

## MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on February 15, 2005 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Chris Courtwright, Legislative Research Department  
Martha Dorsey, Legislative Research Department  
Gordon Self, Revisor of Statutes  
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Representative Virgil Peck, Legislator  
Representative Shari Weber, Legislator  
Representative Sharon Schwartz, Legislator  
Barry Schmidt, Citizen  
\*Stephanie A. Richardson, City of Coffeyville,  
\*written testimony only

Others attending:

See attached list.

The Chairman opened the floor for bill introductions.

Representative Larkin made a conceptual motion to introduce a bill regarding a property tax relief measure. Representative Thull seconded the motion. The motion carried.

Representative Brunk made a motion to introduce a bill regarding a direct transfer of dollars for adult basic education from public schools to technical colleges. Representative Goico seconded the motion. The motion carried.

Representative Davis requested a bill introduction that relates to a KPERS death benefit for employees. Representative Thull seconded the motion. The motion carried.

**HB 2308 - Determination of income for homestead property tax refund purposes.**

Mr. Self explained that the system was established in 1970 and provided income tax credits and refunds for low-income homeowners, renters that are 55 years or older, disabled or have a dependent child under 18, living with them. The amendment in the bill is the provision related to the formula used to determine the income, and definition of income, as it relates to the amount of property taxes paid. This bill specifically excludes from the calculation of income two types of disability payments (1) disability under the railroad retirement act and (2) veterans disability payments. The fiscal note for 2006 would be \$100,000.

The Chairman opened the public hearing on **HB 2308.**

Representative Weber, co-sponsor of **HB 2308**, appeared in support of the bill, and stated that at the present time, the statute excludes social security disability payments; however, veterans disability compensation is included (Attachment 1).

Representative Schwartz, co-sponsor of the bill rose in support of **HB 2308**. This bill is a result of people asking why the Homestead Act treat V.A. disability compensation for service connected injuries as real income when Federal law declares otherwise. This is an issue of equity and she urged favorable consideration of the bill (Attachment 2).

Barry Schmidt rose in support of **HB 2308** (No written testimony). He told his personal story of war injuries that left him disabled. He urged the Committee to pass the bill.

The Chairman closed the hearing on **HB 2308.**

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on February 15, 2005 in Room 519-S of the Capitol.

**HB 2288 - Eliminate driver's license number requirement on sales exemption certificates.**

Mr. Self explained the origin of sales exemption certificates and how they worked. Currently exemption certificates require, when presented by a non-profit entity, a signature of an officer, manager or administrator as well as their driver's license number.. This bill is a six word change that would strike ~~driver's license number of the signer~~ and insert *tax identification number of the entity* on page 2, lines 24 and 25. There would be no fiscal note on this bill.

The Chairman opened the public hearing on **HB 2288.**

Representative Peck, Jr. rose in support of **HB 2288 (Attachment 3)**. He stated that he understood the Department of Revenue had received a large number of complaints regarding this issue and would be supportive of this change. He called attention to written testimony of Stephanie A. Richardson, CPA, Finance Director of the City of Coffeyville, who stated that she along with other city officials, supported this amendment (Attachment 4).

The Chairman closed the hearing on **HB 2288.**

**HB 2195 - Increasing allowable amount of homestead property tax refund.**

Mr. Self explained that the bill was a recommendation from the Silver Haired Legislation regarding the maximum homestead property tax refund an individual could receive based on their income. Currently it is \$600 and this legislation would be a graduated increase over four years to \$1,000. The fiscal note would be \$1.2 million FY 07, \$2.5 million FY 08, \$3.7 million FY 09, and \$4.6 million FY10.

The last increase was in 1997 from \$500 to \$600. They discussed whether the program had kept up with inflation.

The Chairman opened the public hearing on **HB 2195.**

There were no proponents or opponents that rose to testify.

The Chairman closed the hearing on **HB 2195.**

The Chairman queried the Committee to ascertain if any members had an objection to consider taking action on **HB 2288.** Hearing none he opened the floor for discussion.

Representative Gordon made the motion that they move HB 2288 out favorably for passage. Representative Owens seconded the motion. The motion carried.

The Chairman queried the Committee to ascertain if any members had an objection to consider taking action on **HB 2308.** Hearing none he opened the floor for discussion.

Representative Owens made the motion that they move HB 2308 out favorably for passage. Representative Brunk seconded the motion. The motion carried.

**HB 2222 - Establishing the individual development account program**

The Chairman opened the floor for discussion of the bill.

Representative O'Malley provided information on the following topics: Source of money's that flows into the IDA program; process of income tax deductions on a state or national level; oversight administered by Department of Commerce; fiscal note of \$.5 million; education proponent of the program and benefits to community from the IDA program

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on February 15, 2005 in Room 519-S of the Capitol.

The Chairman questioned whether a diagram outlining how the tax credit program worked had been prepared by the Department of Revenue for the Committee's review. They were to follow-up.

Representative O'Malley explained a balloon that addressed concerns raised during the hearing on HB 2222 (Attachment 5). The amendments follow:

- Page 3, line 41 - an amendment that would allow the Department of Commerce to consider the amount of money that local non-profits could use for administrative costs when determining which group would receive tax credits
- Page 4, line 5 - an amendment that states that the income level is measured when the participant enters the program
- Page 4, line 41 - an amendment that referenced that no more than 30% of an account holder's annual personal income could go into their IDA savings account
- Page 5, line 4 - an amendment that extended the payback time to 12 months when funds are withdrawn for emergency situation
- Page 5, lines 31, 37, 38, 39 and 40 - The Department of Commerce is charged to administer the program thus, at the recommendation of the Department of Revenue, an amendment regarding the language involving responsibilities of the Secretary or Department of Revenue was changed or struck.
- Page 5 & 6 - Section (d) - an amendment that struck language that allowed credits to be transferred

Representative O'Malley made the motion to move the balloon amendments as presented. Representative Carlin seconded the motion.

