

HOUSE BILL No. 2757

By Committee on Taxation

Requested by Representative Estes

2-7

1 AN ACT concerning adoption; relating to the expenses thereof; enacting
 2 the adoption savings account act; allowing individuals to establish
 3 adoption savings accounts with certain financial institutions; providing
 4 eligible expenses, requirements and restrictions for such accounts;
 5 requiring the secretary of revenue to adopt certain rules and
 6 regulations; granting nonexclusive marketing authority to the state
 7 treasurer; establishing addition and subtraction modifications for
 8 contributions to such accounts under the Kansas income tax act;
 9 amending K.S.A. 2023 Supp. 79-32,117 and repealing the existing
 10 section.
 11

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

13 New Section 1. The provisions of sections 1 through 7, and
 14 amendments thereto, shall be known and may be cited as the adoption
 15 savings account act.
 16

17 New Sec. 2. As used in this act:

18 (a) "Act" means the adoption savings account act.

19 (b) "Account" or "adoption savings account" means an individual
 20 savings account established in accordance with the provisions of this act.
 21

22 (c) "Account holder" means an individual who establishes an account
 23 that is designated as an adoption savings account pursuant to the
 24 provisions of section 3, and amendments thereto, with a financial
 25 institution.
 26

27 (d) "Designated beneficiary" means the individual designated by an
 28 account holder pursuant to the provisions of section 3, and amendments
 29 thereto, as the individual whose eligible expenses are expected to be paid
 30 from the account for the adoption of a child ~~in this state~~.
 31

32 (e) "Eligible expenses" means:

33 (1) Reasonable fees for legal and other professional services rendered
 34 in connection with an adoption or placement for adoption not to exceed
 35 customary fees for similar services by professionals of equivalent
 experience and reputation where the services are performed;
 (2) reasonable fees of a licensed child-placing agency;
 (3) actual and necessary expenses incidental to the adoption or
 placement proceeding;

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 adoption location

1 (4) actual medical expenses of the mother attributable to pregnancy
2 and birth;

3 (5) actual medical expenses of the child; and

4 (6) reasonable living expenses of the mother that are incurred during
5 or as a result of the pregnancy.

6 (f) "Financial institution" means any state or federally chartered bank,
7 trust company, savings and loan association or credit union that is:

8 (1) Authorized to do business in this state; and

9 (2) insured by the federal deposit insurance corporation or the
10 national credit union administration.

11 (g) "Secretary" means the secretary of revenue.

12 New Sec. 3. (a) On and after July 1, 2025, any individual may open
13 an account with a financial institution and designate the account, in its
14 entirety, as an adoption savings account to be used to pay or reimburse a
15 designated beneficiary's eligible expenses for the adoption of a child ~~in this~~
16 ~~state~~. An individual may be the account holder of multiple accounts and an
17 individual may jointly own the account with another individual if such
18 individuals file a joint income tax return. An account holder shall comply
19 with the requirements of this act to be eligible for the modifications set
20 forth in K.S.A. 79-32, 117, and amendments thereto.

strike

21 (b) (1) An account holder shall designate, not later than April 15 of
22 the year following the taxable year during which the account is
23 established, a prospective adoptive parent as the designated beneficiary of
24 the account. Nothing in this section shall prohibit an account holder from
25 designating such account holder as the designated beneficiary of an
26 account. An account holder may change the designated beneficiary at any
27 time, but no account shall have more than one designated beneficiary at
28 any time. An individual may be designated as the designated beneficiary of
29 more than one account if such accounts are held by separate account
30 holders. No account holder shall be authorized to designate the same
31 designated beneficiary on multiple accounts held by such account owner

, except when opening certificates of deposit

32 (2) The naming of a designated beneficiary shall not create a
33 survivorship interest in the account for such designated beneficiary. In the
34 event of the death of an account holder, the balance of such account shall
35 be paid to the payable on death beneficiary in accordance with K.S.A. 9-
36 1215, and amendments thereto, or, in the absence of a named payable on
37 death beneficiary, in accordance with the provisions of the Kansas probate
38 code.

39 (c) (1) The following limits apply to an account established pursuant
40 to this act:

41 (A) The maximum contribution to an account in any tax year shall be
42 ~~\$3,000~~ for an individual and ~~\$6,000~~ for a married couple filing a joint
43 return;

\$6,000

\$12,000

1 (B) the maximum amount of all contributions into an account in all
2 tax years shall be ~~\$24,000~~ for an individual and ~~\$48,000~~ for a married
3 couple filing a joint return; and

\$48,000

4 (C) the maximum total amount in an account shall be ~~\$50,000~~.

