

HOUSE BILL No. 2586

By Committee on Insurance and Pensions

2-1

1 AN ACT concerning retirement and pensions; enacting the Kansas work
2 and save program act; providing for administrative powers, duties and
3 responsibilities of the state treasurer regarding such program; granting
4 rules and regulations authority; allowing certain individuals to
5 contribute to individual retirement accounts; prescribing requirements,
6 limitations and responsibilities for eligible employees and employers
7 relating to such individual retirement accounts; establishing the Kansas
8 work and save administrative fund in the state treasury.
9

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

11 Section 1. (a) Sections 1 through 12, and amendments thereto, shall
12 be known and may be cited as the Kansas work and save program act.

13 (b) For purposes of the Kansas work and save program act:

14 (1) "Act" means the Kansas work and save program act;

15 (2) (A) "eligible employee" means an individual who is employed by
16 an eligible employer, who has been paid wages, commission,
17 compensation, salary or other remuneration as defined by section 219(f)(1)
18 of the federal internal revenue code, from a participating employer in this
19 state and who is at least 18 years of age.

20 (B) "Eligible employee" does not include:

21 (i) Any employee covered under the federal railway labor act, 45
22 U.S.C. § 151;

23 (ii) any employee on whose behalf an employer makes contributions
24 to a Taft-Hartley multiemployer pension trust fund; or

25 (iii) any individual who is an employee of the federal government, the
26 state of Kansas, any other state, any county or local government or units or
27 instrumentalities thereof;

28 (3) (A) "eligible employer" means a person or entity engaged in a
29 business, industry, profession, trade or other enterprise in this state,
30 whether for profit or not for profit, excluding the federal government, the
31 state of Kansas, any county or local government or units or
32 instrumentalities thereof.

33 (B) "Eligible employer" does not include an employer that maintains
34 a specified tax-favored retirement plan for such employer's employees
35 within the current or two immediately preceding calendar years. If an
36 employer does not maintain a specified tax-favored retirement plan for a

1 portion of a calendar year ending on or after July 1, 2022, and adopts such
2 a plan effective for the remainder of that calendar year, the employer shall
3 no longer be considered an "eligible employer" for such remainder of the
4 year;

5 (4) "ERISA" means the employee retirement income security act of
6 1974, 29 U.S.C. § 1001 et seq.;

7 (5) "IRA" means a traditional or Roth individual retirement account
8 or individual retirement annuity under section 408(a), 408(b) or 408A of
9 the federal internal revenue code;

10 (6) "participant" means an individual who is contributing to an IRA
11 under the program or has an IRA account balance under the program;

12 (7) "participating employer" means an eligible employer that provides
13 eligible employees a payroll deduction IRA as provided by this act;

14 (8) "payroll deduction IRA arrangement" or "payroll deduction IRA"
15 means an arrangement by which an employer allows employees to
16 contribute to an IRA by means of a payroll deduction;

17 (9) "program" means the Kansas work and save program established
18 by this act;

19 (10) "Roth IRA" means a Roth individual retirement account or
20 individual retirement annuity under section 408A of the federal internal
21 revenue code;

22 (11) "specified tax-favored retirement plan" means a retirement plan
23 that is tax-qualified under section 401(a), 401(k), 403(a), 403(b), 408(k) or
24 408(p) of the federal internal revenue code;

25 (12) "total fees and expenses" means all fees, costs and expenses,
26 including, but not limited to, administrative expenses, investment
27 expenses, investment advice expenses, accounting costs, actuarial costs,
28 legal costs, marketing expenses, education expenses, trading costs,
29 insurance annuitization costs and other miscellaneous costs;

30 (13) "traditional IRA" means a traditional individual retirement
31 account or traditional individual retirement annuity under section 408(a) or
32 (b) of the federal internal revenue code;

33 (14) "treasurer" means the state treasurer; and

34 (15) "trust" means the trust in which the assets of the program are
35 held. Where applicable, except as may be otherwise specified, references
36 throughout this act to the program generally are intended to refer also to
37 the trust, including the assets, facilities, costs and expenses, receipts,
38 expenditures, activities, operations, administration or management.

