

HOUSE BILL No. 2665

By Committee on Commerce and Labor

2-5

9 AN ACT concerning labor and employment; providing for the individual
10 unemployment insurance savings account program.

11

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

13 Section. 1. There is hereby established an individual unemployment
14 insurance savings account program which shall be known and may be
15 cited as the individual unemployment insurance savings account program.
16 The program shall be implemented and become operational on July 1,
17 2011.

18 Sec. 2. The purpose of the individual unemployment insurance sav-
19 ings account program is to authorize the establishment of individual em-
20 ployee unemployment insurance savings accounts to help an employee
21 who is eligible for unemployment insurance benefits pursuant to K.S.A.
22 44-701 et. seq., and amendments thereto, to meet living expenses not met
23 by the weekly benefit amount such employee receives under the state
24 employment security law or to use after the employee's unemployment
25 insurance benefits run out.

26 Sec. 3. As used in sections 1 through 8, and amendments thereto:

27 (a) "Account" means an individual unemployment insurance savings
28 account established under this act.

29 (b) "Account owner" means the employee who entered into an in-
30 dividual unemployment insurance savings account agreement.

31 (c) "Designated beneficiary" means the person the account owner
32 selects to receive the moneys in the account should the account owner
33 die.

34 (d) "Financial organization" means an organization authorized to do
35 business in the state of Kansas and (1) which is an authorized fiduciary
36 to act as a trustee pursuant to the provisions of the federal employee
37 retirement income security act of 1974, an insurance company, or a reg-
38 istered investment advisor; and (2) (A) is licensed or chartered by the
39 commissioner of insurance, (B) is licensed or chartered by the state bank
40 commissioner, (C) is chartered by an agency of the federal government,
41 (D) is subject to the jurisdiction and regulation of the securities and
42 exchange commission of the federal government, or (E) is any other entity
43 otherwise authorized to act in this state as a trustee pursuant to the pro-

- 1 visions of the federal employee retirement income security act of 1974.
- 2 (e) "Program" means the individual unemployment insurance savings
3 account program.
- 4 (f) "Qualified withdrawal" means a withdrawal from the account dur-
5 ing the time the employee is eligible for unemployment benefits from
6 the state or when the employee has used up such employee's state un-
7 employment benefits pursuant to K.S.A. 44-701 et seq., and amendments
8 thereto.
- 9 (g) "Nonqualified withdrawal" means a withdrawal from the account
10 that is not qualified or is made as a result of the death or disability of the
11 account owner.
- 12 (h) "Treasurer" means the state treasurer.
- 13 (i) "Management contract" means the contract executed by the trea-
14 surer and a financial organization selected to act as a depository and man-
15 ager of the program.
- 16 (j) "Unemployment insurance savings account agreement" means an
17 agreement between the state treasurer and the account owner.
- 18 (k) "Program manager" means a financial organization selected by
19 the treasurer to act as a depository and manager of the program.
- 20 Sec. 4. (a) The state treasurer shall implement and administer the
21 program under the terms and conditions established by sections 1 through
22 8, and amendments thereto.
- 23 (b) In furtherance of such implementation and administration, the
24 state treasurer shall have the authority and responsibility to:
- 25 (1) Develop and implement the program in a manner consistent with
26 the provisions of sections 1 through 8, and amendments thereto, through
27 adoption of rules and regulations;
- 28 (2) engage the services of consultants on a contract basis for render-
29 ing professional and technical assistance and advice;
- 30 (3) if necessary, seek rulings and other guidance from the United
31 States department of treasury and the federal internal revenue service
32 relating to the program;
- 33 (4) charge, impose and collect administrative fees and service charges
34 in connection with any agreement, contract or transaction relating to the
35 program;
- 36 (5) develop marketing plans and promotion material;
- 37 (6) establish the methods by which the funds held in accounts shall
38 be dispersed;
- 39 (7) establish the method by which funds shall be allocated to pay for
40 administrative costs;
- 41 (8) do all things necessary and proper to carry out the purposes of
42 sections 1 through 8, and amendments thereto;
- 43 (9) adopt rules and regulations necessary to administer sections 1

1 through 8, and amendments thereto; and
2 (10) evaluate the individual unemployment insurance savings account
3 program annually and make a report annually thereon to the governor
4 and the legislature.

5 Sec. 5. (a) The state treasurer may implement the program through
6 use of financial organizations as account depositories and managers.

