by the Business Representative before a contract is concluded and signed.

After the signing of the contract, it becomes the labor organization's duty, by law, to police the contract as to appropriate wages for work performed, the allocation of overtime, safety and other working conditions. If a grievance is filed, it is the labor organization's duty to investigate for merit and process it through the grievance procedure and, in some instances, winding up in arbitration. Arbitration today is very costly. The labor organization has to share the expense of the arbitrator's fee, court reporters, transcripts and, in most cases, attorney's fees.

Since it is required by law that all employees in a bargaining unit shall receive the same representation as described above, should not a service fee be charged to the non-member of a labor organization in order to pay his or her fair share of the cost of representation?

Contract negotiations vary according to the terms of the contract, but nevertheless are on a continual basis and the non-member is continually reaping benefits when they are negotiated. A non-member can file a grievance at anytime and must be represented. Below are just a few examples where non-members have been represented.

SOME EXAMPLES OF CASES INVOLVING NON-UNION MEMBERS

Over the years we have a record of many grievances and cases handled for the non-member. The following are examples picked at random from several areas in Kansas:

SHEET METAL WORKERS LOCAL #29, VACU BLAST, ABILENE, KS - After the first contract expiration date and during negotiations a decertification petition was filed by the employees of the company. At that time, there were 85 employees, with 38 employees belonging to the union. The NLRB conducted an election and 63 employees voted in favor of keeping union representation. Please note that 25 non-members voted for union representation. A new contract has been negotiated for the employees.

Non-union employees, Newton, KS, through a class action grievance, court hearings and litigation received payments equal to \$1,500.00. Total cost of litigation by Local 29 - \$5,000.00

Non-union employees, Hutchinson, KS, through litigation, including hearing before 10th Circuit Court in Denver, Colorado, received back pay of \$2,500.00 each. Total

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2/6/92

cost to union for representation - \$20,000.00.

INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS  
DISTRICT LODGE #70, WICHITA, KS - Three non-members had a grievance  
regarding proper wage scale. The grievance was settled, all three received back pay  
of .30 per hour for six months totaling \$312 per non-member. Total cost of  
processing grievance - \$900.

*S L G + L B*  
*2/6/92*

*Attachment 1-4*



ATTACHMENT B

K.S.I.U.C.  
Lawrence Central Labor Council  
Building & 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

*LL & LB*  
*2/6/92*

*Attachment 1-5*

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

*LL+B*  
*2/6/92*

*Attachment 1-6*

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

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*2/6/92*

*Attachment 1-7*

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. #23B  
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

*LLI + A. B.*  
*2/6/92*

*Attachment 1-8*

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

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*2/6/92*

*Attachment 1-9*

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 Layers #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

*S.L. + S.B.  
2/6/92*

*Attachment 1-10*

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

*LLG + SB*  
*2/6/92*

*Attachment 1-11*

I.A.T.S.E. #0-170  
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

*LJ + SB*  
*2/6/92*

*Attachment 1-12*



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

*L & S + S & B*

*2/6/92*

*Attachment 1-13*



KANSAS NATIONAL EDUCATION ASSOCIATION / 715 W. 10TH STREET / TOPEKA, KANSAS 66612-1686

Craig Grant Testimony Before  
Senate Labor, Industry & Small  
Business Committee  
Thursday, February 6, 1992

Thank you, Madame Chairperson. I am Craig Grant and I represent Kansas-NEA. I appreciate this chance to visit with the committee on SB 174.

It takes hard work and money to adequately negotiate and represent employees in a collective bargaining agreement. There are few benefits which automatically are granted to the negotiation agent; however, all employees of the bargaining unit, whether members or not, benefit from the results of that hard work.

I think that it is because of that reason--that the nonmembers can just "freeload" off the hard work and efforts of the members--that the delegates to our representative assembly passed resolution A-9 which says that "Kansas-NEA believes legislation must be enacted which will mandate a fair representation fee for nonmembers."

SB 174 would allow that fair share fee to be negotiated between the employer and the employees through the negotiations process.

Kansas-NEA supports SB 174 and asks the committee to act on it favorably. Thank you for listening to our concerns.