Discussion followed regarding the time frame an individual had to payback any emergency withdrawals, the definition of income and transferability of tax credits.

Representative O'Malley closed and moved his motion. The motion carried.

Representative Goico made the motion that participants in the IDA Program would have the same number of months to repay the withdrawal funds as they have been participating in the program. The motion was seconded by Representative Carlin.

Representative Goico withdrew his motion.

Representative Treaster moved that the February 1,2,3,4, & 8 minutes be approved. Representative Thull seconded the motion. The motion carried..

The meeting adjourned at 10:25 a.m. The next meeting is February 16, 2005.

# HOUSE TAXATION COMMITTEE GUEST LIST

DATE: Feb 15, 2005

NAME	REPRESENTING
Sam Moran	Intern Rep N. Kirk
Doreen Jacobs	Harold B. Greason
George Petru	The Taxpayers Network
Brian Nye	Intern - Rep Huff
Tony & Ruthy Schmitt	Schwartz

State of Kansas

**Rep. Shari Weber**  
68th District  
405 E. Lewerenz  
Herington, KS 67449  
(785) 258-3526



**Capitol Building**  
Room 502-S  
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weber@house.state.ks.us

House of Representatives

**TESTIMONY ON HB 2308**

February 15, 2005

Mr. Chairman:

I appreciate your time in addressing **HB 2308**. This legislation, which I proposed at the request of a constituent, concerns the income requirements relating to homestead property tax refunds.

**HB 2308** amends the language in the current statute to exclude veterans disability pensions or compensation as earned income from the adjusted gross income determination for homestead property tax refunds. At the present time, the statute excludes social security disability payments; however, veterans disability compensation is included.

I respectfully request your consideration of **HB 2308**.

Best regards,

A handwritten signature in blue ink that reads "Shari Weber". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Shari Weber  
Representative, 68<sup>th</sup> District

Hs Taxation Committee  
February 15, 2005  
Attachment 1



TOPEKA

HOUSE OF  
REPRESENTATIVES

SHARON SCHWARTZ  
REPRESENTATIVE, 106TH DISTRICT  
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ROOM 115-S  
TOPEKA, KANSAS 66612-1504  
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COMMITTEE ASSIGNMENTS  
CHAIRPERSON: AGRICULTURE AND NATURAL  
RESOURCES BUDGET  
MEMBER: APPROPRIATIONS  
ENVIRONMENT

Testimony on HB 2308 relating to determining tax refund purposes

House Taxation Committee – February 15, 2005

By Representative Sharon Schwartz

Chairman Wilk and members of the committee, Thank you for the opportunity to appear in support of HB 2308.

Throughout the past several years, I have been asked why the Homestead Act treat V.A. disability compensation for service connected injuries as real income when Federal law declares otherwise. This summer I contacted Legislative research who explained that the Kansas Homestead program originally had a very broad measure of income. I understand that several years ago, the legislature was looking at expanding the program and decided that since one of the groups the program is targeting is disabled people, it was silly to continue to count disability income against them. When drafting an amendment to the then current law, they inadvertently left out disability incomes like railroads and V.A.

I feel that this is an issue of equity and urge your favorable consideration of HB 2308. Thank you again for the opportunity to appear before you in support of HB 2308.

Hs Taxation Committee  
February 15, 2005  
Attachment 2

**VIRGIL PECK, JR.**

REPRESENTATIVE, DISTRICT 11

BOX 251

TYRO, KANSAS 67364

STATE OF KANSAS



TOPEKA

STATE CAPITOL - RM 427-S  
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**House Taxation Committee  
Rep. Kenny Wilk, Chairman  
February 15, 2005  
House Bill 2288**

Chairman Wilk, and members of the House Taxation Committee. It is a great privilege for me to have the opportunity to step to the microphone this morning and address a very important piece of legislation known as HB 2288.

The reason I said HB 2288 is a very important piece of legislation is because I have never before been the one responsible for the Great State of Kansas enacting legislation.

HB 2288 is a 6 word change (amendment) to KSA 79-3651(f).

After being elected to the Kansas House I sat down with the City of Coffeyville Department Heads. During our meeting the Finance Director handed me a form (see attached) from the Department of Revenue. On the Tax-Exempt Entity Exemption Certificate there is a line where the signer is required, by statute, to put their personal driver's license number. The Finance Director stated she was very uncomfortable in doing that due to the current crime of identity theft. She told me this form went out to some 800 (or more) vendors and she didn't want to give people she had not met and would not know her personal information.

I received an e-mail from the City of Coffeyville Finance Director showing her support for HB 2288. (which you should have a copy)

I realize having a person's D.L. number is not, in itself, all that is needed for identity theft. However, it is a piece of the puzzle.

One last thing, the Department of Revenue said they had received a large number of complaints about this requirement. Because of this they have been allowing the use of the tax identification number of the tax exempt organization rather than an individual's drivers license number, which takes them out of compliance. They indicated it would be good if this was changed.

Thank you for your consideration. I will be happy to stand for questions.

House Taxation Committee  
February 15, 2005  
Attachment 3

Rep. V. M. Packer Jr

**KANSAS DEPARTMENT OF REVENUE  
DIVISION OF TAXATION**

**TAX-EXEMPT ENTITY EXEMPTION CERTIFICATE**

The Kansas Department of Revenue certifies that the entity to which it has issued this numbered certificate is exempt from paying Kansas sales and/or compensating use tax pursuant to:

K.S.A. 79-3606(b), which exempts all sales of tangible personal property and services, including the renting or leasing of tangible personal property, purchased directly by the State of Kansas, a political subdivision thereof (other than a school or educational institution), or purchased by a public or private nonprofit hospital or public hospital authority or nonprofit blood, tissue or organ bank and used exclusively for state, political subdivision, hospital or public hospital authority or nonprofit blood, tissue or organ bank purposes. **EXCEPTION:** When such state, hospital or public hospital authority is engaged or proposes to engage in any business specifically taxable, or when such political subdivision is engaged in the business of furnishing gas, electricity or heat to others, purchases of property or services used or proposed to be used in such businesses are taxable.