39 Sec. 2. (a) The treasurer shall be the trustee of the trust and shall have
40 all powers necessary to carry out and implement the purpose, objectives
41 and provisions of this act pertaining to the trust, including the power,
42 authority and duty to:

43 (1) Establish, implement and maintain the program;

1 (2) cause the program, trust and arrangements and accounts
2 established under the program to be designed, established and operated:

3 (A) In accordance with best practices for retirement saving vehicles;

4 (B) to encourage participation, saving, sound investment practices
5 and appropriate selection of investment options, including any default
6 investments;

7 (C) to maximize simplicity and ease of administration for eligible
8 employers;

9 (D) to minimize costs, including by collective investment and other
10 measures to achieve economies of scale and other efficiencies in program
11 design and administration;

12 (E) to promote portability of benefits; and

13 (F) to ensure that the program is designed and operated in a manner
14 that shall not cause the program to be subject to or preempted by ERISA;

15 (3) arrange for collective, common and pooled investment of assets of
16 the program and trust, including investments in conjunction with other
17 funds with which program assets are permitted by law to be collectively
18 invested, to achieve economies of scale and other efficiencies designed to
19 minimize costs for the program and program participants;

20 (4) develop and disseminate educational information designed to
21 educate participants and citizens about the benefits of planning and saving
22 for retirement and information to help individuals decide the level of
23 participation and savings strategies that may be appropriate for such
24 individuals, including information in furtherance of financial capability
25 and financial literacy;

26 (5) if necessary, determine the eligibility of an employer, employee or
27 other individual to participate in the program;

28 (6) adopt rules and regulations the treasurer deems necessary or
29 advisable for the implementation of this act and the administration and
30 operation of the program consistent with the federal internal revenue code
31 and rules and regulations adopted thereunder, including to ensure that the
32 program and arrangements established under the program satisfy all
33 criteria for favorable federal tax treatment and complies, to the extent
34 necessary, with any other applicable federal or state law;

35 (7) arrange for and facilitate compliance by the program or
36 arrangements established under the program with all applicable
37 requirements for the program under the federal internal revenue code,
38 including requirements for favorable tax treatment of the IRAs, and under
39 any other applicable federal or state law and accounting requirements;

40 (8) employ or retain a program administrator, executive director,
41 staff, trustee, recordkeeper, investment managers, investment advisors,
42 other administrative, professional, expert advisors and service providers,
43 and determine their duties and compensation. The treasurer may authorize

1 the executive director and other officials to oversee requests for proposals
2 or other public competitions and enter into contracts. The treasurer may
3 authorize the executive director to enter into contracts, as described in
4 paragraph (14), on behalf of the treasurer or conduct any business
5 necessary for the efficient operation of the program;

6 (9) establish procedures for the timely and fair resolution of
7 participant and other disputes related to accounts or program operation;

8 (10) develop and implement an investment policy that defines the
9 program's investment objectives, consistent with the objectives of the
10 program, and that provides for policies and procedures consistent with
11 such investment objectives. The treasurer shall designate appropriate
12 default investments that include a mix of asset classes, such as target date
13 and balanced funds. The treasurer shall seek to minimize participant fees
14 and expenses of investment and administration. The treasurer shall design
15 and implement investment options available to holders of accounts
16 established as part of the program and other program features to achieve
17 maximum possible income replacement balanced with an appropriate level
18 of risk in an IRA-based environment consistent with the investment
19 objectives under the policy. The investment options may include a range of
20 risk and return opportunities and allow for a rate of return commensurate
21 with an appropriate level of risk in view of the investment objectives under
22 the policy. The menu of investment options shall be determined taking into
23 account the nature and objectives of the program, the desirability, based on
24 behavioral research findings, of limiting investment choices under the
25 program to a reasonable number and the extensive investment choices
26 available to participants in the event that such participant rolls over to an
27 IRA outside the program. In accordance with paragraph (8), the treasurer,
28 in the treasurer's discretion, may employ or retain appropriate entities or
29 personnel to assist or advise the state treasurer or to whom to delegate the
30 carrying out of such responsibilities and exercise of such powers;

31 (11) discharge the treasurer's duties as a fiduciary with respect to the
32 program solely in the interest of the participants and:

33 (A) For the exclusive purpose of providing benefits to participants
34 and defraying reasonable expenses of administering the program; and

35 (B) with the care, skill, prudence and diligence under the
36 circumstances then prevailing that a prudent person acting in a like
37 capacity and familiar with those matters would use in the conduct of an
38 enterprise of a like character and with like aims;

