AN ACT concerning public employee and professional employees' organizations; relating to dues; commencement and cessation of withholding of dues; procedure; providing certain rights to employees; amending K.S.A. 72-2219, 72-2241, 75-4324, 75-4327 and 75-5501 and K.S.A. 2019 Supp. 44-319 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2019 Supp. 44-319 is hereby amended to read as follows: 44-319. (a) Except as provided in subsections (b) and (c), no employer may withhold, deduct or divert any portion of an employee's wages unless: (1) The employer is required or empowered to do so by state or federal law; (2) the deductions are for medical, surgical or hospital care or service, without financial benefit to the employer, and are openly, clearly and in due course recorded in the employer's books; (3) the employer has a signed authorization by the employee for deductions for a lawful purpose accruing to the benefit of the employee; or (4) the deductions are for contributions attributable to automatic enrollment, as defined in K.S.A. 2019 Supp. 44-319a, and amendments thereto, in a retirement plan established by the employer described in sections 401(k), 403(b), 408, 408A or 457 of the internal revenue code.

(b) Subject to the provisions of subsection (e), pursuant to a signed written agreement between the employer and employee, an employer may withhold, deduct or divert any portion of an employee's wages for the following purposes:

(1) To allow the employee to repay a loan or advance which that the employer made to the employee during the course of and within the scope of employment;

(2) to allow for recovery of payroll overpayment; and

(3) to compensate the employer for the replacement cost or unpaid balance of the cost of the employer's merchandise or uniforms purchased by the employee.

(c) Subject to the provisions of subsection (e), upon providing a written notice and explanation, an employer may withhold, deduct or divert any portion of an employee's final wages for the following purposes:

(1) To recover the employer's property provided to the employee in the course of the employer's business including, but not limited to, tools of
the trade or profession, personal safety equipment, computers, electronic
devices, mobile phones, proprietary information such as client or customer
lists and intellectual property, security information, keys or access cards or
materials until such time as such property is returned by the employee to
the employer. Upon return of the employer's property, the employer shall
relinquish the wages withheld to the employee;
(2) to allow an employee to repay a loan or advance which the
employer made to the employee during the course of and within the scope
of employment;
(3) to allow for the recovery of payroll overpayment; or
(4) to compensate the employer for the replacement cost or unpaid
balance of the cost of the employer's merchandise, uniforms, company
property, equipment, tools of the trade or other materials intentionally
purchased by the employee.
(d) Nothing in this section shall be construed as prohibiting the
withholding of amounts authorized in writing by the employee to be
contributed by the employee to charitable organizations; nor shall this
section prohibit deductions by check-off of dues to labor organizations or
service fees, where such is not otherwise prohibited by law. *Deductions of
dues to professional employees' organizations and to public employee
organizations shall be subject to the provisions of K.S.A. 72-2219 and 75-
4324, and amendments thereto.*
(e) Amounts withheld under this section shall not reduce wages paid
to below the minimum wage required under the federal fair labor standards
act, 29 U.S.C.A. § 201 et seq., or the minimum wage required under
K.S.A. 44-1203, and amendments thereto, whichever is applicable.
Sec. 2. K.S.A. 72-2219 is hereby amended to read as follows: 72-
2219. *(a) Professional employees shall have the right to form, join or assist
professional employees' organizations, to participate in professional
negotiation with boards of education through representatives of their own
choosing for the purpose of establishing, maintaining, protecting or
improving terms and conditions of professional service. Professional
employees shall also have the right to refrain from any or all of the
foregoing activities. In professional negotiations under this act the board of
education may be represented by an agent or committee designated by it.*

(b) *Professional employees shall have the right to immediately cease
the withholding of professional employees' organization dues from their
wages at any time upon the submission of a written or emailed request to
their board of education. Upon receipt of a written or emailed request, the
board of education shall immediately provide written or emailed
notification of the employee's decision to the professional employees'
organization and shall cease any withholding of dues for the professional
employees' organization from the employee's wages, and no further debt to
the professional employees' organization shall accrue. The right to immediately resign from and immediately end any financial obligation to a professional employees' organization shall not be waived. Boards of education shall notify their professional employees of their right to cease payment of professional employees' organization dues and to withdraw from a professional employees' organization by providing, at least annually, written notification in the authorization for withholding form as provided in subsection (d).