*SLD + LB.  
2/6/92*

KANSANS FOR THE RIGHT TO WORK, INC.  
PO Box 2457  
Wichita, Kansas  
(316) 838-9166

In opposition to S.B. 174  
February 6, 1992

Compulsory unionism outlawed in Kansas. Agency Shop or similar terms, such as the "fair share" service fee gimmick, have also been outlawed in Kansas.

Membership in a union shall be voluntary. That is the law.

In Kansas, the Right to Work is guaranteed by both a statutory provision and a constitutional amendment. The statute, KSA 44-803 of the Kansas Statutes Annotated, was enacted in 1943 and reads as follows:

Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection, and such employees shall also have the right to refrain from any or all such activities. D.S.A. 44-803 (1964; Sup. 1972).

Article 15, Section 12, of the Kansas Constitution, adopted by referendum on Nov. 4, 1958, contains the following language:

Membership or nonmembership in labor organizations.  
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 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 or non-membership in any labor organization.

The "agency shop", or "fair share" issue was laid to rest with the leading case Higgins v. Cardinal Manufacturing Co., 188 Kan. 11, 360 P.2d 456 (1961), cert. denied, 368 U.S. 829, 82 S.Ct. 51, 7 LEd. 2d 32 (1961).

In that decision the Supreme Court of Kansas, in incisive and unequivocal language, declared the "agency shop" unlawful under the terms of both the constitutional amendment and the statutory provision.

With regard to the constitutional amendment, the Court said:

"Without question the people felt by adopting the amendment the decision would prevent the payment of forced tribute to any labor organization by any worker within the boundaries of this state." 360 P.2d 456, 463.

"The natural and logical interpretation of the Kansas constitutional amendment prohibiting compulsory membership in a labor organization as a condition of employment or continued employment, includes by necessary implication a prohibition against forced payment of initiation fees, union dues and assessments, or the equivalent by a worker to a labor organization as a condition of employment or continued employment." 360 P.2d 456,465

*S L G + A B*  
*2/6/92*

*Attachment 3-1*

"We hold the s-called 'agency shop' provision in the contract here under attack violates Article 15, Section 12, of the Kansas Constitution, declaring the public policy of the state as determined by popular vote of the people of Kansas." 360 P.2d 456,466.

The Court in Higgins also declared the "agency shop" illegal under the terms of KSA 44-803, as follows:

The right of employees guaranteed in the foregoing statute to refrain from assisting labor organizations includes the right to refrain from giving financial assistance as well as personal assistance. In other words 44-803 supra, prohibits forced payment of union dues and fees by employees to labor organizations." 360 P.2d 456,467

In Higgins, the Supreme Court of Kansas spoke from on high and "declared the true meaning of the provision of the state constitution outlawing compulsory unionism. When the Higgins court decision "clarified" the meaning of Right to Work amendment to the Kansas Constitution, it declared the agency shop illegal and buried the agency shop deep in the bowels of a granite legal tomb from which it can only be resurrected by a further constitutional amendment, passed by both houses of the Legislature, and approved by a majority of the citizenry voting in a general election.

Thus, if a bill purporting to legalize the agency shop were to be passed by both houses of the Kansas Legislature, and signed into law by the Governor, such a law would be unconstitutional.

Agency shop, or a fair share provision, can only be legalized in Kansas by mobilizing the massive machinery necessary to produce and ratify a new constitutional amendment.

The United States Supreme Court spoke to the agency shop question in the case of Sehermerhorn v. Retail Clerks (Florida) in April 25, 1962.

The U.S. Supreme Court said ...."the agency shop clause is repugnant to the Constitution in that it requires the non-union employee to purchase from the labor union a right which the Constitution has given him. The Constitution grants a free choice in the matter of belonging to a labor union. The agency shop clause . . . purports to acknowledge that right, but, in fact, abrogates it by requiring the non-union worker to pay the union for the exercise of that right or, in the alternative, to be discharged from his employment . . . .The appellees contend that, except for the agency shop provision, the non-union employees of the appellant Food Fair would be 'free riders,' that is, they would reap the benefits of union representation without having to bear any of the costs thereof . . . . This argument may be answered by reference to the section of the Constitution under consideration. Clearly, it is the intent of this section to leave as a matter for individual determination and preference the question of whether the worker will derive any benefit from association with a labor union. The choice is his to make. Presumably, the appellants in the instant case have decided that union membership is not an overall benefit to them personally, else they would have joined.:"

*SLL + AB*  
2/6/92

*Attachment 3-2*

S.B. 174

This proposed legislation, a so-called "fair share" provision in a collective bargaining agreement violates Article 15, Section 12 of the Kansas Constitution, commonly known as the "right to work" amendment.