39 (12) cause expenses incurred to initiate, implement, maintain and
40 administer the program be paid from contributions to, or investment
41 returns or assets of, the program or other money collected by or for the
42 program or pursuant to arrangements established under the program to the
43 extent permitted under federal and state law;

1 (13) collect application, account or administrative fees and to accept
2 any grants, gifts, legislative appropriations, loans and other moneys from
3 the state, any unit of federal, state or local government or any other person,
4 firm or entity to defray the costs of administering and operating the
5 program;

6 (14) make and enter into competitively procured contracts,
7 agreements, memoranda of understanding, arrangements, partnerships or
8 other arrangements to collaborate and cooperate with, and to retain,
9 employ and contract with or for any of the following to the extent
10 necessary or desirable for the effective and efficient design,
11 implementation and administration of the program consistent with the
12 purposes set forth in this act and to maximize outreach to eligible
13 employers and eligible employees:

14 (A) Services of private and public financial institutions, depositories,
15 consultants, actuaries, counsel, auditors, investment advisers, investment
16 administrators, investment management firms, other investment firms,
17 third-party administrators, other professionals and service providers and
18 state public retirement systems;

19 (B) research, technical, financial, administrative and other services;
20 and

21 (C) services of other state agencies, including data services, to assist
22 the treasurer in the exercise of the treasurer's powers and duties;

23 (15) make and enter into contracts, agreements, memoranda of
24 understanding, arrangements, partnerships or other arrangements to
25 collaborate, cooperate, coordinate, contract or combine resources,
26 investments or administrative functions with other governmental entities,
27 including states, or agencies or instrumentalities thereof, that maintain or
28 are establishing retirement savings programs compatible with the program,
29 including collective, common or pooled investments with other funds of
30 other states' programs with which the assets of the program and trust are
31 permitted by law to be collectively invested, to the extent necessary or
32 desirable for the effective and efficient design, administration and
33 implementation of the program consistent with the purposes set forth in
34 this act, including the purpose of achieving economies of scale and other
35 efficiencies designed to minimize costs for the program and program
36 participants;

37 (16) develop and implement an outreach plan to gain input and
38 disseminate information regarding the program and retirement savings in
39 general, including timely information to eligible employers regarding the
40 program and how such program applies to such employers, with special
41 emphasis on such employer's ability at any time to sponsor a specified tax-
42 favored retirement plan;

43 (17) cause moneys to be held and invested and reinvested under the

1 program;

2 (18) ensure that all contributions to IRAs under the program may be
3 used only to:

4 (A) Pay benefits to participants under the program;

5 (B) pay the cost of administering the program; and

6 (C) make investments for the benefit of the program;

7 (19) ensure that no assets of the program or trust are transferred to the
8 state general fund or to any other fund of the state or are otherwise
9 encumbered or used for any purpose other than those specified in this
10 subsection;

11 (20) make provision for the payment of costs of administration and
12 operation of the program and trust;

13 (21) evaluate the need for, and procure as needed, insurance against
14 any and all loss in connection with the property, assets or activities of the
15 program, including pooled private insurance;

16 (22) indemnify the treasurer from personal loss or liability resulting
17 from action or inaction as trustee of the trust, including procurement of
18 insurance as needed for this purpose;

19 (23) collaborate with, and evaluate the role of, financial advisors or
20 other financial professionals, including in assisting and providing guidance
21 for eligible employees; and

22 (24) carry out the treasurer's powers and duties under the program
23 pursuant to this act and exercise any and all other powers as are
24 appropriate to effectuate the purposes, objectives and provisions of this act
25 pertaining to the program.

26 (b) The treasurer, program administrator and any employee or
27 contractor thereof shall not:

28 (1) Directly or indirectly have any interest in the making of any
29 investment under the program or in gains or profits accruing from any
30 such investment;

31 (2) borrow any program-related funds or deposits, or use any such
32 funds or deposits in any manner, for the treasurer or as an agent or partner
33 of others; and

34 (3) become an endorser, surety or obligor on investments made under
35 the program.

