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TESTIMONY IN OPPOSITION TO House Bill 2576 BEFORE HOUSE COMMERCE COMMITTEE

By **Bruce Tunnell**
Executive Vice President
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Thank you Chairman Hutton and members of the committee I appreciate this opportunity to testify in opposition to House Bill 2576.

- The law is called preemption law because it requires the state government laws preempt or take precedence over city or county laws.
 - This measure would establish a state wide mandate that severely restricts the freedom that city and local governments currently have
 - The government entity that is closest to the people is the government that functions best. AKA LOCAL GOVERNMENT
 - Local government is the best way to reflect the values and meet the unique needs of the local community
- We already have state laws on the books that preempt not only paid sick days, but also local minimum wage and other ordinances proven to improve workers' lives. In 2013 the legislature passed a draconian bill that was used as another way for companies to attack hard working Kansas who many, already, aren't guaranteed the best benefits, and now you want to control their schedules
- This is not only an attack on local control but is also another nail in the coffin for workers to exercise their democratic rights to improve their working conditions
 - Find it hypocritical that in one case the state legislature is all for "local control" but in other cases they want to remove local control.
 - It seems that when local governments have the power to implement what are seen as "progressive policies", this is viewed as "a form of collectivism" rather than a cherished conservative principle.

- Its obvious that these bills have nothing to do with the well-being of states or their resident, but are to give more power to big business
 - In 2015, 14 Republican lawmakers attended an ALEC conference in San Diego where the American City County Exchange (ACCE)(ACCE is an ALEC Task Force) gave a presentation on state preemption laws that prohibit local governments from raising the minimum wage, or regulating nutritional labeling (interesting that another ALEC bill was canceled for a hearing on this subject Wednesday. The ALEC model policy was the Food and Nutrition Act), paid sick leave, fair scheduling acts, and other employee benefits. At this meeting in San Diego a workshop on "Understanding State Preemption Laws" was given. This workshop was given both to state legislature and local officials on why state legislatures should exercise control over local governments on local issues. (source: <http://www.prwatch.org/news/2015/07/12876/alecs-2015-agenda#sthash.QLDW5FMI.dpuf>)
 - According to a article written by Bill Moyers in may of 2015, "a staff member of the right-wing American Legislative Exchange Council (ALEC) said last year while discussing the trend toward minimum-wage increases: "Perhaps the biggest threat comes from the local level." (source: <http://billmoyers.com/2015/05/28/gop-alecs-war-cities/>)
 - The Kansas Legislature has already taken away the power for local governments to raise the wage, now they want to take away more local government powers that can end up benefiting working people.
 - When a prevailing policy favors ALEC corporate sponsors at the state level, as with low minimum wages in red states, local efforts to raise the wage are to be crushed, or even better, pre-empted by state law. But when state policy violates ALEC's corporate sponsors' interest, such as laws favoring collective bargaining, local control is the leading edge of a divide-and-conquer strategy
- The lesson here is that many in the legislature, and their big business special interest groups, support local control when it advances the interests of their campaign funders, yet actively work to undermine local democracy when it threatens profits.
 - In 2015 the Director of the ACCE wrote an article for the conservative political blog RedState entitled, "Preemption Laws Provide Backstop for Localized Progressive Politics". (Source: <http://www.redstate.com/diary/alecstates/2015/04/17/preemption-laws-provide-backstop-localized-progressive-politics/>)
 - This Preemptive Strategy promoted by ALEC is based on strategies from the tobacco industry. According to the Director of Preemption Watch, Mark Pertschuk he says, "the strategy of keeping local governments from imposing stricter regulation than states was pioneered by the tobacco industry, after cigarette companies became alarmed by anti-smoking ordinances passed by local governments in the 1980s and 1990s." (source: <https://www.minnpost.com/politics-policy/2015/06/why-minnesota-legislators-want-block-local-officials-ability-increase-minimu>)
- This would block local governments from innovative ways to effectively address poverty and inequality in our communities.
- Currently there is not state law that addresses just-in-time scheduling. 'Employees increasingly face just-in-time scheduling practices, including being given very little

notice of their work schedules, being sent home early when work is slow without being paid for their scheduled shifts, and being assigned to call-in shifts or on-call shifts that require them to call their employer or wait to be called by their employer, often within two hours of their potential shift, to find out whether they will be required to report to work.¹ In addition, many employees have very little ability to make adjustments to their work schedules without penalty. More than a third of parents say they have been “passed over” for a promotion, a raise, or a new job due to a need for a flexible work schedule.² Among low-wage workers, about half report having little flexibility in the hours that they work.³

