

HOUSE BILL No. 2698

By Representative Highberger

2-7

1 AN ACT concerning the state treasurer; relating to financial institutions;
2 establishing the Kansas children's savings account program;
3 establishing the Kansas children's savings account program trust fund;
4 Kansas children's savings account program expense fund; tax credit for
5 donations to the Kansas children's savings account program trust fund.
6

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

8 Section 1. The provisions of sections 1 through 9, and amendments
9 thereto, shall be known and may be cited as the Kansas children's savings
10 account program. The purpose of the Kansas children's savings account
11 program is to authorize the establishment of savings accounts to facilitate
12 the saving of private moneys by individuals and families, together with
13 any authorized state moneys, to assist children in meeting the expenses
14 incurred in availing themselves of higher education opportunities, to foster
15 expectations of postsecondary education from an early age and to provide
16 guidelines for the maintenance of such accounts.

17 Sec. 2. As used in sections 1 through 9, and amendments thereto:

18 (a) "Account" or "Kansas children's savings account" means an
19 individual savings account established in accordance with sections 1
20 through 9, and amendments thereto;

21 (b) "account owner" means the person or persons who enter into a
22 Kansas children's savings account agreement pursuant to sections 1
23 through 9, and amendments thereto. If the account is owned by one
24 individual, the account owner may also be the designated beneficiary of
25 the account. An account owner shall not be allowed to withdraw any third-
26 party moneys contributed to the account, except for permitted purposes
27 under sections 1 through 9, and amendments thereto;

28 (c) "designated beneficiary" means, with respect to an account, the
29 individual designated at the time the account is established as the
30 individual whose higher education expenses are expected to be paid from
31 the account or in the case of a change in beneficiaries, the individual who
32 is the new beneficiary;

33 (e) "financial organization" means an organization authorized to do
34 business in the state of Kansas and is:

- 35 (1) Licensed or chartered by the commissioner of insurance;
- 36 (2) licensed or chartered by the state bank commissioner;

- 1 (3) chartered by an agency of the federal government; or
2 (4) subject to the jurisdiction and regulation of the securities and
3 exchange commission of the federal government;
- 4 (f) "institution of postsecondary education" means any institution of
5 postsecondary education that is accredited by a nationally recognized
6 accrediting agency or association, offers credit toward an undergraduate or
7 graduate degree or other recognized postsecondary education credential,
8 and qualifies as an eligible institution for federal student aid programs;
- 9 (g) "Kansas children's savings agreement" means an agreement
10 between the state treasurer and the account owner or owners;
- 11 (h) "management contract" means the contract executed by the state
12 treasurer and a financial organization selected to act as a depository and
13 manager of the program;
- 14 (i) "member of the family" has the meaning ascribed thereto in
15 section 529 of the federal internal revenue code;
- 16 (j) "program" means the Kansas children's savings account program
17 established pursuant to sections 1 through 9, and amendments thereto;
- 18 (k) "program manager" means a financial organization selected by the
19 state treasurer to act as a depository and manager of the program;
- 20 (l) "qualified higher education expenses" means any qualified higher
21 education expense included in section 529 of the federal internal revenue
22 code;
- 23 (m) "qualified withdrawal" means a withdrawal from an account to
24 pay the qualified higher education expenses of the designated beneficiary
25 of the account;
- 26 (n) "nonqualified withdrawal" means a withdrawal from an account,
27 but does not mean:
- 28 (1) A qualified withdrawal;
- 29 (2) a withdrawal made as a result of the death or disability of the
30 designated beneficiary of an account; or
- 31 (3) a rollover distribution; and
- 32 (o) "rollover distribution" means a rollover distribution as defined in
33 section 529 of the federal internal revenue code.
- 34 Sec. 3. (a) (1) The state treasurer shall implement and administer
35 the program under the terms and conditions established by sections 1
36 through 9, and amendments thereto.
- 37 (b) In furtherance of such implementation and administration, the
38 state treasurer shall have the authority and responsibility to:
- 39 (1) Develop and implement the program in a manner consistent with
40 the provisions of sections 1 through 9, and amendments thereto, through
41 the adoption of rules and regulations;
- 42 (2) engage the services of consultants on a contract basis for
43 rendering professional and technical assistance and advice;