36 Sec. 3. The program established by the treasurer under this act shall:

37 (a) Allow eligible individuals in the state to voluntarily choose
38 whether or not to contribute to an IRA under the program, including
39 allowing eligible employees in the state the choice to contribute to an IRA
40 through payroll deduction under the program;

41 (b) allow each eligible employer to offer such employer's employees
42 the choice whether to contribute to a payroll deduction IRA by requiring
43 such employees to explicitly elect to contribute or to decline to contribute

1 within a time period specified by the treasurer;

2 (c) provide that the IRA to which contributions are made will be a
3 Roth IRA, except that the treasurer shall have the authority to add an
4 option for all participants to affirmatively elect to contribute to a
5 traditional IRA as an alternative to the Roth IRA;

6 (d) provide that the treasurer or the treasurer's designee shall design a
7 standard package that provides for a particular contribution rate and
8 investment to be presented to eligible employees as the most prominent
9 combination of options, provided that eligible employees shall be free to
10 elect any other options, including nonparticipation or a different
11 contribution rate, that may be as low as 1% of salary or wages, and a
12 different investment offered under the program, subject to the IRA
13 eligibility conditions and contribution dollar limits applicable under the
14 federal internal revenue code;

15 (e) provide on a uniform basis, in the treasurer's discretion, for annual
16 increases of each participant's contribution rate, by a rate of not more than
17 1% of salary or wages per year until a participant reaches a maximum
18 contribution of 8% of salary or wages. As determined by the treasurer, any
19 such increases shall apply to participants, either by default or upon
20 affirmative participant election, including as part of the standard package.
21 Such increases shall be subject to the IRA contribution limits applicable
22 under the federal internal revenue code;

23 (f) provide for direct deposit of contributions into investments under
24 the program;

25 (g) be professionally managed;

26 (h) permit no employer contributions by eligible employers;

27 (i) provide reports on the status of each participant's account to each
28 participant at least annually;

29 (j) when possible and practicable, use existing or new employer, other
30 private sector, public infrastructure, and common, collective or pooled
31 investment arrangements to facilitate and enhance the effectiveness and
32 efficiency of program outreach, enrollment, contributions, recordkeeping,
33 investment, distributions, compliance and other aspects of program design,
34 administration and implementation consistent with the purposes set forth
35 in this act, including the purpose of achieving economies of scale and
36 other efficiencies designed to minimize costs for the program and program
37 participants;

38 (k) provide that each account holder owns the contributions and
39 earnings on amounts contributed to such account under the program and
40 that the state and employers have no proprietary interest in such
41 contributions or earnings;

42 (l) be designed and implemented in a manner consistent with federal
43 law, including favorable federal tax treatment, to the extent that federal

1 law applies and is consistent with the program not being preempted by
2 ERISA;

3 (m) make provision for the participation in the program of individuals
4 who are not employees;

5 (n) seek to keep total fees, costs and expenses of the program as low
6 as practicable, except that any administrative fee imposed on an eligible
7 employee for participating in the program shall not exceed a reasonable
8 amount relative to fees charged by similar established programs in other
9 states. Such fees may be an asset-based or investment return fee, flat fee or
10 hybrid of the permissible fee structures identified in this paragraph;

11 (o) allow the treasurer to adopt rules and regulations and procedures
12 governing the distribution of funds from the program, including such
13 distributions as may be permitted or required by the program and any
14 applicable provisions of state or federal tax laws, with the objectives of
15 maximizing financial security in retirement, helping to protect spousal
16 rights and assisting participants with the challenges of decumulation of
17 savings. The treasurer shall have the authority to provide for one or more
18 reasonably priced distribution options to provide a source of fixed regular
19 retirement income, including income for life or for the participant's life
20 expectancy or for joint lives and life expectancies, as applicable;

21 (p) allow the treasurer to adopt rules and regulations and procedures
22 promoting portability of benefits, including the ability to make tax-free
23 rollovers or transfers from IRAs under the program to other IRAs or to
24 tax-qualified plans that accept such rollovers or transfers, provided any
25 rollover is initiated by participants and not solicited by agents or brokers;

26 (q) (1) provide that, if a participating employer fails without
27 reasonable cause to enroll an eligible employee as required under this
28 section:

29 (A) The participating employer shall be subject to a penalty equal to
30 \$250 for each eligible employee for each calendar year or portion thereof
31 during which the eligible employee neither was enrolled in the program
32 nor had elected out of participation in the program and the eligible
33 employee, or any appropriate official of the state, may bring a civil action
34 to require the participating employer to enroll the eligible employee and
35 shall recover such costs and reasonable attorney fees as may be allowed by
36 the court; and

37 (B) for each calendar year beginning after the date on which a penalty
38 has been assessed with respect to an eligible employee, assess a \$500
39 penalty for any portion of such calendar year during which the eligible
40 employee continues to be unenrolled without electing out of participation
41 in the program.