(c) Authorization by a professional employee for the withholding of professional employees' organization dues shall not exceed one year in duration and shall be subject to annual renewal.

(d) (1) Authorization for withholding shall be on a form approved by the secretary of labor and shall contain a statement in 14-point boldface font reading:

"I am aware that I have a First Amendment right, as recognized by the United States Supreme Court, to refrain from joining and paying dues to a labor union (professional employees' organization). I further realize that membership and payment of dues are voluntary and that I may not be discriminated against for my refusal to join or financially support a union. I hereby waive my First Amendment right to refrain from union membership and dues payments and authorize my employer to deduct union dues from my salary in the amounts specified in accordance with my professional employees' organization's bylaws. I understand that I may revoke this authorization at any time."

(2) The authorization for withholding form shall include the professional employee's full name, position, professional employees' organization and signature and shall be submitted to the board of education employing such professional employee. After receiving the authorization for withholding form, the employer shall confirm the authorization by emailing the professional employee at the employee's employer-provided work email address and shall wait for confirmation of the authorization before starting any deduction. If the employee does not possess an employer-provided work email address, the employer may use other means it deems appropriate to confirm the authorization.

Sec. 3. K.S.A. 72-2241 is hereby amended to read as follows: 72-2241. (a) The board of education of any school district or the board of trustees of any community college may provide by resolution for deductions for specified purposes from the compensation paid to its employees. Any such resolution shall provide for written authorization from each employee, in specific terms as to the amount, subject to the provisions of subsection (b), purpose and disposition of any amounts so deducted. Deductions for taxes and other amounts required by law to be deducted from employees' compensation shall not require written
authorization of the employee.

(b) Subject to the provisions of K.S.A. 72-2219, and amendments thereto, written authorizations from employees for deductions from compensation for payments of professional association dues shall remain in effect until modified or revoked in writing by the professional association or the employee; or until the employee's contract of employment is terminated. So long as the written authorization from an employee for deductions for professional association dues remains in effect and upon written notice of an increase in the amount of such dues being given to the board of education or the board of trustees and to all affected employees, the amount specified to be deducted in such written authorization may be increased by an amount deemed necessary by a professional association for a school year. In no event shall the amount of deductions from compensation for payments of professional association dues be increased more than one time in each school year without specific written authorization from the employee for such increase.

Sec. 4. K.S.A. 75-4324 is hereby amended to read as follows: 75-4324. (a) Public employees shall have the right to form, join and participate in the activities of employee organizations of their own choosing; for the purpose of meeting and conferring with public employers or their designated representatives with respect to grievances and conditions of employment. Public employees also shall have the right to refuse to join or participate in the activities of employee organizations.

(b) Public employees shall have the right to immediately cease the withholding of employee organization dues from their wages at any time upon the submission of a written or emailed request to their public employer. Upon receipt of a written or emailed request, the public employer shall immediately provide written or emailed notification of the employee's decision to the employee organization and shall cease any withholding of dues for the employee organization from the employee's wages, and no further debt to the employee organization shall accrue. The right to immediately resign and immediately end any financial obligation to an employee organization shall not be waived. Public employers shall notify their employees of their right to cease payment of employee organization dues and to withdraw from an employee organization by providing, at least annually, written notification and a request form to their employees.

(c) Authorization by a public employee for the withholding of public employee organization dues shall not exceed one year in duration and shall be subject to annual renewal.

(d) (1) Authorization for withholding shall be on a form approved by the public employee relations board, established by K.S.A. 75-4323, and amendments thereto, and shall contain a statement in 14-point boldface
"I am aware that I have a First Amendment right, as recognized by the United States Supreme Court, to refrain from joining and paying dues to a labor union (employee organization). I further realize that membership and payment of dues are voluntary and that I may not be discriminated against for my refusal to join or financially support a union. I hereby waive my First Amendment right to refrain from union membership and dues payments and authorize my employer to deduct union dues from my salary in the amounts specified in accordance with my employee organization's bylaws. I understand that I may revoke this authorization at any time."