We fervently oppose such legislation.

Prohibiting compulsory membership in a labor organization as a condition of employment or continued employment is construed to include a prohibition against forced payment of initiation fees, union dues and assessments.

This is blatant attempt to circumvent the Kansas constitutional amendment by imposing on workers who did not wish to join the union a fee for unwanted representation. Similar proposals were introduced in the 1973 Session, and again in the 1979 Session. Each time the proposals were defeated because the courts have clearly ruled that such provisions are illegal under our Right to Work law.

The only difference in this bill is that instead of being fired for not paying the union, nonunion employees will be sued for not coughing up the proposed "fee".

This proposed legislation would allow a labor organization and an employer to agree to deprive a worker of the freedom of choice. Unions, going on the flimsy theory that the non-union worker owes something for the bargaining done in behalf of all the workers, are using a coercive device to extract tribute and fill the union treasuries.

Non-union workers never asked the unions to bargain for them. The unions have demanded this right.

The Propaganda Fraud of the "Free Rider".

We ask the question, "who created the phony 'free rider' concept?"

Here's how it happened. Union pressure upon Congress in 1935 overrode the Roosevelt Administration's recognition of a workman's right to join a union, or not join a union, and to bargain with his employer in a minority or as an individual employee.

Preceding the legislative hearings on and the enactment of the Wagner Labor Relations Act, the Roosevelt Administration issued its basic Executive Order on "collective bargaining." The Order, No. 3125, was released on Feb. 1, 1934. The content of the Order was explained in a White House press release of the same date.

The release said, in part:

"2 This section of majority representatives (in an election conducted by the National Labor Board) does not restrict or qualify in any way the right of minority groups of employees or of individual employees to deal with their employer. (emphasis added)

"3. Section 7 (a) affirms the right of the employees to organize and bargain collectively through representatives of their own choosing; and such concerted activities can be lawfully carried on by either majority or minority groups organizing and selecting such representatives in such manner as they see fit. Also, in affirming this right of collective action, THE LAW LAYS NO LIMITATION UPON INDIVIDUAL ACTION." (emphasis added) *S29 + S4B*  
 ===Committee on Education and Labor on Senate Bill 1958 74th Conthress, *2/6/92*  
 1st session, Part 1, Pages 117-121.

*Attachment 3-3*

Roosevelt Administration and the exclusive representation.....continued

The Big union officials reacted strongly to the idea that individuals could act in their own behalf in negotiating with their employer.

Roosevelt's Executive Order and the above interpretation contained in the White House release were attacked. When the Wagner Act hearings were conducted by the Senate Labor Committee in 1935, top union officials protested individual and minority rights in "collective bargaining". On March 14, 1935, William Green, President of the American Federation of Labor, testified at a Senate hearing:

"We have protested against this interpretation (White House release No. 3125) Mr. Green and other union spokesmen demanded that "exclusive representation" be written into the collective bargaining law -- taking away the "right of minority groups of employees or of individual employees to deal with their employer" rights that the Roosevelt Administration had recognized in its "collective bargaining" order.

Senators spoke out against this monopoly of "exclusive representation" but the political power of the union officials prevailed.

Thus, the unions themselves forced through the law which says that all employees of a certified bargaining unit (whether union members or not) must be represented by the bargaining unit and have no bargaining rights of their own.

The so-called "free rider" is a captive of union power.

Right to Work will cosponsor legislation in cooperation with union officials to petition Congress to amend the "exclusive representation" out of the law and require unions only to represent union workers.

We have made this offer many times over the years, but no takers.

Unions, going on the flimsy theory that the non-union worker owes something for the bargaining done in his behalf is using this coercive threat to fill the union treasuries -- and thereby electing more union-oriented legislators to the Kansas Legislature and the U.S. Congress.

S.B. 174 is a bad bill and should be killed. S.B. 174 is clearly in conflict with both the letter and the spirit of the policy enunciated by the people of Kansas at the polls in 1958. If this measure is enacted into law, it cannot survive a challenge in court. And such a challenge would undoubtedly be forthcoming.