42 (2) No penalty shall be imposed under paragraph (1) on any failure
43 for which it is established that the participating employer subject to

1 liability for the penalty did not know that the failure existed and exercised
2 reasonable diligence to meet the requirements of this subsection.

3 (3) No penalty shall be imposed under paragraph (1) on any failure if
4 the participating employer:

5 (A) Exercised reasonable diligence to meet such requirements; and

6 (B) complies with such requirements with respect to each eligible
7 employee by the end of the 90-day period beginning on the first date the
8 participating employer knew, or exercising reasonable diligence should
9 have known, that the failure existed.

10 (4) In the case of a failure that is due to reasonable cause and not to
11 willful neglect, all or part of the penalty may be waived to the extent that
12 the payment of the penalty would be excessive or otherwise inequitable
13 relative to the failure involved; and

14 (r) provide that, if a participating employer fails to transmit a payroll
15 deduction contribution to the program on the earliest date the amount
16 withheld from the participating employee's compensation can reasonably
17 be segregated from the participating employer's assets, but not later than
18 the 15th day of the month following the month in which the participating
19 employee's contribution amounts are withheld from the participating
20 employee's paycheck, the failure to remit such contributions on a timely
21 basis shall be subject to the same sanctions as employer misappropriation
22 of employee wage withholdings and to the penalties specified in
23 subsection (q).

24 Sec. 4. The treasurer shall adopt rules and regulations on or before
25 July 1, 2023, to implement the program that:

26 (a) Establish the processes for enrollment and contributions to payroll
27 deduction IRAs under the program, including elections by eligible
28 employees, withholding by eligible employers of employee payroll
29 deduction contributions from wages and remittance for deposit to IRAs,
30 and voluntary enrollment and contributions by others, including self-
31 employed individuals and independent contractors, through payroll
32 deduction or otherwise;

33 (b) establish the processes for withdrawals, rollovers and direct
34 transfers from IRAs under the program to facilitate portability and
35 maximization of benefits;

36 (c) conduct outreach to individuals, employers, other stakeholders
37 and the public regarding the program; and

38 (d) specify the contents, frequency, timing and means of required
39 disclosures from the program to eligible employees, participants, other
40 individuals eligible to participate in the program, eligible employers and
41 other interested parties. Such disclosures shall include, but not be limited
42 to:

43 (1) The benefits associated with tax-favored retirement saving;

1 (2) the potential advantages and disadvantages associated with
2 contributing to Roth IRAs and, if applicable, traditional IRAs under the
3 program;

4 (3) the eligibility rules for Roth IRAs and, if applicable, traditional
5 IRAs;

6 (4) that the individual and not the employer, the state, the treasurer,
7 other state officials or the program will be solely responsible for
8 determining whether and in what amount the individual is eligible to
9 contribute on a tax-favored basis to an IRA;

10 (5) the penalty for excess contributions to IRAs and the method of
11 correcting excess contributions;

12 (6) instructions for enrolling, making elections to contribute or to
13 decline to contribute and making elections regarding contribution rates,
14 type of IRA and investments;

15 (7) instructions for implementing and for changing the elections;

16 (8) the potential availability of a saver's tax credit, including the
17 eligibility conditions for such credit and instructions on how to claim such
18 credit;

19 (9) that employees seeking tax, investment or other financial advice
20 should contact appropriate professional advisors and that eligible
21 employers are not in a position to provide such advice and are not liable
22 for decisions individuals make in relation to the program;

23 (10) that the payroll deduction IRAs are intended not to be employer-
24 sponsored retirement plans and that the program is not an employer-
25 sponsored retirement plan;

26 (11) the potential implications of account balances under the program
27 for the application of asset limits under certain public assistance programs;

28 (12) that the account owner is solely responsible for investment
29 performance, including market gains and losses, and that IRA accounts
30 and rates of return are not guaranteed by any employer, the state, the
31 treasurer, other state officials or the program;

32 (13) additional information about retirement and saving and other
33 information designed to promote financial literacy and capability that may
34 take the form of links to or explanations of how to obtain such
35 information; and

36 (14) how to obtain additional information about the program.