1 (3) seek rulings and other guidance from the United States
2 department of the treasury and the federal internal revenue service relating
3 to the program;

4 (4) make changes to the program required for the participants in the
5 program to obtain the federal income tax benefits or treatment provided by
6 section 529 of the federal internal revenue code;

7 (5) charge, impose and collect reasonable administrative fees, as
8 determined by the state treasurer in rules and regulations, and service
9 charges in connection with any agreement, contract or transaction relating
10 to the program;

11 (6) develop marketing plans and promotion material;

12 (7) establish the methods by which the funds held in accounts shall be
13 dispersed;

14 (8) establish the method by which funds shall be allocated to pay for
15 administrative costs;

16 (9) do all things necessary and proper to carry out the purposes of
17 sections 1 through 9, and amendments thereto;

18 (10) adopt rules and regulations necessary to administer sections 1
19 through 9, and amendments thereto; and

20 (11) evaluate the Kansas children's savings account program annually,
21 and make a report thereon to the governor and legislature for the period.

22 Sec. 4. (a) The state treasurer may implement the program through
23 use of financial organizations as account depositories and managers.

24 (b) The state treasurer may solicit proposals from financial
25 organizations to act as depositories and managers of the program.
26 Financial organizations submitting proposals shall describe the investment
27 instrument which will be held in accounts. The state treasurer shall select
28 as program depositories and managers the financial organization, from
29 among the bidding financial organizations, that demonstrates the most
30 advantageous combination, both to potential program participants and this
31 state, of the following factors:

32 (1) Financial stability and integrity of the financial organization;

33 (2) the safety of the investment instrument being offered;

34 (3) the ability of the investment instrument to track increasing costs
35 of postsecondary education;

36 (4) the ability of the financial organization to satisfy recordkeeping
37 and reporting requirements;

38 (5) the fees, if any, proposed to be charged to persons for opening
39 accounts;

40 (6) the minimum initial deposit and minimum contributions that the
41 financial organization will require;

42 (7) the ability of the financial organization to accept electronic
43 withdrawals, including payroll deduction plans, and to issue and distribute

1 gift cards in order to accept gifts and donations through the use of such
2 cards; and

3 (8) other benefits to the state or its residents included in the proposal,
4 including fees payable to the state to cover expenses of operation of the
5 program.

6 (c) The state treasurer may enter into a contract with a financial
7 organization. Such financial organization management shall provide only
8 one type of investment instrument.

9 (d) The state treasurer may select more than one financial
10 organization and investment instrument for the program when the federal
11 internal revenue service has provided guidance that giving a contributor
12 the choice of two or more investment instruments under a state program
13 will not cause the program to fail to qualify for favorable tax treatment
14 under section 529 of the federal internal revenue code.

15 (e) A management contract shall include, at a minimum, terms
16 requiring the financial organization to:

17 (1) Take any action required to keep the program in compliance with
18 requirements of sections 1 through 9, and amendments thereto, and any
19 actions not contrary to its contract to manage the program to qualify as a
20 "qualified state tuition plan" as defined in section 529 of the federal
21 internal revenue code;

22 (2) keep adequate records of each account, keep each account
23 segregated from each other account and provide the state treasurer with the
24 information necessary to prepare the statements required by section 5, and
25 amendments thereto;

26 (3) compile and total information contained in statements required to
27 be prepared under section 5, and amendments thereto, and provide such
28 compilations to the state treasurer;

29 (4) if there is more than one program manager, provide the state
30 treasurer with such information as is necessary to determine compliance
31 with section 5, and amendments thereto;

32 (5) provide the state treasurer with access to the books and records of
33 the program manager to the extent needed to determine compliance with
34 the contract;

35 (6) hold all accounts for the benefit of the account owner or owners;

36 (7) be audited at least annually by a firm of certified public
37 accountants selected by the program manager and provide the results of
38 such audit to the state treasurer;

39 (8) provide the state treasurer with copies of all regulatory filings and
40 reports made by the financial organization during the term of the
41 management contract or while the financial organization is holding any
42 accounts, other than confidential filings or reports that will not become
43 part of the program. The program manager shall make available for review

1 by the state treasurer the results of any periodic examination of such
2 manager by any state or federal banking, insurance or securities
3 commission, except to the extent that such report or reports may not be
4 disclosed under law; and

5 (9) ensure that any description of the program, whether in writing or
6 through the use of any media, is consistent with the marketing plan
7 developed pursuant to the provisions of sections 1 through 9, and
8 amendments thereto.