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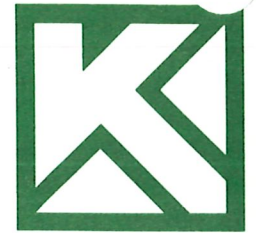
SLG + SB  
2/6/92

Attachment 3-4

# LEGISLATIVE TESTIMONY

## Kansas Chamber of Commerce and Industry

500 Bank IV Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321



A consolidation of the  
Kansas State Chamber  
of Commerce,  
Associated Industries  
of Kansas,  
Kansas Retail Council

SB 174

February 6, 1992

KANSAS CHAMBER OF COMMERCE AND INDUSTRY  
Testimony Before the  
Senate Committee on Labor, Industry and Small Business  
by  
Terry Leatherman  
Executive Director  
Kansas Industrial Council

Madam Chairperson and members of the Committee:

I am 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 174.

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.

*SLG + S.B.*  
*2/6/92*

*Attachment 4-1*

SB 174 demands non-union members of a workplace represented by a labor organization pay the union a fee for representing them. If the non-union worker does not pay, SB 174 gives the union the right to sue the worker. Proponents of SB 174 call this proposal a "fair share" service fee.

First of all, how did unions get saddled with the responsibility of representing non-union workers while bargaining for union members? This "burden" to a union is a product of a long and successful effort by the national labor movement in Congress. Without exclusive bargaining rights, unions would compete with non-union workers when it comes time to negotiate contracts with management. If the AFL-CIO feels they are being wronged by being required to represent non-union workers, they should ask Congress to relieve them of the responsibility. That is a bill KCCI would gladly support.

For a moment, lets look at SB 174 from the perspective of the non-union worker. In spite of the fact they have chosen to not join a union at their workplace, federal law demands they abandon their personal right to bargain for themselves with their employer and instead become a forced follower of the union.

Now, if SB 174 is passed, the non-union workers will not only be forced to accept the union as their representative before management, they will also be forced to pay a fee to an organization they have chosen not to join. The undeniable truth of SB 174 is compulsory unionism. If a worker does not wish to pay a union fee, they have only one option, quit their job.

Right-to-Work has a long tradition in Kansas. Every Kansan has the right to work at the labor they choose and the right to choose the organizations they wish to join. The Kansas Chamber urges you not to abandon this traditional value by passing SB 174.

Thank you for considering KCCI's concerns with this legislation. I would be happy to attempt to answer any questions.

*SLG + SB*  
*2/6/92*



# Kansas State Council of Machinists

Dear Senator,

Upcoming two pieces of legislation that we feel very strong about and would appreciate any support or help that you can give us on these matters. We would greatly appreciate seeing your help and support on these.

- 1) minimum wage bill
- 2) Fair share service fee #174

Thank you,

Jim Padron	Larned, Ks.	"Dist 70" LL-1989,
Charles R. Smith	Olathe K	local 2255 dist. 71
Judy h Can	Edgerton	LL-2255 Dist 71
David D. Pank	Parsons, Ks.	L.L. 293
Joe Dewney	Parsons, Ks	LL 293
Sam Harrel	Olathe Ks.	L.L. 998, Senate Dist #9
Gene Pitt	Wellsville, Ks.	L.L. 314 "Pitt 71"
Larry Freeman	Hickman Ks.	LL #1992
Sharon Young	Edgerton K.	LL. 2255
Harold Hoyer	1722 Classen Wichita K 67216	LL 774
Bill Bird	1905 So. Millwood 67213	LL 774
Jack Metz	3801 So. Mercedes	
GARY L. HALL	2118 Ida Wichita, KS 67211	LL 774
Mark Love	2001 So Parkwood Wichita	LL 834
Leroy Lehman	515 mantle Wichita Ks	67204 LL 733
John W. Wilson	407 Otto Salina Ks	67401 LL 2328
John Weber	Mission Ks	LL 1650 att # 5 9/6

Judy Ann Wilson 3232 South Clifton #24 Wichita/Kanso 67216

*Pan-Western Petroleum, Inc.*

GAS AND OIL EXPLORATION AND DEVELOPMENT  
ONE TWENTY BUILDING, SUITE 501  
120 S. MARKET  
WICHITA, KANSAS 67202  
316 263-0542

TOBY ELSTER, PRES.

