

SESSION OF 2004

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2409**

As Amended by House Committee on  
Taxation

**Brief\***

HB 2409, as amended, would establish the Individual Development Account (IDA) program, a savings program in which certain qualifying families' and individuals' savings deposits could be matched by those from charitable contributions and contributions would be subject to certain tax exemptions and tax credits. Specific provisions the bill would accomplish are as follows:

- Establish the IDA program within the Kansas Department of Revenue (KDOR).
- Require that the program provide eligible families and individuals (*i.e.*, those whose household income is less than or equal to 200 percent of the federal poverty level) with an opportunity to establish special savings accounts for money that may be used for any of the following purposes:
  - ✓ Educational costs for any family member at a technical college or an accredited higher education institution.
  - ✓ Job training costs for any family member aged 18 or older, at an accredited or licensed training program.
  - ✓ Purchase of a primary residence.
  - ✓ Major repairs or improvements to a primary residence.
  - ✓ Start-up capitalization of a small business for any family member aged 18 or older.
- Permit financial institutions to create and maintain IDA's under all

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\*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>

of the following stipulations:

- ✓ The financial institutions must certify to KDOR that these accounts have been established pursuant to the IDA Program Act and deposits have been made on behalf of the account holder.
- ✓ A financial institution must keep the account in the account holder's name.
- ✓ A financial institution must permit deposits to be made in the account by (a) the account holder, or (b) a community-based organization on behalf of the account holder. (*Note:* "Community-based organization" is defined as any religious or charitable association, technical college foundation, or tribal entity approved by KDOR to implement the Individual Development Account Reserve Fund [IDARF].)
- ✓ A financial institution must require the account to earn at least the market rate of interest.
- ✓ A financial institution must permit the account holder to withdraw money upon approval of a community-based organization from the account for any of the approved purposes.
- ✓ The total of all deposits *by the account holder* into an IDA must not exceed \$4,000 in any calendar year, and the *total balance* in an IDA must not exceed \$50,000.
- Exempt IDA moneys from taxation and allow tax credits as follows:
  - ✓ Account holder deposits (unless withdrawn for an unapproved use) and interest earned in IDA's are exempt from income taxation.
  - ✓ Earnings by any financial institution attributable to its IDA's are exempt from privilege taxation.
  - ✓ A program contributor (defined as a person or entity who makes a contribution to an IDARF) is allowed a state income

tax credit in an amount not to exceed \$50,000 or 50 percent of the contribution amount, whichever is less. KDOR must verify all tax credit claims by contributors; the community-based organization, in cooperation with the participating financial institution, would be required to submit specific supporting documentation.

- ✓ Total tax credits authorized pursuant to this section must not exceed \$500,000 in any fiscal year.
- ✓ These exemption and tax credit provisions are to apply to all taxable years beginning with 2004.
- Require an account holder who withdraws money from an IDA for a purpose not approved under the IDA Program Act to forfeit all matching moneys in the account, and require all forfeited moneys to be returned to the IDARF of the contributing community-based organization.
- Permit an IDA to be transferred, in the event of the account holder's death, to the ownership of a contingent beneficiary, who is to be specified at the time the account is established and who may be changed at any time. Require the money to be transferred to the IDARF of the contributing community-based organization, if the beneficiary is deceased or otherwise cannot accept the transfer.
- Require KDOR to prepare a request for proposals from community-based organizations seeking to administer an IDARF on a not-for-profit basis. The proposals must include:
  - ✓ A requirement that the community-based organization make matching contributions to the individual's or family's IDA contributions.
  - ✓ A process for including account holders in investment decision making.
  - ✓ Specifications of the population(s) targeted for priority participation in the program.

- ✓ A requirement that the individual account holder or the family of the account holder attend economic education seminars, and a process for including such seminars in the IDA program.
- ✓ A process for regular evaluation and review of IDA's to ensure program compliance by account holders.
- Require KDOR to consider a number of factors when reviewing the proposals of community-based organizations, including not-for-profit status and fiscal accountability of the organization, the organization's ability to provide or raise matching moneys, the organization's ability to establish and administer a reserve fund account (IDARF) to receive all contributions from program contributors, the significance and quality of proposed auxiliary services, including economic education seminars and their relevance.
- Limit administrative costs of the program to 20 percent in the first and second years and 15 percent in any subsequent year, and prohibit account holder deposit amounts to be used for administrative costs.
- Require KDOR a number of related duties, including adopting rules and regulations and policies, and entering into contracts as deemed appropriate.
- Establish the act's effective date as publication in the *Kansas Register*.

## **Background**

The House Committee on Taxation amended the bill to (a) include technical college foundations in the definition of "community-based organization"; (b) replace the Kansas Development Finance Authority with the KDOR as the agency required to administer the IDA program; (c) add as an approved program expenditure educational costs for any family member at a technical college; and (d) delay the application of the tax exemptions and tax credits for one year, to tax year 2004.

The KDOR estimates the tax exemption and tax credit provisions together could reduce revenues by approximately \$200,000 from the

State General Fund. Additional funding of an as-yet unspecified amount would also be required to administer the program.