9 (f) The state treasurer may provide that an audit shall be conducted of
10 the operations and financial position of the program depository and
11 manager at any time, if the state treasurer has any reason to be concerned
12 about the financial position, the recordkeeping practices or the status of
13 accounts of such program depository and manager.

14 (g) During the term of any contract with a program manager, the state
15 treasurer shall conduct an examination of such manager and the manager's
16 handling of accounts. Such examination shall be conducted at least
17 biennially, if such manager is not otherwise subject to periodic
18 examination by the state bank commissioner, the federal deposit insurance
19 corporation or other similar entity.

20 (h) (1) If selection of a financial organization as a program manager
21 or depository is not renewed after the end of the financial organization's
22 term:

23 (A) Accounts previously established and held in investment
24 instruments at such financial organization may be terminated;

25 (B) additional contributions may be made to such accounts;

26 (C) no new accounts may be placed with such financial organization;
27 and

28 (D) existing accounts held by such depository shall remain subject to
29 all oversight and reporting requirements established by the state treasurer.

30 (2) If the state treasurer terminates a financial organization as a
31 program manager or depository, the state treasurer shall take custody of
32 accounts held by such financial organization and shall seek to promptly
33 transfer such accounts to another financial organization that is selected as a
34 program manager or depository and into investment instruments as similar
35 to the original instruments as possible.

36 (i) The state treasurer may enter into such contracts as the state
37 treasurer deems necessary and proper for the implementation of the
38 program.

39 Sec. 5. (a) (1) Kansas children's savings accounts established
40 pursuant to the provisions of sections 1 through 9, and amendments
41 thereto, shall be governed by the provisions of this section.

42 (2) The state treasurer shall establish an account for each child born
43 in Kansas within six months after receiving birth information from the

1 office of vital statistics. The office of vital statistics shall include on all
2 birth certificate applications a box allowing a parent to consent to sharing
3 the child's identifying information, including, but not limited to, the child's
4 social security number, date of birth and any other information deemed
5 necessary by the state treasurer with the office of vital statistics and the
6 office of the state treasurer for the purpose of establishing an account
7 under the program.

8 (3) A parent of a child born prior to July 1, 2018, may make
9 application to the state treasurer for establishment of an account for such
10 parent's child. Accounts established pursuant to the provisions of sections
11 1 through 9, and amendments thereto, shall be in addition to accounts
12 established under K.S.A. 2017 Supp. 75-640 through 75-648, and
13 amendments thereto, or established under K.S.A. 2017 Supp. 75-650, and
14 amendments thereto, and moneys in such accounts may be transferred
15 from one account to another to the extent permitted by the federal internal
16 revenue code.

17 (4) For a child who is eligible for any type of assistance as provided
18 in K.S.A. 39-709, and amendments thereto, the program shall provide an
19 initial funding of \$250 per account out of unencumbered temporary
20 assistance for needy families moneys. The Kansas department for children
21 and families and the department of health and environment shall include
22 an optional release of information to the program as part of any application
23 for assistance. All assets in the account shall be exempt from any asset test
24 for the purpose of determining eligibility for any public assistance.

25 (b) Any person may make contributions to the account after the
26 account is opened.

27 (c) An account owner may withdraw all or part of the balance from
28 an account on 60-days' notice or such shorter period as may be authorized
29 under rules and regulations governing the program.

30 (d) (1) An account owner may change the designated beneficiary of
31 an account to an individual who is a member of the family of the prior
32 designated beneficiary in accordance with procedures established pursuant
33 to the provisions of sections 1 through 9, and amendments thereto.

34 (2) An account owner may transfer all or a portion of an account to
35 another Kansas children's savings account, the designated beneficiary of
36 which is a member of the family as defined in section 529 of the federal
37 internal revenue code.

38 (3) Changes in designated beneficiaries and transfers under this
39 subsection shall not be permitted to the extent that they would constitute
40 excess contributions or unauthorized investment choices.

41 (e) The program shall provide separate accounting for each
42 designated beneficiary.