By furnishing this certificate, the undersigned tax-exempt entity certifies that its direct purchase of: \_\_\_\_\_

Description of property or service purchased

Seller's Name: \_\_\_\_\_

Address: \_\_\_\_\_  
Street, RR or PO Box City State Zip

is exempt from the state and local sales or compensating use tax. The undersigned tax-exempt entity further understands and agrees that if the tangible personal property and/or service are used other than as stated, or for any other purpose that is not exempt from the tax, the undersigned tax-exempt entity becomes liable for the state and local sales or use tax. The unlawful or unauthorized use of this certificate is expressly prohibited, punishable by fine and/or imprisonment.

**Tax-exempt Entity Information**

Name: City of Coffeyville

Address: 7th & Walnut  
PO Box 1629  
Coffeyville KS 67337



Kansas Exemption Number:  
KS2N6U1BC5

Expiration Date: November 1, 2009

Authorized Signature: \_\_\_\_\_ Driver's License #: \_\_\_\_\_ \*  
Officer, Office Manager or Administrator \* Required by K.S.A. 79-3651(f)

Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

**USE OF THIS EXEMPTION CERTIFICATE**

**What purchases are exempt:** The direct purchase, rental or lease of tangible personal property and the direct purchase of repair services are exempt, subject to the exception(s) noted in the statute above.

Materials furnished by or through a contractor or materials and/or labor of a subcontractor for real property projects are taxable.

**Project Exemption Certificate (PEC) applicability:** This entity is authorized to receive or issue a Project Exemption Certificate (PEC) in order that the materials purchased or furnished by a contractor or the materials and labor of a subcontractor on a real property project may be purchased without tax.

**INFORMATION FOR RETAILERS**

- You must keep a copy of this completed certificate with your other sales tax records for a period of at least three years from the date this certificate was signed and presented to you.
- A completed certificate may be used by the organization as a blanket exemption for future purchases from you of the same type for the same exempt purpose.
- All purchases must be a direct purchase – billed directly to the entity, and/or paid for with entity funds (check or credit card).
- Sales to employees or agents of the exempt entity using their personal funds are taxable, even when the employee/agent is later reimbursed the expense by the exempt entity.
- The items purchased must be used exclusively by the exempt entity for the stated exempt purpose(s).



## HB 2288 Letter of Support

The City of Coffeyville, along with many other organizations, recently received notification of the new sales tax exemption certificate requirements. K.S.A. 2004 Supp. 79-3651 Section 1 (f) states that exemption certificates issued under K.S.A. 79-3606 shall be signed by an officer, office manager or other administrator of the nonprofit entity and contain the *driver's license number of the signer*. Determining who was willing to distribute this type of personal information to all of the vendors, presented a problem with city staff.

People are inundated everyday with stories of identity theft and privacy regulations. Hospitals and health care institutions have been forced to comply with federal laws restricting the distribution of any private information of their patients, even to immediate family members. We have all received Privacy Policies in the mail from banking institutions, credit card companies and investment agencies detailing how personal information will be used and protected by these organizations, yet this statute requires an organization's officer to willingly send this information out to others across the nation. As the City's Finance Director, I am responsible for sending these exemption forms to each of the 1,000 vendors that the City does business with. I am not comfortable sending my drivers license information to *any* of these companies.

I, along with other city officials, am in support of this amendment striking the requirement of the driver's license number and inserting the language requiring the organization's tax identification number. I appreciate your consideration in this matter and hope that you will agree that protecting this personal information is in everyone's best interest.

Stephanie A. Richardson, CPA

City of Coffeyville

Finance Director

Hs Taxation Committee  
February 15, 2005  
Attachment 4

## HOUSE BILL No. 2222

By Committee on Taxation

1-28

Proposed Amendments to  
House Bill No. 2222

9 AN ACT enacting the individual development account program act; pre-  
10 scribing certain duties and responsibilities on the department of com-  
11 merce; amending K.S.A. 74-5005 and K.S.A. 2004 Supp. 79-32,117  
12 and repealing the existing sections; also repealing K.S.A. 79-32,117h  
13 and K.S.A. 2004 Supp. 79-32,117j and 79-32,117k.  
14

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

16 New Section 1. The provisions of sections 1 through 8, and amend-  
17 ments thereto, shall be known and may be cited as the individual devel-  
18 opment account program act.

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

20 (a) "Account holder" means a legal resident who is the owner of an  
21 individual development account.

22 (b) "Community-based organization" means any religious or chari-  
23 table association or tribal entity that is approved by the department to  
24 implement the individual development account reserve fund.

25 (c) "Department" means the department of commerce.

26 (d) "Federal poverty level" means the most recent poverty income  
27 guidelines published in the calendar year by the United States depart-  
28 ment of health and human services.

29 (e) "Financial institution" means any bank, trust company, savings  
30 bank, credit union or savings and loan association or any other financial  
31 institution regulated by the state of Kansas, any agency of the United  
32 States or other state with an office in Kansas which is approved by the  
33 secretary to create and maintain the necessary financial instruments set-  
34 ting up individual development accounts for eligible families or individ-  
35 uals to implement this program.

36 (f) "Individual development account" means a financial instrument  
37 established in section 3, and amendments thereto.