37 Sec. 5. (a) An eligible employer or other employer shall not be liable
38 for or bear responsibility for:

39 (1) An employee's decision to participate or not to participate in the
40 program or a participant's specific elections under the program;

41 (2) participants' or the treasurer's investment decisions;

42 (3) the administration, investment, investment returns or investment
43 performance of the program, including any interest rate or other rate of

1 return on any contribution or account balance;

2 (4) the program design or the benefits paid to participants;

3 (5) individuals' awareness of or compliance with the conditions and
4 other provisions of state and federal tax laws that determine which
5 individuals are eligible to make tax-favored contributions to IRAs, in what
6 amount and in what time frame and manner; and

7 (6) any loss, failure to realize any gain or any other adverse
8 consequences, including any adverse tax consequences or loss of favorable
9 tax treatment, public assistance or other benefits incurred by any person as
10 a result of participating in the program.

11 (b) No eligible employer or other employer shall be considered a
12 fiduciary in relation to the program, trust or any other arrangement under
13 the program.

14 Sec. 6. (a) The state, the treasurer, other state officials, other state
15 boards, commissions, agencies or any member, officer or employee thereof
16 and the program shall:

17 (1) Have no responsibility for compliance by individuals with the
18 conditions and other provisions of the federal internal revenue code that
19 determine which individuals are eligible to make tax-favored contributions
20 to IRAs, in what amount and in what time frame and manner;

21 (2) have no duty, responsibility or liability to any party for the
22 payment of any benefits under the program, regardless of whether
23 sufficient funds are available under the program to pay such benefits;

24 (3) not guarantee any interest rate or other rate of return or investment
25 performance of any contribution or account balance; and

26 (4) not be liable or responsible for any loss, deficiency, failure to
27 realize any gain or any other adverse consequences, including any adverse
28 tax consequences or loss of favorable tax treatment, public assistance or
29 other benefits incurred by any person as a result of participating in the
30 program.

31 (b) The debts, contracts and obligations of the program shall not be
32 considered the debts, contracts and obligations of the state, and neither the
33 faith and credit nor the taxing power of the state is pledged directly or
34 indirectly to the payment of the debts, contracts and obligations of the
35 program.

36 Sec. 7. (a) Individual account information relating to accounts under
37 the program and relating to individual participants, including, but not
38 limited to, names, addresses, telephone numbers, email addresses,
39 personally identifiable information, investments, contributions and
40 earnings is confidential and shall be maintained as confidential and shall
41 not be subject to the open records act, K.S.A. 45-215 et seq., and
42 amendments thereto:

43 (1) Except to the extent necessary to administer the program in a

1 manner consistent with this act, the tax laws of this state and the federal
2 internal revenue code; or

3 (2) unless the individual who provides the information or is the
4 subject of the information expressly agrees in writing to the disclosure of
5 the information.

6 (b) This section shall expire on July 1, 2027, unless the legislature
7 reviews and reenacts this section pursuant to K.S.A. 45-229, and
8 amendments thereto, prior to July 1, 2027.

9 Sec. 8. The treasurer may enter into an intergovernmental agreement
10 or memorandum of understanding with any state agency to receive
11 outreach, technical assistance, enforcement and compliance services,
12 collection or dissemination of information pertinent to the program or
13 other services or assistance, subject to such obligations of confidentiality
14 as may be agreed or required by law. The state and any state agency that
15 enter into such agreements or memoranda of understanding shall
16 collaborate to provide the outreach, assistance, information, and
17 compliance or other services or assistance to the treasurer. The memoranda
18 of understanding may cover the sharing of costs incurred in gathering and
19 disseminating information and the reimbursement of costs for any
20 enforcement activities or assistance.

21 Sec. 9. (a) There is hereby established in the state treasury the Kansas
22 work and save administrative fund that shall be administered by the
23 treasurer.

24 (b) The Kansas work and save administrative fund shall consist of:

25 (1) Moneys appropriated to the fund by the legislature;

26 (2) moneys transferred to the fund from the federal government, other
27 state agencies or local governments;

28 (3) moneys from the payment of application, account, administrative
29 or other fees and the payment of other moneys owed to the program;

30 (4) any gifts, donations or grants made to the treasurer for deposit in
31 the fund;

32 (5) moneys collected for the fund from contributions to, or
33 investment returns or assets of, the program or other moneys collected by
34 or for the program or pursuant to arrangements established under the
35 program to the extent permitted under federal and state law; and

36 (6) all interest derived from the deposit and investment of moneys in
37 such fund.