(2) The authorization for withholding form shall contain the employee's full name, position, employee organization and signature and shall be submitted to the employee's public employer. The employer shall confirm the authorization by emailing the employee's employer-provided work email address and shall wait for confirmation of the authorization before starting any deduction. If the employee does not possess an employer-provided work email address, the employer may use other means it deems appropriate to confirm the authorization.

Sec. 5. K.S.A. 75-4327 is hereby amended to read as follows: 75-4327. (a) Public employers shall recognize employee organizations for the purpose of representing their members in relations with public agencies as to grievances and conditions of employment. Employee organizations may establish reasonable provisions for an individual's admission to or dismissal from membership, subject to the provisions of K.S.A. 75-4324, and amendments thereto.

(b) Where an employee organization has been certified by the board as representing a majority of the employees in an appropriate unit, or recognized formally by the public employer pursuant to the provisions of this act, the appropriate employer shall meet and confer in good faith with such employee organization in the determination of conditions of employment of the public employees as provided in this act, and may enter into a memorandum of agreement with such recognized employee organization.

(c) A recognized employee organization shall represent not less than a majority of the employees of an appropriate unit. When a question concerning the designation of an appropriate unit is raised by a public agency, employee organization or by five or more employees, the public employee relations board, at the request of any of the parties, shall investigate such question and, after a hearing in accordance with the provisions of the Kansas administrative procedure act, rule on the definition of the appropriate unit in accordance with subsection (e).

(d) Following determination of the appropriate unit of employees, the
public employee relations board, at the request of the public employer or
on petition of employees, shall investigate questions and certify to the
parties in writing, the names of the representatives that have been
designated for an appropriate unit. The filing of a petition for the
investigation or certification of a representative of employees shall show
the names of not less than 30% of the employees within an appropriate
unit. In any such investigation, the board may provide for an appropriate
hearing, shall determine voting eligibility and shall take a secret ballot of
employees in the appropriate unit involved to ascertain such
representatives for the purpose of formal recognition. Recognition shall be
granted only to an employee organization that has been selected as a
representative of an appropriate unit, in a secret ballot election, by a
majority of the employees in an appropriate unit who voted at such
election. Each employee eligible to vote shall be provided the opportunity
to choose the employee organization such employee wishes to represent
such employee, from among those on the ballot, or to choose "no
representation." When an election in which the ballot provided for three or
more choices between representatives and no representation resulted in no
choice receiving a majority of the valid votes cast, the board shall conduct
a run-off election by secret ballot. The ballot in a run-off election shall
only provide for a selection between the two choices receiving the largest
and second largest number of votes in the original election. The board is
authorized to hold elections to determine whether: (1) An employee
organization should be recognized as the formal representative of
employees in a unit; (2) an employee organization should replace another
employee organization as the formal representative of employees in a unit;
and (3) a recognized employee organization should be decertified.

Any petition calling for an election in accordance with this section shall
be dismissed by the board without determining the questions raised therein
if such petition is filed more than 150 days or less than 90 days prior to the
expiration date of an existing memorandum of agreement which governs
the terms and conditions of employment of the employees within the
appropriate unit.

If the board has certified a formally recognized representative in an
appropriate unit, it shall not be required to consider the matter again for a
period of one year, unless the board determines that sufficient reason
exists. The board may promulgate such rules and regulations as may be
appropriate to carry out the provisions of subsections (c) and (d).

(e) Any group of public employees considering the formation of an
employee organization for formal recognition, any public employer
considering the recognition of an employee organization on its own
volition and the board, in investigating questions at the request of the
parties as specified in this section, shall take into consideration, along with
other relevant factors: (1) The principle of efficient administration of
government; (2) the existence of a community of interest among
employees; (3) the history and extent of employee organization; (4)
geographical location; (5) the effects of overfragmentation and the
splintering of a work organization; (6) the provisions of K.S.A. 75-4325,
and amendments thereto; and (7) the recommendations of the parties
involved.