7 (b) The state treasurer may solicit proposals from financial organi-
8 zations to act as depositories and managers of the program. Financial
9 organizations submitting proposals shall describe the investment instru-
10 ment which will be held in accounts. The state treasurer shall select as
11 program depositories and managers the financial organization, from
12 among the bidding financial organizations, that demonstrates the most
13 advantageous combination, both to potential program participants and
14 this state, of the following factors:

15 (1) Financial stability and integrity of the financial organization;
16 (2) the safety of the investment instrument being offered;
17 (3) the ability of the investment instrument to track increasing costs
18 of postsecondary education;
19 (4) the ability of the financial organization to satisfy recordkeeping
20 and reporting requirements;
21 (5) the financial organization's plan for promoting the program and
22 the investment the organization is willing to make to promote the
23 program;
24 (6) the fees, if any, proposed to be charged to persons for opening
25 accounts;
26 (7) the minimum initial deposit and minimum contributions that the
27 financial organization will require;
28 (8) the ability of the financial organization to accept electronic with-
29 draws, including payroll deduction plans; and
30 (9) other benefits to the state or its residents included in the proposal,
31 including fees payable to the state to cover expenses of operation of the
32 program.

33 (c) The state treasurer may enter into a contract with a financial or-
34 ganization. Such financial organization management shall provide only
35 one type of investment instrument.

36 (d) A management contract shall include, at a minimum, terms re-
37 quiring the financial organization to:

38 (1) Take any action required to keep the program in compliance with
39 requirements of sections 1 through 8, and amendments thereto;
40 (2) keep adequate records of each account, keep each account seg-
41 regated from each other account and provide the state treasurer with the
42 information necessary to prepare the statements required by section 6,
43 and amendments thereto;

- 1 (3) compile and total information contained in statements required
2 to be prepared under section 6, and amendments thereto, and provide
3 such compilations to the state treasurer;
- 4 (4) if there is more than one program manager, provide the state
5 treasurer with such information as is necessary to determine compliance
6 with section 6, and amendments thereto;
- 7 (5) provide the state treasurer with access to the books and records
8 of the program manager to the extent needed to determine compliance
9 with the contract;
- 10 (6) hold all accounts for the benefit of the account owner;
- 11 (7) be audited at least annually by a firm of certified public account-
12 ants selected by the program manager and provide the results of such
13 audit to the state treasurer;
- 14 (8) provide the state treasurer with copies of all regulatory filings and
15 reports made by the financial organization during the term of the man-
16 agement contract or while the financial organization is holding any ac-
17 counts, other than confidential filings or reports that will not become part
18 of the program. The program manager shall make available for review by
19 the state treasurer the results of any periodic examination of such man-
20 ager by any state or federal banking, insurance or securities commission,
21 except to the extent that such report or reports may not be disclosed
22 under law; and
- 23 (9) ensure that any description of the program, whether in writing or
24 through the use of any media, is consistent with the marketing plan de-
25 veloped pursuant to the provisions of sections 1 through 8, and amend-
26 ments thereto.
- 27 (e) The state treasurer may provide that an audit shall be conducted
28 of the operations and financial position of the program depository and
29 manager at any time if the state treasurer has any reason to be concerned
30 about the financial position, the recordkeeping practices or the status of
31 accounts of such program depository and manager.
- 32 (f) During the term of any contract with a program manager, the state
33 treasurer shall conduct an examination of such manager and the man-
34 ager's handling of accounts. Such examination shall be conducted at least
35 biennially if such manager is not otherwise subject to periodic examina-
36 tion by the state bank commissioner, the federal deposit insurance cor-
37 poration or other similar entity.
- 38 (g) (1) If selection of a financial organization as a program manager
39 or depository is not renewed, after the end of the financial organization's
40 term:
- 41 (A) Accounts previously established and held in investment instru-
42 ments at such financial organization may be terminated;
- 43 (B) additional contributions may be made to such accounts;

1 (C) no new accounts may be placed with such financial organization;
2 and

3 (D) existing accounts held by such depository shall remain subject to
4 all oversight and reporting requirements established by the state
5 treasurer.

6 (2) If the state treasurer terminates a financial organization as a pro-
7 gram manager or depository, the state treasurer shall take custody of
8 accounts held by such financial organization and shall seek to promptly
9 transfer such accounts to another financial organization that is selected
10 as a program manager or depository and into investment instruments as
11 similar to the original instruments as possible.

12 (h) The state treasurer may enter into such contracts as it deems
13 necessary and proper for the implementation of the program.

14 Sec. 6. (a) Accounts established pursuant to the provisions of sections
15 1 through 8, and amendments thereto, shall be governed by the provisions
16 of this section.

17 (b) An account may be opened by any employee who desires to save
18 money for the payment of living expenses during the time an account
19 owner is eligible for state unemployment benefits pursuant to K.S.A. 44-
20 701 et seq., and amendments thereto, and while still unemployed after
21 the account holder's state unemployment benefits are exhausted.

