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

Marjorie A. Blaufuss, KNEA Staff Attorney Testimony

Senate Standing Committee on Education

March 13, 2013

House Bill 2221

Mr. Chairman and members of the Committee:

My name is Marjie Blaufuss and I am an attorney with the Kansas National Education Association. In my position with KNEA, I often work with the Professional Negotiations Act (PNA), 72-5413 *et seq.*, and I appreciate this opportunity to present testimony in opposition to **House Bill 2221**, which will amend that Act.

KNEA believes that the changes set out in **HOUSE BILL 2221** are unnecessary and will confound the PNA, which governs bargaining between a school district and its professional employees. **HOUSE BILL 2221's** stated purpose is to allow all professional employees' organizations equal access to a school district's facilities for meetings, bulletin boards, and physical and electronic mailboxes. To accomplish this, the bill broadens the definition of "professional employees' organization" under the PNA to include groups that are not involved in negotiations.

As a little background, the professional employees of a school district generally include teachers, librarians, counselors, nurses, school psychologists, physical therapists, occupational therapists, and speech therapists. These positions are included in the professional employees' bargaining unit. Under the PNA, the definition of a "professional employees' organization" (PEO) includes only those organizations "that exist for the purpose, in whole or part, of negotiating working conditions" for these professional bargaining unit members with their local school board. K.S.A. 72-5413(3).

The PNA currently requires equal access for all PEO's in a school district. It prohibits a school district giving preferential treatment to one PEO over another. Districts may not endorse one PEO over another. Districts may not "assist in the formation, existence, or administration of" one professional employees' organization over another" without violating the PNA. K.S.A. 72-5430(b)(2).

Once a PEO is elected the school district's professional employees' bargaining unit's representative, however, it has certain rights and responsibilities that other PEO's do not. The "bargaining representative" has a duty to establish, maintain, protect or improve the professional bargaining unit members' working conditions. K.S.A. 72-5414. But under the PNA, the bargaining representative still does not get exclusive use of facilities, bulletin boards, or mail systems. The bargaining representative must negotiate the right to use district facilities, bulletin boards, and the mail systems, "for dissemination of information regarding the professional negotiation process and related matters" to members of the bargaining unit. If the district agrees to this use by the

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bargaining rep through bargaining, the PNA then provides these privileges shall not be granted to any other PEO. K.S.A. 72-5413(l)(1)(B).

If the board and the professional employees' bargaining representative do not negotiate the right to facilities and communication systems, then either any PEO can access them or no PEO can access them—depending upon the district's policies. Currently, whether any PEO or bargaining representative may use district facilities, bulletin boards, and mail systems is under the control of the local district.

In addition to allowing all PEO's access to district facilities and mail systems, **HOUSE BILL 2221** also broadens the definition of PEO to include any organization offering professional development or selling liability insurance. There are dozens of these professional organizations for school personnel on the Kansas Department of Education website. These organizations provide professional development to their various members and many also provide liability insurance with membership. Insurance companies are also not considered PEO's under the PNA, but they are certainly agencies in which a district's employees can participate and which exist to provide liability protection. These organizations, groups, or agencies are not prohibited from access to a district's facilities, bulletin boards, or mail systems by the PNA because they are NOT governed by it. Only groups formed to bargain are considered PEO's under the PNA. If non-PEO's access to district facilities is restricted, it is by local board policy.

Those of our local affiliates elected as bargaining representatives try to negotiate use of school mailboxes and email systems, facilities to disseminate bargaining information. The bargaining representative is sometimes asked to appear at new teacher orientations by their school districts to welcome their new colleagues. Others are asked appear during new teacher inservices to review the negotiated agreement's provisions and school district policies pertaining to teachers, such as requesting leave and substitutes and other day-to-day procedures. The vast majority of new teacher events sponsored by KNEA affiliates, however, are privately sponsored and do not occur during the duty day.

Regarding (1)(d), however, there has not been a day of break built into a Kansas school district calendar to attend a KNEA convention or meeting for over twenty-five years.

In summary, **HOUSE BILL 2221** overly enlarges those groups that are covered by the definition of "professional employees' organizations" in the PNA. Organizations that provide professional development or liability insurance for teachers are not barred by the PNA from use of a school district's facilities, bulletins boards, mailboxes, or email. Their access to the schools is governed by local school board policies. Only groups who seek to bargain are governed by the PNA. Amending the teacher negotiations law to allow a group not interested in negotiating to sell its liability insurance to teachers is not justified.