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MEMORANDUM

To: Senate Committee on Assessment and Taxation
From: Office of Revisor of Statutes
Date: March 19, 2024
Subject: Senate Bill No. 494

Summary

Senate Bill No. 494 enacts the Adoption Savings Account Act. Commencing July 1, 2025, individuals would be able to open an account with a financial institution and designate the account as an Adoption Savings Account to be used to pay or reimburse a designated beneficiary's eligible expenses for the adoption of a child in this state. The account holder shall be required to designate, by April 15 of the following year, the prospective adoptive parent that will be the designated beneficiary of the account.

The maximum contribution into an account in any tax year shall be \$3,000 for an individual and \$6,000 for a married couple filing a joint return. The maximum amount of all contributions into an account in all tax years shall be \$24,000 for an individual and \$48,000 for a married couple filing a joint return. The maximum total amount in an account shall be \$50,000.

The moneys in an adoption savings account may be:

- 1) Used for eligible expenses related to a designated beneficiary's adoption of a child in this state;
- 2) used for eligible expenses that would have qualified but the adoption was not completed;
- 3) transferred to another newly created account;
- 4) invested in certificates of deposit; and
- 5) used to pay service fees assessed by the financial institution.

Moneys withdrawn from an account would be subject to recapture by the secretary if:

- 1) At the time of the withdrawal, it has been less than a year since the first deposit in the account; or
- 2) the moneys are used for any purpose other than the authorized expenses or transactions.

Moneys that are subject to recapture shall be an amount equal to the moneys withdrawn from an account and shall be added to the Kansas adjusted gross income as an addition modification of the account holder or, if the account holder is no longer living, the designated beneficiary. If any moneys are subject to recapture, the account holder shall pay a penalty in the following amounts:

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- 1) If the withdrawal of moneys occurred 10 or less years after the first deposit in the account, 5% of the amount subject to recapture; and
- 2) if the withdrawal of moneys occurred more than 10 years after the first deposit in the account, 10% of the amount subject to recapture.

The penalties would not apply if the withdrawn moneys are:

- 1) Used for eligible expenses related to a designated beneficiary's adoption outside of this state; or
- 2) from an account after the death of the designated beneficiary, and the account holder did not designate a new designated beneficiary during the same tax year.

The account holder shall annually file all forms and other supporting documentation required by the Secretary of Revenue with the account holder's state income tax return. Prior to July 1, 2025, the Secretary of Revenue shall adopt rules and regulations necessary to administer the provisions of this act.

No financial institution shall be required to:

- 1) Designate an account as an adoption savings account or designate the beneficiaries of an account in the financial institution's account contracts or systems or in any other way;
- 2) track the use of moneys withdrawn from an account; or
- 3) report any information to the Department of Revenue or any other governmental agency that is not otherwise required by law.

No financial institution shall be responsible or liable for:

- 1) Determining or ensuring that an account holder is eligible for a Kansas adjusted gross income modification pursuant to K.S.A. 79-32,117, and amendments thereto;
- 2) determining or ensuring that moneys in the account are used for eligible expenses; or
- 3) reporting or remitting taxes or penalties related to the use of account moneys.

The State Treasurer would have nonexclusive authority to market the Adoption Savings Account Program.

Commencing in tax year 2025, taxpayers would be allowed a subtraction modification for:

- 1) The amount contributed to an adoption savings account in an amount not to exceed \$3,000 for an individual or \$6,000 for a married couple filing a joint return; or
- 2) the amounts received as income earned from assets in the adoption savings account.

The bill would take effect from and after its publication in the statute book.