38 (g) "Individual development account reserve fund" means the fund  
39 created by an approved community-based organization for the purposes  
40 of funding the costs incurred in the administration of the program by the  
41 financial institutions and the community-based organizations and for pro-  
42 viding matching funds for moneys in individual development accounts.

43 (h) "Matching funds" mean the moneys designated for contribution

1 from an individual development account reserve fund to an individual  
2 development account by a community-based organization at a one-to-one  
3 ratio up to a three-to-one ratio.

4 (i) "Postsecondary education expenses" mean tuition and fees re-  
5 quired for enrollment or attendance, and fees, books, supplies and equip-  
6 ment required for courses of instruction at an educational institution.

7 (j) "Program" means the Kansas individual development account pro-  
8 gram established in sections 1 through 8, and amendments thereto.

9 (k) "Program contributor" means a person or entity who makes a  
10 contribution to an individual development account reserve fund.

11 (l) "Qualified acquisition costs" mean the costs of acquiring, con-  
12 structing or reconstructing a residence. The term includes any usual or  
13 reasonable settlement, financing or other closing costs.

14 (m) "Qualified business" means any business that does not contra-  
15 vene any law or public policy, as determined by the secretary.

16 (n) "Qualified business capitalization expenses" mean qualified ex-  
17 penditures for the capitalization of a qualified business pursuant to a  
18 qualified plan.

19 (o) "Qualified expenditures" mean expenditures included in a quali-  
20 fied plan, including capital, plant, equipment, working capital and inven-  
21 tory expenses.

22 (p) "Qualified first-time homebuyer" means a taxpayer, and, if mar-  
23 ried, the taxpayer's spouse, who has no present ownership interest in a  
24 principal residence during the three-year period ending on the date on  
25 which a binding contract to acquire, construct or reconstruct the principal  
26 residence to which this subsection applies is entered into.

27 (q) "Qualified plan" means a business plan which:

28 (1) Is approved by a financial institution, or by a nonprofit loan fund  
29 having demonstrated fiduciary integrity;

30 (2) includes a description of services or goods to be sold, a marketing  
31 plan and projected financial statements; and

32 (3) may require the eligible individual to obtain the assistance of an  
33 experienced entrepreneurial advisor.

34 (r) "Qualified principal residence" means a principal residence, the  
35 qualified acquisition costs of which do not exceed 100% of the average  
36 area purchase price applicable to such residence.

37 (s) "Secretary" means the secretary of commerce.

38 New Sec. 3. (a) There is hereby established within the department  
39 a program to be known as the individual development account program.  
40 The program shall provide eligible families and individuals with an op-  
41 portunity to establish special savings accounts for moneys which may be  
42 used by such families and individuals for the purposes enumerated by  
43 section 4, and amendments thereto.

2-5

5-3

1 (b) The secretary shall adopt rules and regulations and policies to  
2 implement and administer the provisions of sections 1 through 8, and  
3 amendments thereto.

4 (c) The secretary shall enter into contracts as deemed appropriate to  
5 carry out the provisions of this act.

6 (d) The department shall prepare a request for proposals from com-  
7 munity-based organizations seeking to administer an individual develop-  
8 ment account reserve fund on a not-for-profit basis. The community-  
9 based organization proposals shall include:

10 (1) A requirement that the community-based organization make  
11 matching contributions to the development account of an individual ac-  
12 count holder's or family's contributions to the individual development  
13 account;

14 (2) a process for including account holders in decision making re-  
15 garding the investment of funds in the accounts;

16 (3) specifications of the population or populations targeted for pri-  
17 ority participation in the program;

18 (4) a requirement that the individual account holder or the family of  
19 the account holder attend economic education seminars;

20 (5) a process for including economic education seminars in the in-  
21 dividual development account program;

22 (6) a process for regular evaluation and review of individual devel-  
23 opment accounts to ensure program compliance by account holders; and

24 (7) a requirement that the community-based organization obtain an  
25 annual independent audit of the organization's administration of the pro-  
26 visions of sections 1 through 8, and amendments thereto.

27 (e) A notice of the request for proposals shall be published once in  
28 the Kansas register at least 10 days before any action thereon.

29 (f) In reviewing the proposals of community-based organizations, the  
30 department shall consider the following factors:

31 (1) The not-for-profit status or tribal status of such community-based  
32 organization;

33 (2) the fiscal accountability of the community-based organization;

34 (3) the ability of the community-based organization to provide or  
35 raise moneys for matching contributions;

36 (4) the ability of the community-based organization to establish and  
37 administer an individual development reserve fund account which shall  
38 receive all contributions from program contributors; ~~and~~

39 (5) the significance and quality of proposed auxiliary services, includ-  
40 ing economic education seminars and their relationship to the goals of  
41 the individual development account program;

42 (g) No more than 20% of all funds in the reserve fund account may  
43 be used for administrative costs of the program in the first and second

**; and**  
**(6) the percentage of funds in the**  
**reserve fund account that shall be used**  
**for administrative costs of the program**

1 years of the program, and no more than 15% of such funds may be used  
2 for administrative costs in any subsequent year. Funds deposited by ac-  
3 count holders shall not be used for administrative costs.

4 New Sec. 4. A family or individual whose household income is less  
5 than or equal to 200% of the federal poverty level may open an individual  
6 development account for the purpose of accumulating and withdrawing  
7 moneys for specified expenditures. The account holder may withdraw  
8 moneys from the account on the approval of the community-based or-  
9 ganization, without penalty, for any of the following expenditures:

at the time of application to an individual  
development account program

10 (a) Postsecondary educational costs for any family member paid from  
11 the account directly to an eligible educational institution as determined  
12 by the secretary;

13 (b) job training costs for any family member 18 years of age or older,  
14 at an accredited or licensed training program;

15 (c) qualified acquisition costs with respect to a qualified principal res-  
16 idence for a qualified first-time home buyer paid directly to the persons  
17 to whom the amounts are due;

18 (d) major repairs or improvements to a primary residence; or

19 (e) qualified business capitalization expenses paid directly to a busi-  
20 ness capitalization account which is established in a federally insured fi-  
21 nancial institution which is restricted for such expenses.

