

February 20, 2023

The Honorable Nick Hoheisel, Chairperson
House Committee on Financial Institutions and Pensions
300 SW 10th Avenue, Room 582-N
Topeka, Kansas 66612

Dear Representative Hoheisel:

SUBJECT: Fiscal Note for HB 2321 by House Committee on Financial Institutions and Pensions

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2321 is respectfully submitted to your committee.

HB 2321 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 Kansas Work and Save Program assets and would specify the powers and duties of the State Treasurer to carry out the provisions of the bill. The State Treasurer would be required to develop an investment policy and arrange for the pooled investment of assets in 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 employers to voluntarily choose whether to participate in the program and allow eligible employees to voluntarily choose whether to contribute to a Roth IRA or traditional IRA. The bill would allow the State Treasurer to increase each participant's contribution rate annually under certain restrictions. The bill would allow for the direct deposit of contributions and would require that total fees, costs, and expenses of the program be kept as low as practicable. Any administrative fee imposed on an eligible employee for participating would not exceed a reasonable amount relative to fees charged by similar established programs in other states. The fees may be an asset-based or investment return fee, flat fee, or a hybrid fee structure.

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 outlines exceptions to this confidentiality, including to administer the program according to state and federal tax laws or if the individual agrees to disclose the information. The confidentiality provision would expire on July 1, 2028, unless extended by the Legislature.

The bill 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. The State Treasurer would be allowed to borrow money for initial start-up costs and the debt would be repaid from revenue generated from the program. The State Treasurer would be able to enter into long-term procurement contracts with financial providers to assist in avoiding or minimizing borrowing. The State Treasurer would also be permitted to enter into agreements or partnerships with other states, and with other state agencies, for the effective and efficient design, administration, and implementation of the program. The bill would require an annual audit conducted by a Certified Public Accountant and would require that the State Treasurer submit an audited financial report to the Governor and the Legislature by August 1st of each year.

The bill would allow the State Treasurer to establish rules and regulations to administer the program. The bill would require the regulations to be implemented by July 1, 2025, so individuals can begin making contributions. The State Treasurer would be prohibited from implementing any portion of the program that is preempted by the Employee Retirement Income Security Act. The bill includes a severability clause by stating that if any provisions become invalid, then the other provisions of the bill will continue to be valid.

The State Treasurer indicates HB 2321 would require expenditures of \$120,944 from the Kansas Work and Save Administration Fund beginning in FY 2024 including salaries and wages for a new 1.00 Program Administrator FTE position. The ongoing expenses for salaries and wages for the new 1.00 FTE position would total \$105,944. The State Treasurer anticipates that a lot of the program would be managed by a third-party vendor, similar to its current Learning Quest 529 Program. Depending on agreements or partnerships with third-party vendors, other state agencies, and other states that operate similar programs, the program may require an additional staff member to help administer the program at a cost of an additional \$58,280 to \$82,562. Additional start-up costs may be required; however, a third-party vendor could offer options to assist with the initial start-up costs until enough accounts are established to make the program self-sufficient. The State Treasurer indicates that the bill would allow it to borrow money for initial start-up costs of the program; however, it does not know if that option would be needed. The amount of any loan would be dependent on the fee structure and other cost factors established through working with a third-party vendor or other states that operate similar programs.

The State Treasurer indicates the bill would likely include additional marketing expenditures to promote the new program with print, digital, television, and radio advertising. It

is not known if the advertising budget would be part of the third-party vendor agreement or if program revenues would be needed to raise awareness, outreach, and promotion of this new program; however, advertising costs are estimated at approximately \$15,000 each year. Any fiscal effect associated with HB 2321 is not reflected in *The FY 2024 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt
Director of the Budget

cc: John Hedges, Office of the State Treasurer