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Oral Testimony; Opponent
House Bill 2044
House Insurance and Pensions Committee
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Mr. Chairman and Members of the committee,

As an attorney at KNEA, I'd like to thank you for the opportunity to submit testimony in opposition to House Bill 2044.

HB 2044 is unfair to the hardworking employees of public-school districts. It unfairly places the burden of the increased employee contributions on public school districts, only one group of KPERS participants, to the benefit of all KPERS participants. This burden is placed on them without any corresponding benefit. This burden only grows over the years to come. Luckily, the United States Constitution protects against such injustice. Since HB 2044 fails to pass the requisite protections of the United States Constitution and Kansas law, it should not be passed into law.

At Article I §10, cl. 1, the United States Constitution says that "no State shall pass any law impairing the obligation of contracts." Kansas law has acknowledged that the Contracts Clause provides protection to vested KPERS participants.

In the Kansas Supreme Court case *Singer v. City of Topeka*, 227 Kan. 356, 607 P.2d 467 (1980), the Court considered whether the Contracts Clause prohibited a unilateral increase of employee contributions, from 3% to 7%, while their benefits remained the same. The Court found this unilateral increase to vested participants violated the Contracts Clause.

In reaching this conclusion, the Court applied a balancing test and examined "whether the challenged statutes impose a substantial detriment on plaintiffs and the classes, without correlative benefit." *Singer*, 227 Kan. at 362.

HB 2044 violates the rights of KPERS-vested public school employees by unilaterally increasing employees' contributions from 6% to 7.15%. To offset that increase, the bill appropriates money for eligible public school district employees.

This salary increase is not a "correlative benefit." The salary is independent of KPERS and not a benefit of the KPERS system. Additionally, even if any negative tax consequences for the school employees receiving this increased "salary" are ignored, HB 2044 appears to merely shuffles money around. And, most importantly, HB 2044 provides only one fiscal year's worth of funding for that salary raise. What happens in subsequent years? Public school district employees are left with increased contributions year after year, an ever-increasing financial detriment, while their retirement benefit remains unchanged. Even if the legislature *does* appropriate 1.15% toward this



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increased salary each year, it is impossible to predict how much the amount to be appropriated annually will need to be. Each employee in each district will have different salaries and salaries typically have not even been negotiated until after the legislative session ends each year.

HB 2044 is certainly unfair to the public school district teachers who would be forced to make greater contributions for years to come without seeing any correlating or offsetting benefit. The law provides participants a legal remedy, a lawsuit.

To be fair to Kansas public school district employees and to avoid unnecessary, expensive, and embarrassing litigation that the State is likely to lose, I respectfully request/advise you vote no on this bill.