22 New Sec. 5. (a) Financial institutions seeking to open and maintain  
23 individual development accounts approved by the secretary for account  
24 holders shall be permitted to establish individual development accounts  
25 pursuant to sections 1 through 8, and amendments thereto.

26 (b) A financial institution establishing an individual development ac-  
27 count shall:

28 (1) Keep the account in the name of the account holder;

29 (2) permit deposits to be made in the account by the following, sub-  
30 ject to the indicated conditions:

31 (A) The account holder; or

32 (B) a community-based organization on behalf of the account holder.

33 Such a deposit may include moneys to match the account holder's de-  
34 posits, up to a three-to-one match ratio;

35 (3) require the account to earn at least the market rate of interest;  
36 and

37 (4) permit the account holder to withdraw moneys upon approval of  
38 a community-based organization from the account for any of the purposes  
39 listed in subsections (a) through (e) of section 4, and amendments thereto.

40 (c) The total of all deposits by the account holder into an individual  
41 development account in a calendar year shall not exceed \$4,000. The total  
42 balance in an individual development account at any time shall not exceed  
43 \$50,000.

30% of an account holder's annual personal  
income not to exceed

1 New Sec. 6. (a) Account holders who withdraw moneys from an individual development account not in accordance with subsections (a) through (e) of section 4, and amendments thereto, shall forfeit all matching moneys in the account.

Except as otherwise provided,

5 (b) All moneys forfeited by an account holder pursuant to subsection (a) shall be returned to the individual development account reserve fund of the contributing community-based organization.

Account holders who withdraw moneys from an individual development account not in accordance with subsections (a) through (e) of section 4, and amendments thereto, due to an emergency related to the illness or death of a family member of the account holder, illness of the account holder or loss of employment of the account holder, shall remain an account holder and shall not forfeit all matching moneys in the account as provided by this section as long as the balance in the individual development account reaches the amount in such account prior to such withdrawal within 12 months of the date of such withdrawal.

8 (c) In the event of an account holder's death, the account may be transferred to the ownership of a contingent beneficiary. An account holder shall name contingent beneficiaries at the time the account is established and may change such beneficiaries at any time. If the named beneficiary is deceased or otherwise cannot accept the transfer, the moneys shall be transferred to the individual development account reserve fund of the contributing community-based organization.

15 New Sec. 7. (a) Earnings by any financial institution attributable to its individual development accounts shall be exempt from privilege taxation imposed by article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto.

19 (b) Any funds in an individual development account, including accrued interest, shall be disregarded when determining eligibility to receive, or the amount of, any public assistance or benefits.

22 New Sec. 8. (a) A program contributor shall be allowed a credit against state income tax imposed under the Kansas income tax act in an amount not to exceed 50% of the contribution amount. If the amount of the credit allowed by this section exceeds the taxpayer's income tax liability imposed under the Kansas income tax act, such excess amount shall be refunded to the taxpayer. No credit pursuant to this section shall be allowed for any contribution made by a program contributor which also qualified for a community services tax credit pursuant to the provisions of K.S.A. 79-32,195, et seq., and amendments thereto.

31 (b) ~~The secretary of revenue shall verify all tax credit claims by contributors.~~ The administration of the community-based organization, with the cooperation of the participating financial institutions, shall submit the names of contributors and the total amount each contributor contributes to the individual development account reserve fund for the calendar year. The secretary of revenue shall determine the date by which such information shall be submitted to the ~~secretary~~ department of revenue by the local administrator. ~~The secretary of revenue shall submit verification of qualified tax credits pursuant to sections 1 through 8, and amendments thereto, to the department of commerce.~~

department

41 (c) The total tax credits authorized pursuant to this section shall not exceed \$500,000 in any fiscal year.

43 (d) ~~Any program contributor not subject to Kansas income tax, here~~

9-5

1 ~~hereinafter designated the assignor, may sell, assign, convey or otherwise~~  
 2 ~~transfer tax credits allowed and earned pursuant to this section, and~~  
 3 ~~amendments thereto, for an amount not less than 50% of the value of~~  
 4 ~~any such credit. Such credits shall be deemed to be allowed and earned~~  
 5 ~~by any such program contributor which is only disqualified therefrom by~~  
 6 ~~reason of not being subject to such Kansas taxes. The program contributor~~  
 7 ~~acquiring earned credits, hereinafter designated the assignee, may use~~  
 8 ~~the amount of the acquired credits to offset up to 100% of its income tax~~  
 9 ~~liability for the taxable year in which such acquisition was made. Only the~~  
 10 ~~full credit amount for any one contribution may be transferred and such~~  
 11 ~~credit may be transferred one time. Unused credit amounts claimed by~~  
 12 ~~the assignee may be carried forward for up to five years, except that all~~  
 13 ~~such amounts shall be claimed within 10 years following the tax year in~~  
 14 ~~which the contribution was made. The assignor shall enter into a written~~  
 15 ~~agreement with the assignee establishing the terms and conditions of the~~  
 16 ~~agreement and shall perfect such transfer by notifying the secretary of~~  
 17 ~~revenue in writing within 30 calendar days following the effective date of~~  
 18 ~~the transfer and shall provide any information as may be required by the~~  
 19 ~~secretary of revenue to administer and carry out the provisions of this~~  
 20 ~~subsection. The amount received by the assignor of such tax credit shall~~  
 21 ~~be taxable as income of the assignor, and the excess of the value of such~~  
 22 ~~credit over the amount paid by the assignee for such credit shall be taxable~~  
 23 ~~as income of the assignee.~~

24 ~~(c)~~ The provisions of this section shall be applicable to all taxable  
 25 years commencing after December 31, 2004.