There is a growing movement to improve workplace scheduling practices so that workers and their families can better plan their lives. In the past year, lawmakers have introduced legislation at the federal, state and local level to respond to these difficult scheduling practices. In 2014, San Francisco passed a Retail Workers’ Bill of Rights.⁴ The Ordinance provides scheduling protections for employees in certain types of jobs. Also in 2014, Michigan introduced a bill modeled after the federal scheduling legislation that was introduced earlier that same year, the Schedules That Work Act.⁵ And in 2015, California, Connecticut, Illinois, Indiana, Maryland, Massachusetts, Minnesota, New York and Oregon introduced bills to curb difficult scheduling practices.⁶ This fact sheet provides an overview of this recently enacted and proposed state and local legislation.” (source:

http://www.nwlc.org/sites/default/files/pdfs/recently_introduced_and_enacted_state_and_local_fair_scheduling_legislation_apr_2015.pdf)

- This measure would effectively block this hope. Its clear that the intent of this bill is to thwart attempts to require more reasonable scheduling practices for workers, many of whom are low-wage, part-time employees.
 - This legislation would remove the power of local authorities to remedy these problems employees are facing
- Instead of the Kansas legislature implementing fair scheduling practices like advance notice, adequate on-call pay, you are now limiting the rights and powers of local governments. We are effectively again moving in the wrong direction.
- “Preemption is often supported by an industry that believes it will benefit from the elimination of state or local authority. Industry lobbyists are generally more powerful in Washington and the state capitols than at the local level. Preemption can be appropriate, as in the case of the Airline Smoking Ban.” But in other cases is used to benefit big business at the expense of the worker.
(http://grassrootschange.net/wp-content/uploads/2015/09/Publications_PWIntroPack_2015_09_25-FINAL.pdf)
- This bill is very similar to several current pieces of legislation from other states

- “Similar to SB20 in Indiana. Was introduced in 2016: “Bill Title: Restrictions on employer scheduling policies. Provides that a local governmental unit may not establish, mandate, or otherwise require an employer to provide to an employee who is employed within the jurisdiction of the unit a scheduling policy that exceeds the requirements of federal or state law, rules, or regulations, unless federal or state law provides otherwise.”
(<https://legiscan.com/IN/text/SB0020/id/1288632>)
- Similar to HB211 (2016) in New Mexico:
“SECTION 1. [NEW MATERIAL] STATE PREEMPTION—EMPLOYMENT REGULATION.-- A political subdivision of the state, including a home rule municipality, or institution of the state shall not adopt or continue in effect a law, policy or resolution that:
regulates or attempts to regulate:
(2) the hours, scheduling or leave that a private-sector employer provides its employees; “ (source:
<http://www.nmlegis.gov/lcs/legislation.aspx?chamber=H&legtype=B&legno=%20211&year=16>)
- Also similar to several pieces of legislation that passed in 2015
 - “SB 968 bans local governments, for the next two years, from passing any laws that limit or regulate how employers' set their employees' work schedules.”
(http://www.oregonlive.com/politics/index.ssf/2015/06/new_oregon_laws.html)
 - From Michigan “LIMIT ON LOCAL REGS FOR EMPLOYERS H.B. 4052 (S-1): A local governmental body would be prohibited from adopting, enforcing, or administering an ordinance, local policy, or local resolution regulating the employment relationship between an employer and its employees or potential employees if the regulation contained requirements exceeding those imposed by State or Federal law. A local governmental body also could not adopt, enforce, or administer an ordinance, local policy, or local resolution regulating hours and scheduling that an employer was required to provide to employees.
(<http://www.boyleformichigan.us/2015/06/limiting-local-regulations-disabling-paid-sick-leave/>)

Thank you for your time and attention.