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**Oral Testimony in opposition to HB 2354**

**House Commerce, Labor, & Economic Development Committee**

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I am speaking today on behalf of both Kansas NEA and United School Administrators. House Bill 2354 is the one in which the state imposes its judgement over the judgement of the individual citizen. Citizens, under this bill, need to be reminded by the state that the state does not like their labor unions and needs to be in the business of interfering in the individual citizen's decision to join a union.

But let us be clear - not every citizen. Only those citizens who are teaching our children, patrolling our streets in police cars, fighting fires in our neighborhoods, nursing the sick in hospitals, putting down riots in state prisons, plowing our streets in the snowstorms, responding when we slide off the turnpike in an ice storm, carrying off the trash at our curb, and doing so many other essential services to keep us safe and warm and cared for all while putting their own lives at risk in service to us in the middle of the most deadly pandemic in over 100 years.

And this bill does this despite the fact that Kansas is a right to work state under which no one is forced to join a union or to pay a representation fee while still benefiting from the work of the union. This bill attempts to solve a problem that simply does not exist and in doing so hassles and annoys anyone who chooses to be a member of a union.

We choose to focus our comments on page three of the bill at this time.

First, on lines 11-13, a union member is prohibited from authorizing dues payment via payroll deduction for more than one year. This is essentially a state-forced drop of membership in that members have to pay dues and a failure to timely submit a new payroll deduction form might result in a loss of representation - not because the employee wanted it but because it apparently serves the state. Citizens should be allowed to make decisions about memberships and dues payments using their own judgment. It is inappropriate for the state to consider its judgment to be greater than that of the individual.

We note that the legislature has no interest in protecting us from predatory gym memberships that we cannot get out of and automatically renew if we do not meet the gym owner's window for dropping membership. The legislature has no interest in making sure we can get out of a 12-month apartment lease when we find the place, we rented is not what it was made out to be.

Next, on lines 14-26, In a cynical and twisted reading of the United States Constitution, HB 2354 forces individuals who choose to use payroll deduction to pay dues to an employee organization to sign a statement saying that they waive their first amendment rights. This is a flat out lie. In joining an organization, individuals ASSERT their first amendment rights.



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For those who have not recently read the United States Constitution, let us review the first amendment. Here is the actual text in its entirety:

*Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.*

The statement required to be signed states, "I hereby waive my First Amendment right to refrain from union membership..." Choosing not to join a union is protected in statute and in Kansas' status as a "right to work state." No one has ever said that anyone in Kansas is required to join a union or to even pay a representation fee because we all know that is contrary to Kansas law. What the first amendment to the United States Constitution says is that one has an absolute right TO join a union - "peaceably to assemble." **The right to assemble - freedom of assembly - is the right to gather together in common cause "to petition the Government."**

The right NOT to join a union is a right guaranteed by law, not the first amendment. It is true to say that the right not to join or not to pay a representation fee - something that has NEVER been allowed under Kansas law - is what the Supreme Court of the United States upheld in the Janus decision. Janus did not twist the constitution as the author of HB 2354 did; Janus interpreted the law.

If we apply this twisted thinking to the rest of the first amendment, should we require citizens who choose not to join a religion or go to church to sign a statement waiving their first amendment right to "the free exercise" of religion? Should someone who chooses not to speak out on political issues sign a statement waiving their first amendment right to "freedom of speech?" It goes without saying that one has the right not to attend church or not to speak out on an issue without waiving one's constitutional right to do so should one so choose later. Nor does one waive a constitution right NOT to attend church by going to church.

In reality the sole purpose of forcing individuals to sign a statement saying they waive constitutional rights is to sow doubts in their minds and fear in their hearts that by joining a union they are somehow giving up their constitutional rights. It is an action worthy of the worst authoritarian instincts.

Joseph Goebbels famously said, *"If you tell a lie big enough and keep repeating it, people will eventually come to believe it. The lie can be maintained only for such time as the State can shield the people from the political, economic, and/or military consequences of the lie. It thus becomes vitally important for the State to use all of its powers to repress dissent, for the truth is the mortal enemy of the lie, and thus by extension, the truth is the greatest enemy of the State."*

If the State can maintain this lie about waiving constitutional rights - can tell this lie often enough, and in the case of this bill at least once every year, the authors of this bill hope that school employees will come to believe it, to fret about waiving those rights - which they are NOT doing. The authors hope that potential union members are convinced of this lie before they realize the political and economic consequences of the lie - that they can no longer



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peaceably assemble to petition the school board to pay them decent wages or provide them with good health insurance; that they can no longer peaceably assemble to petition the legislature to fund their schools adequately.

Further, the Court decision was not about the right to join or not to join a union; it was not about the right to use or not use payroll deduction for dues. It was about the right of the union to charge a representation fee to non-members. Unions in Kansas have never had the right to charge such a fee. As a right to work state, the Supreme Court decision had no impact on Kansas.

The sole intent of HB 2354 is to interfere with the ability of education employees, state employees, and municipal employees to form unions. It is a classic example of union busting and it is built on the big lie.

Finally, on lines 30-34, it would appear that the state does not believe the individual is competent enough to make the decision for himself or herself. Once a payroll deduction form is submitted to the employer, the employer must then send an email to the employee making sure that he/she really wants to do this - as if it is assumed the individual made a mistake. And the employee must then respond to the employer's message by indicating that yes, he/she actually did mean it when signing that form.

Why, one wonders, is it assumed that the individual erred in joining the union but did not err in dropping membership? There is no requirement in the bill in the section starting on page 2, line 38 and continuing through page 3, line 10 that the employer verify that the employee really did want to end membership. Why is that?

This verification process only applies to starting payroll deduction for the collection of union dues. Is the state assuming then that the employee is exercising good judgement in making contributions to the United Way by payroll deduction but exercising bad judgement in doing the same for union dues?

The intent of this bill is not to protect anyone. The intent is very clear. It is designed to interfere in the ability of public sector unions to recruit members and to collect dues. It is intended to harass and annoy individuals who choose to exercise their first amendment right to freedom of assembly by choosing to join a union.

We ask you to oppose the big government, big brother, big lie over-reach House Bill 2354.