

SESSION OF 2006

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2669**

As Amended by House Committee on  
Financial Institutions

**Brief\***

HB 2669, as amended, would enact new law and amend existing law, KSA 44-319, relating to the withholding of wages, to authorize an employer to withhold, deduct or divert wages if the deductions are for contributions attributable to automatic enrollment. Applicable contributions are for automatic enrollment retirement plans, including 401(k) or 403(b) plans; section 457 governmental deferred compensation plans; section 408 or 408A payroll deduction IRA plans.

The bill also would provide for an immunity allowance for automatic enrollment requirements for these employee plans by allowing that any employer who provides for automatic enrollment in an employee retirement plan outlined in the bill would be relieved from liability for the actual decisions made by the employer on behalf of any participating employee as to the default investment of contributions made for that employee to the plan or program provided that:

- The plan allows the participating employee at least quarterly opportunities to select investments for the employer's contributions between investment alternatives available under the plan;
- The employee is given notice of the investment decisions that will be made in the absence of the participant's direction, a description of all the investment alternatives available for employee investment direction under the plan, and a brief description of the procedures available for the employee to change investments; and
- The employee is given at least annual notice of the actual default investments made of contributions attributable to the employee.

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

“Automatic enrollment” is defined as a plan provision under which the employee will have a specified contribution made to the plan equal to a compensation reduction for the employee unless the employee affirmatively elects no compensation reduction contributions or a compensation reduction contribution in another amount. The bill provisions for relief from liability for the employer are extended to any other plan official who actually makes the default investment decisions on behalf of participating employees. No existing responsibilities of employers, or other plan officials, selecting investment funds for participating employees are to be modified, as a result of the bill provisions.

The bill would also make a technical amendment to insert the term, “the employee” for “him”.

## **Background**

The bill was requested by the Sisters of Charity of Leavenworth Health System whose representative indicated that the legislation is being requested to amend state law and create the opportunity to offer an automatic enrollment program for its Kansas employees. The bill was supported by the Security Benefit Corporation whose representative indicated that Security Benefit’s support was part of a policy of encouraging and promoting retirement savings by the workforce of the United States, in general, and Kansas, in particular.

The House Committee on Financial Institutions amended the bill to include amendments proposed by the Sisters of Charity of Leavenworth Health Systems and Security Benefit that would allow for additional enrollment retirement plans, requirements for automatic enrollment in the various retirement plans, and provisions for employer immunity from liability. The original bill made automatic enrollment provisions for 403(b) retirement plans only.

The fiscal note prepared by the Division of the Budget on the introduced version of the bill indicates that passage of the bill would have no fiscal effect on the operations of either the Department of Administration or the Department of Labor. The note indicates that the State of Kansas, as an employer, and the State Board of Regents and educational institutions under its management currently offer this plan type to certain employees, generally faculty and professionals. Employees contribute through a salary reduction plan. As with any other Kansas employer, the State would have to abide by the

provisions of the bill. The bill would have no affect on the state payroll system. Section 403(b) salary reductions are currently authorized by KSA 74-4925.