

David Schauner, testimony
House Committee on Commerce and Economic Development
February 14, 2012
House Bill 2627

Chairman Brown, members of the Committee, as General Counsel for the Kansas National Education Association, I thank you for the opportunity to present this testimony regarding to the proposed changes to K.S.A. 44-319 of the Kansas Wage Payment Act in **House Bill 2627**.

As General Counsel for Kansas NEA, I have represented teachers in situations that would be affected by the changes proposed in H.B. 2627. In particular, these were teachers who had been overpaid in previous school years whose school districts sought to recover the overpayments through withholding from the teacher's future paychecks.

Current Department of Labor regulations already allow employers to recover overpayments of wages by making deductions from an employee's current wages without the employee's written authorization, but only if the rate of repayment does not exceed the rate that the employee was overpaid:

"The following deductions shall not require written authorization by the employee as provided by K.S.A. 44-319(a)(3): . . . (C) deductions made to correct wage overpayments resulting from employer error when the error alone has resulted in the overpayment. However, if the deduction rate is to exceed the overpayment rate, the employer shall be required to obtain signed authorization of the employee before making any such deduction." K.A.R. 49-20-1(a)(3).

House Bill 2627, however, places no restrictions on an employer's ability to withhold an overpayment of wages. If employers are permitted to exercise complete discretion over how to recover overpayments of wages, an employee, and the employee's family, may well be placed in difficult financial straits should an employer choose to recoup the entire overpayment in one or two paychecks.

The solution crafted by the Secretary of Labor in the current Department's regulations produces a fairer and more reasonable result in that the employee is penalized at no greater a rate than he or she benefited because of the overpayment. I urge the legislature to enact the Secretary's result for withholding wages from employees' paychecks.