(f) A recognized employee organization shall not include: (1) Both
professional and other employees, unless a majority of the professional
employees vote for inclusion in the organization; (2) uniform police
employees and public property security guards with any other public
employees, but such employees may form their own separate homogenous
units; or (3) uniformed firemen with any other public employees, but such
employees may form their own separate homogenous units. The
employees of a public safety department of cities which has both police
and fire protection duties shall be an appropriate unit.

(g) It is the intent of this act that employer-employee relations
affecting the finances of a public employer shall be conducted at such
times as will permit any resultant memorandum of agreement to be duly
implemented in the budget preparation and adoption process. A public
employer, during the 60 days immediately prior to its budget submission
date, shall not be required to recognize an employee organization not
previously recognized, nor shall it be obligated to initiate or begin meet
and confer proceedings with any recognized employee organization for a
period of 30 days before and 30 days after its budget submission date.

(h) No employee organization shall be recognized unless it
establishes and maintains standards of conduct providing for: (1) The
maintenance of democratic procedures and practices, including periodic
elections by secret ballot and the fair and equal treatment of all members;
and (2) the maintenance of fiscal integrity, including accurate accounting
and periodic financial reports open to all members and the prohibition of
business or financial interests by officers which conflict with their
fiduciary responsibilities.

(i) The board shall assess the reasonable costs for conducting a secret
ballot of the employees against the party seeking the election. For the
purposes of this subsection, the term "costs" shall include amounts
expended by the board for printing of ballots and necessary postage.

Sec. 6. K.S.A. 75-5501 is hereby amended to read as follows: 75-
5501. (a) The director of accounts and reports shall formulate a system of
payroll accounting, including timekeeping, payroll calculation and pay
distribution, and labor cost distribution and analysis, and
shall install and operate such system of payroll accounting for all state
agencies. The system shall include provision for centralized records, which
shall include payroll data for all individuals which with the common law
employer-employee relationship is created by agencies of the state of
Kansas and which shall be coordinated with records maintained by the
division of personnel services and other state agencies. If biweekly payroll
periods are established under K.S.A. 75-5501a, the system of payroll
accounting shall be modified to implement such biweekly payroll periods.
State agencies shall utilize the system of payroll accounting to the extent
prescribed by the director of accounts and reports, and shall submit such
reports and statements as may be required by the director in order to carry
out the provisions of this act. The director of accounts and reports shall
design, revise and direct the use of records and procedures and prescribe
classifications of coding payroll data, methods of funding labor cost
through the central payroll account and a system of prepayment and
postpayment debit and credit transactions and entries on the records
created from payroll data and the necessary forms to be used by all state
agencies in connection with such system of payroll accounting. The
payroll system so designed shall include generally accepted accounting
principles of internal check, and may include timekeeping for attendance
and performance, as prescribed in this act.

(b) The director of accounts and reports shall provide, as a part of the
system of payroll accounting, a plan for the deduction from the salary or
wages of an amount equal to regular membership dues for state officers
and employees who are members of the Kansas troopers association or
who are in any employee organization which has filed an annual report
pursuant to K.S.A. 75-4337, and amendments thereto, or which that has a
business agent registered pursuant to K.S.A. 75-4336, and amendments
thereto. Such plan, in addition to such provisions as are negotiated by the
director of accounts and reports and the employee organization, and
subject to the provisions of K.S.A. 75-4324, and amendments thereto, shall
provide for:

(1) A written authorization-assignment by a state officer or employee
prior to any dues deduction from the salary or wages of such officer or
employee, which authorization-assignment shall remain effective for not
less than 180 days and shall be terminated at any time thereafter upon 30
days' prior notice by the state officer or employee of termination of the
authorization-assignment;

(2) change in the amount of regular membership dues to be deducted,
but not more often than twice in any fiscal year;

(3) renewal of an authorization-assignment by an officer or employee
after termination of a prior authorization-assignment upon 90 days' prior
notice by the officer or employee who has terminated a membership dues
deduction; and

(4) payment of all moneys deducted each payroll period pursuant to
this section to the employee organization less the amount of actual direct
expenses incurred by this state for the membership dues deduction.

Sec. 7. K.S.A. 72-2219, 72-2241, 75-4324, 75-4327 and 75-5501 and
K.S.A. 2019 Supp. 44-319 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its
publication in the statute book.