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To: Senate Commerce Committee

Re: Written testimony in opposition to SB 10

January 27, 2021

Dear Chairman Olson and Members of the Committee;

Thank you for the opportunity to explain why the Kansas State Department of Education strongly opposes the Right to Earn a Living Act to Minimize Unnecessary Occupational Licensing and Regulation. This bill does not actually achieve its stated goals. Instead, it creates liabilities and financial burdens on already overwhelmed licensing agencies. It also attempts to create a remedy already provided for in state law.

First and foremost, the Act is unnecessary for state agencies that wish to review their own regulations. The Kansas State Board of Education is already authorized by Article 6, Section 2(a) of the Kansas State Constitution to equalize and promote the quality of education for the students of this state by such things as statewide accreditation and certification of teachers and schools. The Kansas State Board of Education achieves this by regularly updating its licensure rules and regulations.

The Act is also unnecessary to provide the public with an opportunity for judicial review. Under the Kansas Judicial Review Act (K.S.A. 77-601 through K.S.A. 77-631), any person subject to a licensing agency's rule or regulation may petition a court for judicial review. A court may already prevent an occupational rule or regulation from being enforced if it finds the agency action was unconstitutional, if

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the rule or regulation extends beyond the agency's authority, if the agency erroneously interprets the rule or regulation, or if the agency's rule or regulation is otherwise unreasonable, arbitrary or capricious. However, Senate Bill 10 shifts the burden of proof from the petitioner to the state agency. Senate Bill 10 also changes the generally understood basis by which a court may overturn a rule or regulation to one that on-face does not even apply to many licensed occupations such as teaching. Senate Bill 10 also *requires* a court to consider awarding attorney fees and costs.

Because the Kansas State Board of Education only adopts those licensing regulations which are carefully promulgated to fulfill the legitimate public welfare objective of keeping students safe from untrained and unqualified teachers, the Kansas State Department of Education respectfully requests Senate Bill 10 not be adopted. In the alternative, we ask to be named as an exempt agency.

Signed,



R. Scott Gordon  
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Kansas State Department of Education