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October 25, 2012

Via email: FINA@parl.gc.ca

James Rajotte, M.P
Chair, Standing Committee on Finance (FINA)
Sixth Floor, 131 Queen Street
House of Commons
Ottawa, ON K1A 0A6

Dear Mr. Rajotte:

Re: Alberta Union of Provincial Employees Submission on Bill C-377

I am writing on behalf of the Alberta Union of Provincial Employees (AUPE), and its 80,000 members employed in Alberta's public and private sectors, in regard to Bill C-377, *An Act to Amend the Income Tax Act (Requirements for Labour Organizations)*.

We are very concerned about the ramifications of this Bill for our members, our organization, and other members of the public. Our concerns are in two key areas: the constitutionality of the Bill, and the significant invasion of individuals' privacy the Bill would entail.

Constitutionality

As a threshold matter, we have serious reservations about whether Bill C-377 accords with the division of federal and provincial powers set out in the *Constitution Act, 1867*.

The stated object of Bill C-377 – increased union transparency – has little, if anything, to do with federal taxation powers. Rather, this appears to be an attempt by the Federal government to pass legislation to regulate the activity of provincial trade unions like AUPE. This is an area of provincial responsibility under Section 92 of the *Constitution Act, 1867*, and as such, we believe Bill C-377 may be *ultra vires* federal legislative powers in Section 91.

MP Pierre Poilievre, Parliamentary Secretary to the Minister of Transport, articulated the intent of the bill in Parliament on October 22nd when he said: "we are moving forward with Bill C-377, which would require disclosure of union finances, this being extremely important after the recent discovery that the unions gave \$340,000 in illegal money to the NDP." His statement suggests the legislation has little to do with the Federal government's taxation power, but rather the regulation of union activity and political association. Furthermore, the bill's sponsor, MP Russ Hiebert, clearly articulated in an Oct. 22nd letter to the *Toronto Star* that the bill's purpose is "union transparency."

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| G. Smith President | W.A. Dechant Executive Secretary-Treasurer | J. Heistad Vice-President | E. Raz Vice-President | C. Rusznak Vice-President | G. Scott Vice-President | S. Slade Vice-President | K. Weiers Vice-President |
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While AUPE is an independent, non-partisan union, we nonetheless object to the use of Federal tax legislation to achieve the policy goal of regulating political activity, which is better addressed by statutes like the *Canada Elections Act*. Similarly, we believe the regulation of "union transparency" ought to be left to provincial legislatures, as intended by the framers of the Constitution.

We also agree with the Canadian Bar Association's concern that Section 149.01(3)(b)(ix)-(xx) could violate the *Charter of Rights and Freedoms*, Section 2(b) protection of freedom of expression and Section 2(d) protection of freedom of association, due to C-377's requirement for disclosure of disbursements for political activities, lobbying activities, organizing activities and collective bargaining activities.

Privacy

Like the Canadian Bar Association and the Multi-Employer Benefit Plan Council of Canada (MEBCO), AUPE believes the requirement that labour organizations and labour trusts report each transaction over \$5,000 as a separate line item—including the name and address of the payee, and purpose and description of the payment—is a significant invasion of the privacy of not only our employees, but also the independent businesses we contract as part of our day-to-day business.

As it is presently formulated, Bill C-377 would require the reporting of salary and benefits of all AUPE employees, from administrative assistants, building maintenance and custodial employees, to summer employees, to management. Expenditures on stationery, hygienic goods and cleaning supplies would be reported, as well as lease and mortgage payments. We believe the disclosure of such minutiae of our daily operations cannot be rationally connected to the policy goal of "union transparency" and that the violation our employees' and business colleagues' privacy is more than minimally intrusive.

It appears that Bill C-377's broad definition of a "labour trust" would obligate the disclosure of payments for death benefits, life and health insurance, and accidental death and dismemberment insurance by any fund established in part to benefit union members. Because this disclosure would include the name, address, purpose and description of the payment, there is a high likelihood that the private medical and financial information of the benefit recipient would also be disclosed. As articulated by the Multi-Employer Benefit Plan Council, this disclosure would also be required for any payment to a non-union member who is covered by the same benefit plan.

Costs

The privacy concerns around labour trusts would create an enormous hurdle for employers with whom we negotiate benefit plans on behalf of our members. As noted by MEBCO, the cost of providing the disclosure required of benefit plans by C-377 would undoubtedly drive up the costs of those benefit plans, which would ultimately be borne by union members and employers, or would result in reduced coverage available to those in the plan, whether they are union members or not.

Similarly, nearly every AUPE business transaction with private companies would be captured by the legislation, from small businesses like sign makers, web developers, and plumbers, to the

large accounting firms that annually audit our finances, and law firms that defend our members against discrimination in the workplace.

Such public reporting may not only drive away private businesses who would otherwise be willing to provide goods or services to our union, but also cause the union to become less efficient, skewing large tenders by publicly disclosing what AUPE has previously paid for similar goods and services.

AUPE prides itself on charging some of the lowest union dues of any labour organization in the province of Alberta. We believe that these increased disclosure obligations—and the negative effect they will have on our operational efficiency and ability to obtain the best price for goods and services—could eventually require higher dues, which would entail a greater cost to employers, and ultimately, taxpayers.

Summary

AUPE is committed to democracy and transparency. Our annual convention is a demonstration of that commitment. Each year our audited financial statements are reviewed and the coming year's budget is approved by more than 800 delegates to our convention – approximately one in every 100 AUPE members. Our financial statements and annual report are also posted to our website for approximately one month of every year, available for any AUPE member or member of the public to download and review. At any time during the year, if a member requests a printed copy of these materials, they are mailed immediately.

Bill C-377 would not increase the transparency of our union. Instead it would invade the privacy of our members, non-union members, and private businesses. Bill C-377 would drive up the costs of union administration not only through its reporting requirements, but also by impinging on our ability to effectively negotiate the best prices available for goods and services through private contracts with private businesses.

On behalf of our members, I encourage the Finance Committee to consider the constitutionality of Bill C-377 and, if it is to proceed to third reading in Parliament, do so in a significantly amended form, omitting requirements for disclosure by "labour trusts" and striking Section 149.01(3)(b)(ix)-(xx), as recommended by the Canadian Bar Association.

Yours truly,



Guy Smith, President
Alberta Union of Provincial Employees