

SESSION OF 2024

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR
HOUSE BILL NO. 2416**

As Recommended by Senate Committee on
Assessment and Taxation

Brief*

Senate Sub. for HB 2416 would enact the Adoption Savings Account Act (Act) and establish modifications to the Kansas adjusted gross income (KAGI) of an individual for contributions to an adoption savings account (account).

Adoption Savings Accounts

The bill would allow an individual, on and after July 1, 2025, to open an account with a financial institution and designate the entirety of the account as an account that would be used to pay or reimburse a designated beneficiary's eligible expenses for the adoption of a child. The bill would allow an individual to be the account holder of multiple accounts or jointly own an account, provided the individuals file a joint income tax return.

The bill would require the account holder, by April 15 of the year after the taxable year in which the account holder established the account, to designate a prospective adoptive parent as the beneficiary of the account. The bill would not prohibit an account holder from designating the account holder as the designated beneficiary. An account holder would be allowed to change the designated beneficiary at any time, but no account could have more than one designated beneficiary at one time. An individual could be the designated beneficiary of more than one account if the accounts are held

*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>

by separate account holders, but no account holder would be authorized to designate the same designated beneficiary on multiple accounts held by the same account holder, except when opening certificates of deposit.

The bill would apply the following limits to an account established pursuant to the Act:

- Maximum contribution to an account in any tax year:
 - \$6,000 for an individual; and
 - \$12,000 for a married couple filing a joint return;
- Maximum amount of all contributions to an account in all tax years:
 - \$48,000 for an individual; and
 - \$96,000 for a married couple filing a joint return; and
- The maximum total allowable amount in an account would be \$100,000.

The bill would allow moneys to remain in an account for an unlimited duration without the interest or income being subject to recapture or penalty. Further, the bill would prohibit the account holder from using moneys in an account to pay expenses for administering the account, except for a service fee that may be deducted by a financial institution. In addition, the account holder would be responsible for maintaining documentation for the account and for eligible expenses related to the designated beneficiary's purchase or construction of a primary residence.

Account Moneys

Use of Account Moneys

The bill would allow the moneys in an account to be used for the following:

- Eligible expenses related to a designated beneficiary's adoption of a child, which would include:
 - Reasonable fees for legal and other professional services rendered in connection with an adoption or placement for an adoption;
 - Reasonable fees of a licensed child-placing agency;
 - Actual and necessary expenses incidental to the adoption or placement proceeding;
 - Actual medical expenses of the mother attributable to the pregnancy or birth;
 - Actual medical expenses of the child; and
 - Reasonable living expenses of the mother that are incurred during or as a result of the pregnancy;
- Eligible expenses that would have qualified pursuant to this section, in cases in which the adoption was not completed;
- Transfers to another newly created account;
- Investment in certificates of deposit opened and designated as adoption savings accounts; and
- Payment of service fees assessed by the financial institution.

Recapture of Account Moneys and Penalties

The bill would subject moneys withdrawn from an account to recapture by the Secretary of Revenue (Secretary) in the tax year in which they were withdrawn if:

- The time of withdrawal is less than a year since the first deposit in the account; or
- The moneys are used for any purpose other than the expenses or transactions authorized pursuant to the uses outlined in this section.

Moneys subject to recapture would be an amount equal to the amount withdrawn from an account and would be added to the KAGI of the account holder or of the designated beneficiary, if the account holder is deceased. If any moneys are subject to recapture, the account holder would be required to pay a penalty in the following amounts:

- If the withdrawal of moneys occurred 10 or fewer years after the first deposit of the account, 5.0 percent of the amount subject to recapture; or
- If the withdrawal of moneys occurred more than 10 years after the first deposit in the account, 10.0 percent of the amount subject to recapture.

The penalties would not apply if the withdrawn moneys are from an account in which the designated beneficiary is deceased and the account holder did not designate a new designated beneficiary during the same tax year.

Further, if the account holder or account holders are deceased and the account does not have a surviving transfer-on-death beneficiary, the moneys in the account resulting from contributions or income earned from assets in the account would be subject to recapture in the tax year of the death or deaths, but no penalty would be assessed.

Reports

The bill would require the Secretary to establish forms for an account holder to annually report information about any accounts held by the account holder. An account holder would be required to annually file relevant supporting information with the account holder's state income tax return.

The bill would require the Secretary to adopt rules and regulations necessary to administer the Act prior to July 1, 2025.

Financial Institutions

The bill would state financial institutions would not be required to:

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

The bill would state financial institutions would not be responsible or liable for:

- Determining or ensuring an account holder is eligible for a KAGI modification;
- Determining or ensuring moneys in the account are used for eligible expenses; or

- Reporting or remitting taxes or penalties related to the use of account moneys.

State Treasurer Marketing

The bill would grant the State Treasurer non-exclusive authority to market the program to account holders and financial institutions throughout the state and report on such marketing in the Office of the State Treasurer's annual report.

Modifications to Kansas Adjusted Gross Income of an Individual

The bill would add, for purposes of determining the KAGI of an individual, to the federal adjusted gross income for all taxable years beginning after December 31, 2024:

- The amount of any contributions to, or earnings from, an account if:
 - Distributions from the account were not used to pay for expenses or transactions authorized by the bill; or
 - Were not held for the minimum length of time pursuant to the bill; and
- Contributions to, or earnings from, the account, including any amount resulting from the account holder not designating a surviving transfer-on-death beneficiary pursuant to the bill.

The bill would also create a subtraction modification from the federal adjusted gross income for all taxable years beginning after December 31, 2024, in the following amounts:

- The amount contributed to an adoption savings account in an amount not to exceed \$6,000 for an individual or \$12,000 for a married couple filing a joint return; or

- Amounts received as income earned from assets in an account.

Background

HB 2416 was introduced by the House Committee on Taxation at the request of Representative Wasinger and related to sales tax exemptions for certain Area Agencies on Aging and other non-profits. These provisions were enacted into law by 2023 HB 2002.

The Senate Committee on Assessment and Taxation removed those contents and inserted the amended contents of SB 494.

SB 494 (Adoption Savings Account)

SB 494 was introduced by the Senate Committee on Assessment and Taxation at the request of Senator Blasi.

Senate Committee on Assessment and Taxation

In the Senate Committee hearing, **proponent** testimony was provided by Representative Estes, Senator Blasi, and a private citizen. The proponents generally stated the bill would provide a vehicle for saving for adoptions, which can be financially burdensome.

Written-only proponent testimony was provided by the State Treasurer and representatives of Kansas Bankers Association, Kansas Catholic Conference, Kansas Credit Union Association, and Kansas Family Voice.

No other testimony was provided.

The Senate Committee amended the bill to increase dollar amounts for contributions and balances in adoption savings accounts and subtraction modifications; make

technical amendments to the provisions related to certificates of deposit; and remove provisions restricting the use of funds in adoption savings accounts to adoptions in Kansas.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department of Revenue estimates enactment of the bill would reduce state revenues by \$200,000 in FY 2026 and by \$300,000 in FY 2027. The Department also indicates the implementation of the bill would require the Department to hire an additional 1.0 FTE (full-time equivalent) position and expend \$161,401 from the State General Fund in FY 2025 to implement and manage the program.

A fiscal note on the amended bill was not immediately available. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2025 Governor's Budget Report*.

Adoption; Adoption Savings Account Act; taxation; income tax; subtraction modification