26 Sec. 9. K.S.A. 74-5005 is hereby amended to read as follows: 74-  
 27 5005. The department shall be the lead agency of the state for economic  
 28 development of commerce through the promotion of business, industry,  
 29 trade and tourism within the state. In general, but not by way of limitation,  
 30 the department shall have, exercise and perform the following powers  
 31 and duties:

32 (a) To assume central responsibility for implementing all facets of a  
 33 comprehensive, long-term, economic development strategy and for co-  
 34 ordinating the efforts of both state agencies and local economic devel-  
 35 opment groups as they relate to that objective;

36 (b) to coordinate the implementation of the strategy with all other  
 37 state and local agencies and offices and state educational institutions  
 38 which do research work, develop materials and programs, gather statistics,  
 39 or which perform functions related to economic development; and such  
 40 state and local agencies and offices and state educational institutions shall  
 41 advise and cooperate with the department in the planning and accom-  
 42 plishment of the purposes of this act;

43 (c) to advise and cooperate with all federal departments, research

institutions, educational institutions and agencies, quasi-public professional societies, private business and agricultural organizations and associations, and any other party, public or private, and to call upon such parties for consultation, and assistance in their respective fields of interest, to the end that all up to date available technical advice, information and assistance be gathered for the use of the department, the governor, the legislature, and the people of this state;

(d) to enter into agreements necessary to carry out the purposes of this act;

(e) to conduct an effective business information service, keeping up to date information on such things as manufacturing industries, labor supply and economic trends in employment, income, savings and purchasing power within the state, utilizing the services and information available from the division of the budget of the department of administration;

(f) to support a coordinated program of scientific and industrial research with the objective of developing additional uses of the state's natural resources, agriculture, agricultural products, new and better industrial products and processes, and the best possible utilization of the raw materials in the state; and to coordinate this responsibility with the state educational institutions, with all state and federal agencies, and all public and private institutions within or outside the state, all in an effort to assist and encourage new industries or expansion of existing industries through basic research, applied research and new development;

(g) to maintain and keep current all available information regarding the industrial opportunities and possibilities of the state, including raw materials and by-products; power and water resources; transportation facilities; available markets and the marketing limitations of the state; labor supply; banking and financing facilities; availability of industrial sites; and the advantages the state and its particular sections have as industrial locations; and such information shall be used for the encouragement of new industries in the state and the expansion of existing industries within the state;

(h) to publicize information and the economic advantages of the state which make it a desirable place for commercial and industrial operations and as a good place in which to live;

(i) to establish a clearinghouse for the collection and dissemination of information concerning the number and location of public and private postsecondary vocational and technical education programs in areas critical to economic development;

(j) to acquaint the people of this state with the industries within the state and encourage closer cooperation between the farming, commercial and industrial enterprises and the people of the state;



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1 (k) to encourage and promote the traveling public to visit this state  
2 by publicizing information as to the recreational, historic and natural ad-  
3 vantages of the state and its facilities for transient travel and to contract  
4 with organizations for the purpose of promoting tourism within the state;  
5 and the department may request other state agencies such as, but not  
6 limited to, the Kansas water office, the Kansas department of wildlife and  
7 parks and the department of transportation, for assistance and all such  
8 agencies shall coordinate information and their respective efforts with the  
9 department to most efficiently and economically carry out the purpose  
10 and intent of this subsection;

11 (l) to participate in economic development and planning assistance  
12 programs of the federal government to political subdivisions;

13 (m) to assist counties and cities in industrial development through  
14 the establishment of industrial development corporations, including site  
15 surveys, small business administration situations, and render such other  
16 similar assistance as may be required; and in those instances where it is  
17 deemed appropriate, to contract with and make a service charge to the  
18 county or city involved for such services rendered;

19 (n) to render assistance to private enterprise on planning problems  
20 and site surveys upon request and shall make a reasonable service charge  
21 for such services rendered; and any moneys received for services ren-  
22 dered, as provided in this subsection, shall be deposited in the fund and  
23 expended therefrom, as provided in subsection (o);

24 (o) to make agreements with other states and with the United States  
25 government, or its agencies, and to accept funds from the federal gov-  
26 ernment, or its agencies, or any other source for research studies, inves-  
27 tigation, planning and other purposes related to the duties of the depart-  
28 ment; and any funds so received shall be remitted to the state treasurer  
29 in accordance with the provisions of K.S.A. 75-4215, and amendments  
30 thereto. Upon receipt of each such remittance, the state treasurer shall  
31 deposit the entire amount in the state treasury to the credit of a special  
32 revenue fund which is hereby created and shall be known as the "eco-  
33 nomic development fund" or used in accordance with or direction of the  
34 contributing federal agencies; and expenditures from such fund may be  
35 made for any purpose in keeping with the responsibilities, functions and  
36 authority of the department; and warrants on such fund shall be drawn  
37 in the same manner as required of other state agencies upon vouchers  
38 signed by the secretary;

39 (p) to do other and further acts as shall be necessary and proper in  
40 fostering and promoting the industrial development and economic wel-  
41 fare of the state;

42 (q) to organize, or cause to be organized, an advisory board or boards  
43 representing interested groups, including industry, labor, agriculture, sci-

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1 entific research, the press, the professions, industrial associations, civic  
2 groups, etc.; and such board or boards shall advise with the department  
3 as to its work and the department shall, as far as practicable, cooperate  
4 with such board or boards, and secure the active aid thereof in the ac-  
5 complishment of the aims and objectives of the department;