\$100,000

5 (2) If a limit in paragraph (1) is exceeded, then thereafter all interest
6 or other income earned on the investment of moneys in an account shall be
7 subject to the tax imposed by the Kansas income tax act.

8 (3) Moneys may remain in an account for an unlimited duration
9 without the interest or income being subject to recapture or penalty.

10 (d) The account holder shall not use moneys in an account to pay
11 expenses of administering the account, except that a service fee may be
12 deducted from the account by a financial institution. The account holder
13 shall be responsible for maintaining documentation for the account and for
14 eligible expenses related to the designated beneficiary's adoption of a child
15 ~~in this state.~~

strike

16 New Sec. 4. (a) The moneys in an adoption savings account may be:

17 (1) Used for eligible expenses related to a designated beneficiary's
18 adoption of a child ~~in this state.~~

strike

19 (2) used for eligible expenses that would have qualified pursuant to
20 paragraph (1) but the adoption was not completed;

21 (3) transferred to another newly created account;

22 (4) invested in certificates of deposit; and

23 (5) used to pay service fees assessed by the financial institution.

24 (b) Moneys withdrawn from an account shall be subject to recapture
25 by the secretary in the tax year in which they were withdrawn if:

26 (1) At the time of the withdrawal, it has been less than a year since
27 the first deposit in the account; or

28 (2) the moneys are used for any purpose other than the expenses or
29 transactions authorized pursuant to subsection (a)(1).

30 (c) Moneys that are subject to recapture shall be an amount equal to
31 the moneys withdrawn from an account and shall be added to the Kansas
32 adjusted gross income pursuant to K.S.A. 79-32,117(b), and amendments
33 thereto, of the account holder or, if the account holder is no longer living,
34 the designated beneficiary. If any moneys are subject to recapture, the
35 account holder shall pay a penalty in the following amounts:

36 (1) If the withdrawal of moneys occurred 10 or less years after the
37 first deposit in the account, 5% of the amount subject to recapture; and

38 (2) if the withdrawal of moneys occurred more than 10 years after the
39 first deposit in the account, 10% of the amount subject to recapture.

40 (d) The penalties provided in subsection (c) shall not apply if the
41 withdrawn moneys are—

42 (1) ~~Used for eligible expenses related to a designated beneficiary's~~
43 ~~adoption outside of this state; or~~

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1 ~~(2)~~ from an account after the death of the designated beneficiary, and
2 the account holder did not designate a new designated beneficiary during
3 the same tax year.

4 (e) If the account holder dies or, if the account is jointly owned and
5 the account owners die, and the account does not have a surviving payable
6 on death beneficiary, then all of the moneys in the account resulting from
7 contributions or income earned from assets in the account shall be subject
8 to recapture in the tax year of the death or deaths pursuant to K.S.A. 79-
9 32,117, and amendments thereto, but no penalty shall be assessed pursuant
10 to subsection (c).

11 New Sec. 5. (a) The secretary shall establish forms for an account
12 holder to annually report information about any accounts held by such
13 account holder. An account holder shall annually file with the account
14 holder's state income tax return all forms required by the secretary under
15 this section, the form 1099 for the account issued by the financial
16 institution and any other supporting documentation the secretary requires.

17 (b) Prior to July 1, 2025, the secretary shall adopt rules and
18 regulations necessary to administer the provisions of this act.

19 New Sec. 6. (a) No financial institution shall be required to:
20 (1) Designate an account as an adoption savings account or designate
21 the beneficiaries of an account in the financial institution's account
22 contracts or systems or in any other way;

23 (2) track the use of moneys withdrawn from an account; or

24 (3) report any information to the department of revenue or any other
25 governmental agency that is not otherwise required by law.

26 (b) No financial institution shall be responsible or liable for:

27 (1) Determining or ensuring that an account holder is eligible for a
28 Kansas adjusted gross income modification pursuant to K.S.A. 79-32,117,
29 and amendments thereto;

30 (2) determining or ensuring that moneys in the account are used for
31 eligible expenses; or

32 (3) reporting or remitting taxes or penalties related to the use of
33 account moneys.

34 (c) A financial institution may rely on such financial institution's
35 account records for determining a payable on death beneficiary for an
36 adoption savings account. If the payable on death beneficiary in a financial
37 institution's account records conflicts with the designated beneficiary on
38 any form required by the secretary pursuant to this act, the payable on
39 death beneficiary in such financial institution's account records shall
40 control.

