

SB 511 Proponent Testimony – in person
First amendment rights for public employees
Senate Commerce Committee
Dave Trabert – CEO
March 15, 2022



Madam Chair and Members of the Committee,

We appreciate this opportunity to testify in support of SB 511, which we believe brings Kansas statutes into conformity with the U.S. Supreme Court’s ruling in *Janus v. AFSCME*.

The court found in *Janus* that it is unconstitutional to compel a public employee to join or remain a member of a union or professional employee association as a condition of employment. *Janus* also requires the employer to have an affirmative ‘opt-in’ document for each person who joins a union.ⁱ

As a result of *Janus*, K.S.A. 75-5501 currently has an unconstitutional minimum 180-days dues withholding requirement with no provision for the employee to resign and stop paying dues whenever they wish.

The membership application for the Kansas National Education Association (KNEA) says, “...I hereby agree to pay the annual dues, fees and assessments established by these associations. I understand that those annual dues are subject to periodic change. If paying such dues and assessments by payroll deduction, I authorize the Board of Education to deduct such amounts from my salary. The payment of those annual amounts shall continue, regardless of membership status, unless I revoke this authorization in a signed writing (sic) provided to the local association between August 1 and August 31 of the membership year immediately preceding the membership year for which the authorization is to be cancelled.”

And even then, some employees have been required to sign a form that appears to be an attempt to intimidate the employee from resigning. One teacher shared the attached KNEA resignation form with us, showing the teacher also had to certify they will not be ‘contributing to their profession.’ No one should be subjected to that kind of treatment to exercise a legal right to resign membership in an association.

Voters believe public employees should have the freedom to choose by nearly a 3-to-1 margin. Across Kansas, 54% of voters say public employees should be allowed to end their union membership and stop paying dues whenever they wish; only 20% disagree. SurveyUSA, one of the most respected pollsters in America, conducted the survey in December 2021 on our behalf.

Should public employees be allowed to end their union membership and stop paying dues whenever they wish?								
530 registered voters	All	Region				Ideology		
Credibility Interval: ± 5.4 pct points		Western Kansas	Wichita Area	Kansas City Area	Eastern Kansas	Con.	Mod.	Lib.
Yes	54%	44%	65%	55%	51%	62%	48%	51%
No	20%	28%	13%	17%	23%	15%	22%	25%
Not Sure	26%	28%	22%	28%	26%	23%	30%	22%

Source: SurveyUSA, data collected December 1-7, 2021

To be clear, SB 511 and our support for it is not a derogatory comment on unions; it is simply about respecting each public employee’s constitutional right. Constitutional rights exist absolutely and cannot be subject to limitation by collective bargaining agreements or any other organizational practice. Kansas is a right to work state and just as people should be free to join a union if they wish, they should also be free to leave that union whenever they like.

Opponents in the past have inaccurately compared this terminating a contract for a gym membership or some other service. This legislation is about ensuring the constitutional rights of public employees. There are no constitutional issues involved with cancelling a gym membership.

In order to assure public employees that they can exercise their constitutional right to associate with a union or professional employee association whenever they wish, we encourage you to recommend SB 511 favorably for passage.

Thank you for your consideration.

ⁱ “While many related cases are in multiple courts around the country, nothing has come about that would affect SB 511 in a materially substantive manner.