43 (f) Subject to the provisions of section 529 of the internal revenue

1 code, an account owner of any account shall be permitted to direct the
2 investment of any contributions to an account or the earnings thereon.

3 (g) Neither an account owner nor a designated beneficiary may use an
4 interest in an account as security for a loan. Any pledge of an interest in an
5 account shall be of no force and effect.

6 (h) (1) The state treasurer shall adopt rules and regulations to prevent
7 contributions on behalf of a designated beneficiary in excess of an amount
8 equal to the average amount of the qualified higher education expenses
9 that would be incurred for five years of study at institutions of
10 postsecondary education located in the midwest states. Such amount shall
11 be determined annually by the state treasurer.

12 (2) Such rules and regulations shall include requirements that any
13 excess contributions with respect to a designated beneficiary be promptly
14 withdrawn in a nonqualified withdrawal or transferred to another account.

15 (i) (1) If there is any distribution from an account to any individual or
16 for the benefit of any individual during a calendar year, such distribution
17 shall be reported to the federal internal revenue service and each account
18 owner, the designated beneficiary, or the distributee to the extent required
19 by federal law or rules and regulations.

20 (2) Statements shall be provided to each account owner at least twice
21 each year within 60 days after the end of the six-month period to which
22 they relate. The statement shall identify the contributions made during a
23 preceding six-month period, the total contributions made to the account
24 through the end of the period, the value of the account at the end of such
25 period, distributions made during such period and any other information
26 that the state treasurer shall require to be reported to the account owner.
27 Statements may be provided electronically.

28 (3) Statements and information relating to accounts shall be prepared
29 and filed to the extent required by federal and state tax law.

30 (j) (1) A state or local government, or agency or instrumentality
31 thereof, or organization described in section 501(c)(3) of the federal
32 internal revenue code may open and become the account owner of an
33 account to fund scholarships for persons whose identity will be determined
34 upon disbursement.

35 (2) In the case of any account opened pursuant to paragraph (1), each
36 individual who receives an interest in such account as a scholarship shall
37 be treated as a designated beneficiary with respect to such interest.

38 (k) A reasonable annual fee, as determined by the state treasurer in
39 rules and regulations, may be imposed upon the account owner or owners
40 for the maintenance of the account.

41 (l) An account owner or designated beneficiary of a Kansas children's
42 savings account must be a citizen or resident of the United States of
43 America.

1 (m) The program shall disclose the following information in writing
2 to each account owner and prospective account owner of a Kansas
3 children's savings account:

4 (1) The terms and conditions for purchasing a Kansas children's
5 savings account;

6 (2) any restrictions on the substitution of beneficiaries;

7 (3) the person or entity entitled to terminate the savings agreement;

8 (4) the period of time during which a beneficiary may receive
9 benefits under the savings agreement;

10 (5) the terms and conditions under which moneys may be wholly or
11 partially withdrawn from the program, including, but not limited to, any
12 reasonable charges and fees that may be imposed for withdrawal;

13 (6) the probable tax consequences associated with contributions to
14 and distributions from accounts; and

15 (7) all other rights and obligations pursuant to savings agreements,
16 and any other terms, conditions and provisions deemed necessary and
17 appropriate by the state treasurer.

18 (n) Nothing in sections 1 through 9, and amendments thereto, or in
19 any savings agreement entered into pursuant to sections 1 through 9, and
20 amendments thereto, shall be construed as a guarantee by the state of
21 Kansas or any institution of postsecondary education that a beneficiary
22 will be admitted to the institution of postsecondary education or, upon
23 admission to any institution of postsecondary education, will be permitted
24 to continue to attend or will receive a degree from such institution of
25 postsecondary education.

26 (o) Moneys in a Kansas children's savings account shall be exempt
27 from attachment, execution or garnishment as provided by K.S.A. 60-
28 2308, and amendments thereto.

29 Sec. 6. (a) Nothing in sections 1 through 9, and amendments thereto,
30 shall be construed to:

31 (1) Give any designated beneficiary any rights or legal interest with
32 respect to an account unless the designated beneficiary is the account
33 owner;

34 (2) guarantee that a designated beneficiary will be admitted to an
35 institution of postsecondary education;

36 (3) create state residency for an individual merely because the
37 individual is a designated beneficiary; or

38 (4) guarantee that amounts saved pursuant to the program will be
39 sufficient to cover the qualified higher education expenses of a designated
40 beneficiary.

