

UPDATED
SESSION OF 2018

SUPPLEMENTAL NOTE ON SENATE BILL NO. 449

As Amended by House Committee of the Whole

Brief*

SB 449, as amended, would amend Kansas law related to certain savings accounts and create an income tax credit for purchases from certain qualified vendors.

Savings Accounts

The bill would amend Kansas law related to savings accounts established for designated beneficiaries to pay for qualified disability expenses pursuant to sections 529 and 529A of the Internal Revenue Code of 1986.

The bill would allow the proceeds from such an account established pursuant to section 529A to be transferred upon the death of a designated beneficiary to such beneficiary or an account for another eligible individual specified by the designated beneficiary. The bill would also disallow the State, or any agency or instrumentality thereof, from seeking the proceeds from such an account, except when such action would be otherwise required by the federal Social Security Act. Current law allows the Kansas Medicaid plan to seek such proceeds following the death of a beneficiary for benefits provided to the beneficiary.

The bill would also extend a subtraction modification for purposes of Kansas individual income taxes to contributions made to a qualified savings account established pursuant to section 529A. Current law allows for such modifications for

*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>

contributions to savings accounts established pursuant to section 529. The cumulative amount of the subtraction modification would remain at \$3,000, or \$6,000 for a married couple filing a joint return, per year for each designated beneficiary.

Finally, the bill would eliminate a requirement that expenditures made from a savings account established pursuant to section 529 be used at an institution of postsecondary education in order for a taxpayer making contributions to such an account to be able to claim the subtraction modification.

Qualified Vendor Tax Credit

The bill would enact a new income tax credit for tax years 2018-2022 equivalent to 15 percent of expenditures on goods and services purchased from qualified vendors or non-profit certified businesses providing a certain level of health insurance benefits and having at least 30 percent of their employees be resident Kansans with disabilities. The amount of the credit would be capped at \$500,000 for each qualified vendor each tax year, and the total amount of cumulative credits allowed for the life of the program would be capped at \$5.0 million.

The Secretary of Commerce would be required to certify annually the qualified expenditures eligible for the tax credit and provide the amount to the Secretary of Revenue.

The tax credits would be nonrefundable, but unused credits could be carried forward for up to four years and applied against the liability of future tax years.

The Secretary of Revenue would also be required to make an annual report to the standing taxation committees on the implementation and effectiveness of the tax credit program.

Background

The bill contains the provisions of SB 449 and HB 2416. The background for both bills follows.

SB 449 (Savings Accounts)

The bill was introduced by the Senate Committee on Assessment and Taxation. At the Senate Committee hearing on the bill, Senator Baumgardner testified in support of the bill. No other testimony was provided.

The Senate Committee recommended SB 449 be placed on the Consent Calendar.

In the House Committee on Taxation hearing, State Treasurer LaTurner, representatives for the Disability Rights Center of Kansas, and the Cerebral Palsy Research Foundation of Kansas, and a parent spoke in support of the bill, stating the legislation would take advantage of recent changes to federal tax law, which should benefit persons with disabilities. Representative Davis and several individuals provided written-only testimony in support of the bill. There was no other testimony.

The House Committee on April 5, 2018, amended the bill to clarify the circumstances under which the State, its agencies, or instrumentalities would be prohibited from seeking proceeds from section 529A accounts.

The House Committee of the Whole on April 27, 2018, amended the bill to insert provisions relating to the creation of an income tax credit for purchases from certain qualified vendors (HB 2416, as amended by House Committee of the Whole).

According to the fiscal note prepared by the Division of the Budget on SB 449, as introduced, the Department of Revenue estimates the bill would reduce State General Fund (SGF) revenues by \$30,000 in FY 2019 and that amount has

the potential to increase slightly in FY 2020 and future years. The Kansas Department of Health and Environment indicates it is unable to estimate the amount of funds that the estate recovery program would no longer be able to collect under the provision of the bills. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2019 Governor's Budget Report*.

HB 2416 (Qualified Vendor Tax Credit)

In the House Committee on Taxation hearing on April 4, 2017, a number of advocates for individuals with disabilities appeared in support of the tax credit, including representatives of the Cerebral Palsy Research Foundation and Interhab.

The House Committee amended the bill on May 11, 2017, with amendments proposed by Representative Mason and developed after his meetings with various stakeholders. Those amendments included provisions that would have sunset the program after tax year 2021, provide a cumulative cap of \$5.0 million in credits, set the minimum threshold of disabled employees for qualifying businesses at 30 percent, and require the annual report by the Secretary of Revenue.

The version of the bill approved by the House Committee on Taxation during the 2017 Session would have provided the credits for tax years 2017-2021. On March 6, 2018, the House Committee of the Whole amended the bill to make the credits applicable for tax years 2018-2022.

According to the revised fiscal note prepared by the Division of the Budget on HB 2416, as amended by the House Committee of the Whole, the Department of Revenue indicates SGF receipts could be reduced by about \$1.65 million annually.