41 New Sec. 7. The state treasurer may have nonexclusive authority to
42 market the adoption savings account program to account holders and
43 financial institutions throughout the state and may report on the marketing

1 initiatives in the state treasurer's office annual report.

2 Sec. 8. K.S.A. 2023 Supp. 79-32,117 is hereby amended to read as
3 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual
4 means such individual's federal adjusted gross income for the taxable year,
5 with the modifications specified in this section.

6 (b) There shall be added to federal adjusted gross income:

7 (i) Interest income less any related expenses directly incurred in the
8 purchase of state or political subdivision obligations, to the extent that the
9 same is not included in federal adjusted gross income, on obligations of
10 any state or political subdivision thereof, but to the extent that interest
11 income on obligations of this state or a political subdivision thereof issued
12 prior to January 1, 1988, is specifically exempt from income tax under the
13 laws of this state authorizing the issuance of such obligations, it shall be
14 excluded from computation of Kansas adjusted gross income whether or
15 not included in federal adjusted gross income. Interest income on
16 obligations of this state or a political subdivision thereof issued after
17 December 31, 1987, shall be excluded from computation of Kansas
18 adjusted gross income whether or not included in federal adjusted gross
19 income.

20 (ii) Taxes on or measured by income or fees or payments in lieu of
21 income taxes imposed by this state or any other taxing jurisdiction to the
22 extent deductible in determining federal adjusted gross income and not
23 credited against federal income tax. This paragraph shall not apply to taxes
24 imposed under the provisions of K.S.A. 79-1107 or 79-1108, and
25 amendments thereto, for privilege tax year 1995, and all such years
26 thereafter.

27 (iii) The federal net operating loss deduction, except that the federal
28 net operating loss deduction shall not be added to an individual's federal
29 adjusted gross income for tax years beginning after December 31, 2016.

30 (iv) Federal income tax refunds received by the taxpayer if the
31 deduction of the taxes being refunded resulted in a tax benefit for Kansas
32 income tax purposes during a prior taxable year. Such refunds shall be
33 included in income in the year actually received regardless of the method
34 of accounting used by the taxpayer. For purposes hereof, a tax benefit shall
35 be deemed to have resulted if the amount of the tax had been deducted in
36 determining income subject to a Kansas income tax for a prior year
37 regardless of the rate of taxation applied in such prior year to the Kansas
38 taxable income, but only that portion of the refund shall be included as
39 bears the same proportion to the total refund received as the federal taxes
40 deducted in the year to which such refund is attributable bears to the total
41 federal income taxes paid for such year. For purposes of the foregoing
42 sentence, federal taxes shall be considered to have been deducted only to
43 the extent such deduction does not reduce Kansas taxable income below

1 the amount disallowed as a deduction pursuant to section 163(j) of the
2 federal internal revenue code of 1986, as in effect on January 1, 2018.

3 (xxvii) For taxable years commencing after December 31, 2020, the
4 amount disallowed as a deduction pursuant to section 274 of the federal
5 internal revenue code of 1986 for meal expenditures shall be allowed to
6 the extent such expense was deductible for determining federal income tax
7 and was allowed and in effect on December 31, 2017.

8 (xxviii) For all taxable years beginning after December 31, 2021: (1)
9 The amount contributed to a first-time home buyer savings account
10 pursuant to K.S.A. 2023 Supp. 58-4903, and amendments thereto, in an
11 amount not to exceed \$3,000 for an individual or \$6,000 for a married
12 couple filing a joint return; or (2) amounts received as income earned from
13 assets in a first-time home buyer savings account.

14 (xxix) For all taxable years beginning after December 31, 2024: (1)
15 The amount contributed to an adoption savings account pursuant to
16 section 3, and amendments thereto, in an amount not to exceed ~~\$5,000~~ for
17 an individual or ~~\$6,000~~ for a married couple filing a joint return; or (2)
18 amounts received as income earned from assets in an adoption savings
19 account.

20 (d) There shall be added to or subtracted from federal adjusted gross
21 income the taxpayer's share, as beneficiary of an estate or trust, of the
22 Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and
23 amendments thereto.

24 (e) The amount of modifications required to be made under this
25 section by a partner which relates to items of income, gain, loss, deduction
26 or credit of a partnership shall be determined under K.S.A. 79-32,131, and
27 amendments thereto, to the extent that such items affect federal adjusted
28 gross income of the partner.

29 Sec. 9. K.S.A. 2023 Supp. 79-32,117 is hereby repealed.

30 Sec. 10. This act shall take effect and be in force from and after its
31 publication in the statute book.

\$6,000

\$12,000