41 (b) (1) Nothing in sections 1 through 9, and amendments thereto,
42 shall create or be construed to create any obligation of the state treasurer,
43 the state or any agency or instrumentality of the state to guarantee for the

1 benefit of any account owner or designated beneficiary with respect to:

2 (A) The rate of interest or other return on any account; and

3 (B) the payment of interest or other return on any account.

4 (2) The state treasurer, by rules and regulations, shall provide that
5 every contract, application, deposit slip or other similar document that may
6 be used in connection with a contribution to an account clearly indicate
7 that the account is not insured by the state and neither the principal
8 deposited nor the investment return is guaranteed by the state.

9 Sec. 7. (a) (1) The Kansas children's savings account program trust
10 fund is hereby established in the state treasury. The Kansas children's
11 savings account program trust fund shall consist of moneys deposited by
12 depositors pursuant to the provisions of sections 1 through 9, and
13 amendments thereto, moneys acquired from governmental and private
14 sources through grants, gifts or donations and state general fund
15 appropriations, if any. All interest derived from the deposit and investment
16 of moneys in such fund shall be credited to the fund. At the end of any
17 fiscal year, all unexpended and unencumbered moneys in such fund shall
18 remain therein and not be credited or transferred to the state general fund
19 or to any other fund. The state treasurer shall transfer \$250 per year from
20 the Kansas children's savings account program trust fund to each account
21 that has received at least one contribution after the initial deposit. In the
22 event that there is insufficient funding to transfer \$250 to each account, the
23 state treasurer shall prorate the existing funds to provide an equal or lesser
24 amount to each account.

25 (2) Except as provided in subsection (b), the state treasurer shall
26 credit all moneys received in connection with the Kansas children's
27 savings account program to the Kansas children's savings account program
28 trust fund.

29 (b) (1) The Kansas children's savings account program expense fund
30 is hereby established in the state treasury. The fund shall consist of moneys
31 received from the Kansas children's savings account program manager.

32 (2) All expenses incurred by the state treasurer in developing and
33 administering the Kansas children's savings account program shall be
34 payable from the Kansas children's savings account program expense fund.

35 Sec. 8. The director of accounts and reports shall make payroll
36 deductions from the salary and wages of state officers and employees for
37 Kansas children's savings accounts provided for in section 5, and
38 amendments thereto, when authorized to make such deductions by the
39 written, voluntary authorization of such officers and employees. No
40 administrative fees or charges shall be assessed for costs incurred in
41 making such deductions. Subject to the approval of the secretary of
42 administration, the director of accounts and reports may prescribe
43 procedures, limitations and conditions for making payroll deductions

1 pursuant to this section.

2 Sec. 9. (a) (1) There shall be allowed a credit against the corporate
3 income tax liability imposed upon a taxpayer pursuant to the Kansas
4 income tax act, the privilege tax liability imposed upon a taxpayer
5 pursuant to the privilege tax imposed upon any national banking
6 association, state bank, trust company or savings and loan association
7 pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and
8 amendments thereto, and the premium tax liability imposed upon a
9 taxpayer pursuant to the premiums tax and privilege fees imposed upon an
10 insurance company pursuant to K.S.A. 40-252, and amendments thereto,
11 for tax years commencing after December 31, 2018, an amount equal to
12 70% of the amount donated to the Kansas children's savings account
13 program trust fund established by section 7, and amendments thereto.

14 (b) The credit shall be claimed and deducted from the taxpayer's tax
15 liability during the tax year in which the donation was made to the Kansas
16 children's savings account program trust fund.

17 (c) For each tax year, in no event shall the total amount of credits
18 allowed under this section exceed \$5,000,000 for any one tax year.

19 (d) If the amount of any such tax credit claimed by a taxpayer
20 exceeds the taxpayer's income, privilege or premium tax liability, such
21 excess amount may be carried over for deduction from the taxpayer's
22 income, privilege or premium tax liability in the next succeeding year or
23 years until the total amount of the credit has been deducted from tax
24 liability.

25 (e) The secretary of revenue shall adopt rules and regulations
26 regarding filing of documents that support the amount of credit claimed
27 pursuant to this section.

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