

March 31, 2021

The Honorable Steven Johnson, Chairperson  
House Committee on Insurance and Pensions  
Statehouse, Room 276A-W  
Topeka, Kansas 66612

Dear Representative Johnson:

**SUBJECT:** Fiscal Note for HB 2378 by House Committee on Insurance and Pensions

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2378 is respectfully submitted to your committee.

HB 2378 would create the Kansas Work and Save Program Act. The bill would authorize the State Treasurer to design and implement a program to allow Kansans in the private sector to save for retirement through an individual retirement account (IRA). The bill would make the State Treasurer the trustee of the Work and Save Program assets and would specify the powers and duties of the State Treasurer to carry out the provisions of the bill, which would include developing an investment policy and arranging for the pooled investment of assets in the program. The State Treasurer could establish rules and regulations to administer the program. The bill would also authorize the State Treasurer to contract with a third party to administer the program and would allow the costs of administration to be paid by contributions.

The bill would allow eligible individuals to voluntarily choose whether to contribute to an IRA under the program and would require contributions be made on a Roth basis, except that the State Treasurer could offer an optional traditional IRA. The bill would allow the State Treasurer to increase each participant's contribution rate annually, with certain restrictions. In addition, the bill would allow for the direct deposit of contributions, prohibit employer contributions by covered employers, and keep total fees under 0.75 percent of the total assets of the program after the start-up period of three years.

The bill establishes penalties for failure by covered employers to enroll covered employees or transmit payroll deductions. The bill would also specify the information required in disclosures to participants, would prohibit the liability of an employer for the program's performance, and would specify the employer is not a fiduciary. The bill would exclude the State of Kansas, the State Treasurer, and other state entities from liabilities and would prohibit the debts, contracts, and obligations of the program from being backed by the faith and credit or the taxing power of the state. Individual account information would be required to be kept confidential, and the bill would outline cases for exceptions to this confidentiality, such as to administer the program according to tax laws or if the individual agrees to disclose the information.

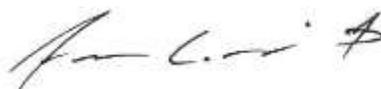
HB 2378 would establish the Kansas Work and Save Administrative Fund in the State Treasury to be administered by the State Treasurer and would specify the monies to be contained within the fund and restrictions on unexpended or unencumbered balances. In order to enable the start-up and continuing operation of the program until sufficient balances are accumulated for the program to become self-sustaining, the State Treasurer would be allowed to borrow funds but must pay such debts using revenues of the program. The State Treasurer would also be able to enter into long-term procurement contracts with financial providers to assist in avoiding or minimizing borrowing. The bill would require an annual audit of the books and accounts and would require the State Treasurer to submit an audited financial report to the Governor and the Legislature by August 1 of each year.

HB 2378 would require the Treasurer to implement the program so that individuals can begin contributing by July 1, 2023. However, the State Treasurer would be allowed to phase in the program for different classes of individuals and employers of different sizes or types. Any such phased-in implementation would be required to be completed by July 1, 2025. The State Treasurer would be prohibited from implementing any portion of the program that is preempted by the Employee Retirement Income Security Act. The provisions of the bill would be severable and would take effect in publication in the statute book.

The State Treasurer's Office indicates that much of the program would be managed by a third party, similar to the Learning Quest 529 program. The agency states that enactment of the bill would require expenditures of \$71,500 from the Work and Save Administration Fund beginning in FY 2022 for 1.00 Program Administrator FTE position. Based on similar programs in other states, the agency estimates the program would require a \$2.0 million loan from the State General Fund in FY 2022 for initial implementation until it would become self-sufficient at which time it would establish repayment terms for the loan. The agency also indicates that it could use a third-party vendor to offer options to assist with the initial start-up costs until enough accounts are established to make the program self-sufficient. However, the agency cannot estimate the fiscal effect of using a third party at this time.

The Department of Revenue indicates that enactment of the bill would have no fiscal effect on the agency or State General Fund revenues. Any fiscal effect associated with HB 2378 is not reflected in *The FY 2022 Governor's Budget Report*.

Sincerely,



Adam Proffitt  
Director of the Budget

cc: Lynn Robinson, Department of Revenue  
Ben Cleeves, Transportation