6 (r) to perform the duties imposed under the *Kansas* venture capital  
7 ~~tax-credit company~~ act;

8 (s) to serve as the central agency and clearinghouse to collect and  
9 disseminate ideas and information bearing on local planning problems;  
10 and, in so doing, the department, upon request of the board of county  
11 commissioners of any county or the governing body of any city in the  
12 state, may make a study and report upon any planning problem of such  
13 county or city submitted to it; ~~and~~

14 (t) to disseminate to the public information concerning economic de-  
15 velopment programs available in the state, regardless of whether such  
16 programs are administered by the department or some other agency and  
17 the department shall make available audio-visual and written materials  
18 describing the economic development programs to local chambers of  
19 commerce, economic development organizations, banks and public li-  
20 braries and shall take other measures as may be necessary to effectuate  
21 the purpose of this subsection; *and*

22 (u) *to perform the duties imposed under the individual development*  
23 *account program act, sections 1 through 8, and amendments thereto.*

24 Sec. 10. K.S.A. 2004 Supp. 79-32,117 is hereby amended to read as  
25 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual  
26 means such individual's federal adjusted gross income for the taxable year,  
27 with the modifications specified in this section.

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

29 (i) Interest income less any related expenses directly incurred in the  
30 purchase of state or political subdivision obligations, to the extent that  
31 the same is not included in federal adjusted gross income, on obligations  
32 of any state or political subdivision thereof, but to the extent that interest  
33 income on obligations of this state or a political subdivision thereof issued  
34 prior to January 1, 1988, is specifically exempt from income tax under the  
35 laws of this state authorizing the issuance of such obligations, it shall be  
36 excluded from computation of Kansas adjusted gross income whether or  
37 not included in federal adjusted gross income. Interest income on obli-  
38 gations of this state or a political subdivision thereof issued after Decem-  
39 ber 31, 1987, shall be excluded from computation of Kansas adjusted  
40 gross income whether or not included in federal adjusted gross income.

41 (ii) Taxes on or measured by income or fees or payments in lieu of  
42 income taxes imposed by this state or any other taxing jurisdiction to the  
43 extent deductible in determining federal adjusted gross income and not

1 credited against federal income tax. This paragraph shall not apply to taxes  
2 imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amend-  
3 ments thereto, for privilege tax year 1995, and all such years thereafter.

4 (iii) The federal net operating loss deduction.

5 (iv) Federal income tax refunds received by the taxpayer if the de-  
6 duction of the taxes being refunded resulted in a tax benefit for Kansas  
7 income tax purposes during a prior taxable year. Such refunds shall be  
8 included in income in the year actually received regardless of the method  
9 of accounting used by the taxpayer. For purposes hereof, a tax benefit  
10 shall be deemed to have resulted if the amount of the tax had been de-  
11 ducted in determining income subject to a Kansas income tax for a prior  
12 year regardless of the rate of taxation applied in such prior year to the  
13 Kansas taxable income, but only that portion of the refund shall be in-  
14 cluded as bears the same proportion to the total refund received as the  
15 federal taxes deducted in the year to which such refund is attributable  
16 bears to the total federal income taxes paid for such year. For purposes  
17 of the foregoing sentence, federal taxes shall be considered to have been  
18 deducted only to the extent such deduction does not reduce Kansas tax-  
19 able income below zero.

20 (v) The amount of any depreciation deduction or business expense  
21 deduction claimed on the taxpayer's federal income tax return for any  
22 capital expenditure in making any building or facility accessible to the  
23 handicapped, for which expenditure the taxpayer claimed the credit al-  
24 lowed by K.S.A. 79-32,177, and amendments thereto.

25 (vi) Any amount of designated employee contributions picked up by  
26 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,  
27 and amendments to such sections.

28 (vii) The amount of any charitable contribution made to the extent  
29 the same is claimed as the basis for the credit allowed pursuant to K.S.A.  
30 79-32,196, and amendments thereto.

31 (viii) The amount of any costs incurred for improvements to a swine  
32 facility, claimed for deduction in determining federal adjusted gross in-  
33 come, to the extent the same is claimed as the basis for any credit allowed  
34 pursuant to K.S.A. 2004 Supp. 79-32,204 and amendments thereto.

35 (ix) The amount of any ad valorem taxes and assessments paid and  
36 the amount of any costs incurred for habitat management or construction  
37 and maintenance of improvements on real property, claimed for deduc-  
38 tion in determining federal adjusted gross income, to the extent the same  
39 is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203  
40 and amendments thereto.

41 (x) Amounts received as nonqualified withdrawals, as defined by  
42 K.S.A. 2004 Supp. 75-643, and amendments thereto, if, at the time of  
43 contribution to a family postsecondary education savings account, such

1 amounts were subtracted from the federal adjusted gross income pur-  
2 suant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amend-  
3 ments thereto, or if such amounts are not already included in the federal  
4 adjusted gross income.

5 (xi) *The amount of any contribution made to the same extent the same*  
6 *is claimed as the basis for the credit allowed pursuant to K.S.A. 2004*  
7 *Supp. 74-50,154, and amendments thereto.*

8 (xii) *For taxable years commencing after December 31, 2004, amounts*  
9 *received as withdrawals not in accordance with the provisions of section*  
10 *4, and amendments thereto, if, at the time of contribution to an individual*  
11 *development account, such amounts were subtracted from the federal ad-*  
12 *justed gross income pursuant to paragraph (xiii) of subsection (c), or if*  
13 *such amounts are not already included in the federal adjusted gross*  
14 *income.*

15 (c) There shall be subtracted from federal adjusted gross income:

16 (i) Interest or dividend income on obligations or securities of any  
17 authority, commission or instrumentality of the United States and its pos-  
18 sessions less any related expenses directly incurred in the purchase of  
19 such obligations or securities, to the extent included in federal adjusted  
20 gross income but exempt from state income taxes under the laws of the  
21 United States.