38 (c) The treasurer shall accept any grants, gifts, appropriations or other
39 moneys from state, federal or local governments, or any other person, firm,
40 partnership, corporation or other entity solely for deposit into the Kansas
41 work and save administrative fund, whether for investment or
42 administrative expenses.

43 (d) At the end of any fiscal year, all unexpended and unencumbered

1 moneys in the Kansas work and save administrative fund shall remain
2 therein and not be credited or transferred to the state general fund or to any
3 other fund.

4 (e) The treasurer shall credit all moneys received in connection with
5 the program to the Kansas work and save administrative fund.

6 (f) To enable or facilitate the start-up and continuing operation,
7 maintenance, administration and management of the program until the
8 program accumulates sufficient balances and can generate sufficient
9 funding through fees assessed on program accounts for the program to
10 become financially self-sustaining, the treasurer may:

11 (1) Borrow from the state, any unit of federal, state or local
12 government, or any other person, firm, partnership, corporation or other
13 entity working capital funds and other funds as may be necessary for such
14 purpose, provided that such funds are borrowed in the name of the
15 program and the treasurer only and that any such borrowings shall be
16 payable solely from the revenues of the program; and

17 (2) enter into long-term procurement contracts with one or more
18 financial providers that provide a fee structure that would assist the
19 program in avoiding or minimizing the need to borrow from or to rely
20 upon the state.

21 (g) Subject to appropriation acts, the treasurer may pay administrative
22 costs associated with the creation, maintenance, operation and
23 management of the program and trust until sufficient assets are available in
24 the Kansas work and save administrative fund for such purpose.
25 Thereafter, all administrative costs of the Kansas work and save
26 administrative fund, including any repayment of start-up funds provided
27 by the state, shall be repaid solely from moneys deposited therein. Private
28 funds or federal funding received in order to implement the program until
29 the Kansas work and save administrative fund is self-sustaining shall not
30 be repaid unless such funds were offered contingent upon the promise of
31 repayment.

32 (h) The treasurer shall use the moneys in the Kansas work and save
33 administrative fund only to pay the administrative costs and expenses of
34 the program.

35 Sec. 10. (a) The treasurer shall provide an accurate account of all of
36 the program's activities, operations, receipts and expenditures to be
37 maintained. Each year, a full audit of the books and accounts of the
38 treasurer pertaining to such activities, operations, receipts, expenditures,
39 personnel, services or facilities shall be conducted by a certified public
40 accountant and shall include, but not be limited to, direct and indirect costs
41 attributable to the use of outside consultants, independent contractors and
42 any other persons who are not state employees for the administration of
43 the program. For purposes of the audit, the auditors shall have access to

1 the records of the program and the records of the treasurer and may
2 prescribe methods of accounting and the rendering of periodic reports in
3 relation to projects undertaken by the program.

4 (b) On or before August 1 of each year, the treasurer shall submit to
5 the governor and the legislature an audited financial report, prepared in
6 accordance with generally accepted accounting principles, detailing the
7 activities, operations, receipts and expenditures of the program and the
8 treasurer during the preceding calendar year. The report shall also include
9 projected activities of the program for the current calendar year.

10 (c) The treasurer shall prepare an annual report on the operation of
11 the program and make such report available to the public and to state
12 officials.

13 Sec. 11. (a) The Treasurer shall implement the program so that
14 individuals can begin contributing under the program not later than July 1,
15 2023.

16 (b) The treasurer shall not implement the program if the treasurer
17 determines that the program is preempted by ERISA. The treasurer shall
18 implement the program in a severable fashion to the extent practicable if
19 and to the extent that the treasurer determines that:

20 (1) A portion or aspect of the program is preempted by ERISA, the
21 treasurer shall not implement such portion or aspect of the program but
22 shall proceed to implement the remainder of the program to the extent
23 practicable; or

24 (2) some, but not all, of the payroll deduction IRA arrangements or
25 other arrangements under the program are or would be employee benefit
26 plans under ERISA, the treasurer shall proceed to implement the program
27 with respect to the other arrangements under the program to the extent
28 practicable.

29 Sec. 12. If any provisions of this act or the application thereof to any
30 person or circumstances is held invalid, the invalidity does not affect other
31 provisions or applications of this act that can be given effect without the
32 invalid provisions or application. To this end the provisions of this act are
33 severable.

34 Sec. 13. This act shall take effect and be in force from and after its
35 publication in the statute book.