22 (1) An application for such account shall be in the form prescribed
23 by the state treasurer and contain the following:

24 (A) The name, address and social security number or employer iden-
25 tification number of the account owner;

26 (B) the name, address and social security number of the designated
27 beneficiary should the account owner die while moneys remain in the
28 account;

29 (C) the certification relating to no excess contributions; and

30 (D) such other information as the state treasurer may require.

31 (2) The state treasurer may establish a nominal nonrefundable ap-
32 plication fee for such application.

33 (c) Contributions to an account shall be made by a pre-tax deduction
34 by the employer from the account owner's wages each pay period.

35 (d) An account owner may change the designated beneficiary of an
36 account in accordance with procedures established pursuant to the pro-
37 visions of sections 1 through 8, and amendments thereto.

38 (e) The program shall provide a periodic accounting to the account
39 holder.

40 (f) Neither an account owner nor a designated beneficiary may use
41 an interest in the account as security for a loan. Any pledge of an interest
42 in an account shall be of no force and effect.

43 (g) (1) If there is any distribution from an account to the benefit of

1 the account owner during a calendar year, such distribution shall be ex-
2 empt from state income tax.

3 (2) Each year wages taken out of an account owner's pay as a state
4 pre-tax deduction under the program shall be included as income for
5 federal income tax purposes.

6 (3) Statements shall be provided to the account owner at least once
7 each year within 60 days after the end of the twelve-month period to
8 which they relate. The statement shall identify the contributions made
9 during a preceding twelve-month period, the total contributions made to
10 the account through the end of the period, the value of the account at
11 the end of such period, distributions made during such period and any
12 other information that the state treasurer shall require to be reported to
13 the account owner.

14 (4) Statements and information relating to accounts shall be prepared
15 and filed to the extent required by federal and state tax laws.

16 (h) An annual fee may be imposed upon the account owner for the
17 maintenance of the account.

18 (i) The program shall disclose the following information in writing to
19 each owner of the account:

20 (1) The terms and conditions relating to the account;
21 (2) any restrictions on the substitution of beneficiaries;
22 (3) the person entitled to terminate the savings agreement;
23 (4) the manner of obtaining moneys from the account;
24 (5) the terms and conditions under which money may be wholly or
25 partially withdrawn from the account;

26 (6) the probable tax consequences associated with contributions to
27 and distributions from the accounts; and

28 (7) all other rights and obligations pursuant to the unemployment
29 benefit savings agreement, and any other terms, conditions and provisions
30 deemed necessary and appropriate by the state treasurer.

31 (j) Moneys in an account shall be exempt from attachment, execution
32 or garnishment as provided by K.S.A. 60-2308, and amendments thereto.

33 (k) Moneys withdrawn from an account shall not be considered wages
34 or income received by the account owner when received during the time
35 period when eligible for and receiving benefits pursuant to K.S.A. 44-701
36 et seq., and amendments thereto and shall be exempt from the state
37 income tax laws.

38 (l) Should moneys remain in an account when an account holder
39 reaches the age of 59 ½ years, the account holder may withdraw the
40 moneys and such money shall be exempt from the state income tax laws.

41 (m) Should moneys remain in an account when an account holder
42 reaches the age of 70 ½ years, the account holder must withdraw the
43 moneys and such moneys shall be exempt from taxation under the state

1 income tax laws.

2 (n) An account owner may contribute no more than 10% of the ac-
3 count owner's wages each pay period.

4 Sec. 7. (a) Nothing in K.S.A. 2009 Supp. 75-640 to 75-648, and
5 amendments thereto, shall be construed to give any designated benefi-
6 ciary any rights or legal interest with respect to an account.

7 (b) (1) Nothing in sections 1 through 8, and amendments thereto,
8 shall create or be construed to create any obligation of the state treasurer,
9 the state or any agency or instrumentality of the state to guarantee for
10 the benefit of any account owner or designated beneficiary with respect
11 to:

12 (A) The rate of interest or other return on any account; and

13 (B) the payment of interest or other return on any account.

14 (2) The state treasurer by rules and regulations shall provide that
15 every contract, application, deposit slip or other similar document that
16 may be used in connection with a contribution to an account clearly in-
17 dicate that the account is not insured by the state.

18 Sec. 8. An employer shall make payroll deductions from the wages
19 and salary of an employee for an unemployment insurance savings agree-
20 ment provided for in sections 1 through 8, and amendments thereto,
21 when authorized to make such deductions by the written, voluntary au-
22 thorization of such employee. No administrative fees or charges shall be
23 assessed for costs incurred in making such deductions.

24 Sec. 9. This act shall take effect and be in force from and after its
25 publication in the statute book.