22 (ii) Any amounts received which are included in federal adjusted  
23 gross income but which are specifically exempt from Kansas income tax-  
24 ation under the laws of the state of Kansas.

25 (iii) The portion of any gain or loss from the sale or other disposition  
26 of property having a higher adjusted basis for Kansas income tax purposes  
27 than for federal income tax purposes on the date such property was sold  
28 or disposed of in a transaction in which gain or loss was recognized for  
29 purposes of federal income tax that does not exceed such difference in  
30 basis, but if a gain is considered a long-term capital gain for federal in-  
31 come tax purposes, the modification shall be limited to that portion of  
32 such gain which is included in federal adjusted gross income.

33 (iv) The amount necessary to prevent the taxation under this act of  
34 any annuity or other amount of income or gain which was properly in-  
35 cluded in income or gain and was taxed under the laws of this state for a  
36 taxable year prior to the effective date of this act, as amended, to the  
37 taxpayer, or to a decedent by reason of whose death the taxpayer acquired  
38 the right to receive the income or gain, or to a trust or estate from which  
39 the taxpayer received the income or gain.

40 (v) The amount of any refund or credit for overpayment of taxes on  
41 or measured by income or fees or payments in lieu of income taxes im-  
42 posed by this state, or any taxing jurisdiction, to the extent included in  
43 gross income for federal income tax purposes.

1 (vi) Accumulation distributions received by a taxpayer as a beneficiary  
2 of a trust to the extent that the same are included in federal adjusted  
3 gross income.

4 (vii) Amounts received as annuities under the federal civil service  
5 retirement system from the civil service retirement and disability fund  
6 and other amounts received as retirement benefits in whatever form  
7 which were earned for being employed by the federal government or for  
8 service in the armed forces of the United States.

9 (viii) Amounts received by retired railroad employees as a supple-  
10 mental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1)  
11 *et seq.*

12 (ix) Amounts received by retired employees of a city and by retired  
13 employees of any board of such city as retirement allowances pursuant to  
14 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter  
15 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and  
16 amendments thereto.

17 (x) For taxable years beginning after December 31, 1976, the amount  
18 of the federal tentative jobs tax credit disallowance under the provisions  
19 of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978,  
20 the amount of the targeted jobs tax credit and work incentive credit dis-  
21 allowances under 26 U.S.C. 280 C.

22 (xi) For taxable years beginning after December 31, 1986, dividend  
23 income on stock issued by Kansas Venture Capital, Inc.

24 (xii) For taxable years beginning after December 31, 1989, amounts  
25 received by retired employees of a board of public utilities as pension and  
26 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249  
27 and amendments thereto.

28 (xiii) For taxable years beginning after December 31, ~~1993~~ 2004,  
29 *amounts contributed to and* the amount of income earned on contribu-  
30 tions deposited to an individual development account under ~~K.S.A. 79-~~  
31 ~~32,117~~ *section 1, et seq.*, and amendments thereto.

32 (xiv) For all taxable years commencing after December 31, 1996, that  
33 portion of any income of a bank organized under the laws of this state or  
34 any other state, a national banking association organized under the laws  
35 of the United States, an association organized under the savings and loan  
36 code of this state or any other state, or a federal savings association or-  
37 ganized under the laws of the United States, for which an election as an  
38 S corporation under subchapter S of the federal internal revenue code is  
39 in effect, which accrues to the taxpayer who is a stockholder of such  
40 corporation and which is not distributed to the stockholders as dividends  
41 of the corporation.

42 (xv) For all taxable years beginning after December 31, 1999,  
43 amounts not exceeding \$2,000, or \$4,000 for a married couple filing a

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1 joint return, for each designated beneficiary which are contributed to a  
2 family postsecondary education savings account established under the  
3 Kansas postsecondary education savings program for the purpose of pay-  
4 ing the qualified higher education expenses of a designated beneficiary  
5 at an institution of postsecondary education. *For all taxable years begin-*  
6 *ning after December 31, 2004, amounts not exceeding \$3,000, or \$6,000*  
7 *for a married couple filing a joint return, for each designated beneficiary*  
8 *which are contributed to a family postsecondary education savings ac-*  
9 *count established under the Kansas postsecondary education savings pro-*  
10 *gram for the purpose of paying the qualified higher education expenses*  
11 *of a designated beneficiary at an institution of postsecondary education.*

12 The terms and phrases used in this paragraph shall have the meaning  
13 respectively ascribed thereto by the provisions of K.S.A. 2004 Supp. 75-  
14 643, and amendments thereto, and the provisions of such section are  
15 hereby incorporated by reference for all purposes thereof.

16 (xvi) For the tax year beginning after December 31, 2004, an amount  
17 not exceeding \$500; for the tax year beginning after December 31, 2005,  
18 an amount not exceeding \$600; for the tax year beginning after December  
19 31, 2006, an amount not exceeding \$700; for the tax year beginning after  
20 December 31, 2007, an amount not exceeding \$800; for the tax year  
21 beginning December 31, 2008, an amount not exceeding \$900; and for  
22 all taxable years commencing after December 31, 2009, an amount not  
23 exceeding \$1,000 of the premium costs for qualified long-term care in-  
24 surance contracts, as defined by subsection (b) of section 7702B of public  
25 law 104-191.

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

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

35 Sec. 11. K.S.A. 74-5005 and 79-32,117h and K.S.A. 2004 Supp. 79-  
36 32,117, 79-32,117j and 79-32,117k are hereby repealed.

37 Sec. 12. This act shall take effect and be in force from and after its  
38 publication in the Kansas register.