February 3, 1992

Labor, Industry and Small Business Committee  
Alicia L. Salisbury, Chairman  
State Capitol Building  
Topeka, Kansas 66612

RE: S. 174

Dear Members of the Committee:

I address the Committee by letter as I cannot appear in person and have the following to say on the Agency Shop proposal before the Committee.

I have been a small independent business man in Kansas for over 30 years. I have studied the effects of labor unions on the economy in the US for over 30 years, not in the light of labor per se, but what makes our government function the way it does. I can irrevocably state with complete conviction and honesty that labor unions since approximately 1950 have been one of the most counterproductive organizations in the US economy and it continues today. First they hurt the workers most of all; the ones they are supposed to benefit. Next, they are a detriment to the economic health of our industries.

In the interest of being brief, I cite generally the economic history of the State of Idaho these past ten years. A financially troubled state under union control with a labor controlled governor whose veto of right to work legislation was overridden by their legislators, completely turning the state around. Its financial fortunes and their workers' economic health became a thriving, viable one. Idaho fell into the pattern--flourishing economies in right to work states, decreasing economic health in union dominated states. I cite Ohio, Indiana and other northeastern union dominated states. If one had to point a finger at the one most influential detriments into making these states "The Rust Belt" of idle and empty manufacturing plants, it would have to be the excessiveness of the unions. The auto industry's current problems fall in the same category. The fingers point to the United Auto Workers of 30 years ago who managed labor in the factories. That is not saying that management is faultless, they are not, but the unions are the most to blame.

A look at the labor unions today one finds a well entrenched hierarchy of Washington, D. C. power whose concern is total influence of government.

*Sydney B*  
*2/6/92*

*Attachment 6-1*

February 3, 1992  
Page 2

It has built and sustains this dynasty, which moves our country forever leftward towards socialism, on mandatory dues of its members. It cares not about the members, the workers, except in this one regard--to pay dues. Eighty percent (80%) of this dues money does not go for collective bargaining but mostly for political activity. And that is what this proposed legislation of the agency shop is about. Since the Beck decision (Beck vs CWA), which says a worker who does not belong to the union only has to pay the 20% of collective bargaining cost, the union's political activity is being brought into line. The Agency Shop bill you are considering is only a foot in the door. Tomorrow comes the move to destroy the Right to Work laws enjoyed by the workers. Then watch Kansas' economic viability degress!

The Union structure today is obsolete. Power to negotiate terms and conditions should rest with the locals in "Company" unions--all workers belonging to the same company union. The adverse confrontations that destroy companies (Eastern Air Lines, what is going on with Caterpillar Tractor in Peoria--a strike while the company loses money and half the plant is shut down permanently, etc.) does not protect jobs! Until the company workers can sit down with management and make sound economic plans to keep the company viable and their jobs secure, the jobs will continue to flee overseas. It seems uncomprehensible that the union hierarchy does not recognize the world economy and its effects on the US labor market and industry that goes on all around them.

I'm well aware that probably the majority of you legislators are beholden to the union because they are the ones who saw to it that you got elected. But, as you look yourself in the eye in your mirror and forget that fact, could you honestly vote for an agency bill that would cost the workers their jobs and cause an absolute loss to the economic welfare of this state. The only answer could be NO, NO, NO!

Thank you for hearing me.



TOBY ELSTER

TE:aw

*LD & J.B.*  
*2/6/92*

*Att 6-2*

*Mabel Barker*

Route 2, Box 10  
Oswego, Kansas 67356

Feb. 4, 1992

Senator Alicia Salisbury, Chairperson  
Labor, Industry and Small Business Committee  
State Capitol  
Topeka, Kansas 66612

Senator Salisbury:

I am unable to be present in Topeka for the hearings on SB 174.

Never-the-less, I would like to add my support for the Kansas Right to Work law and against SB 174, which is designed to circumvent that law.

Economically Kansas has fared well with its Right to Work law and unions have not been shut out or prevented from conducting their business.

With the implementation of Beck vs. Communication Workers of America (which has already been approved by the US Supreme Court) this law would already be null and void.

Thank you for noting my objection to SB 174.

Yours truly,

*Mabel Barker*

Mabel Barker

*SD + SB  
2/6/92*

*Attachment 7*