

SESSION OF 2021

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 66**

As Amended by House Committee on  
Commerce, Labor and Economic Development

**Brief\***

SB 66, as amended, would revise certain tax credits pertaining to angel investors and home renovations for disabled family members.

***Angel Investor Tax Credit***

The bill would revise the Kansas Angel Investor Tax Credit Act (Act) by extending the sunset on the program from tax year 2021 to tax year 2026, amending applicable definitions, removing certain program restrictions, and increasing program tax credit amounts and annual program limits.

***Program Sunset***

The bill would extend the sunset on the angel investor tax credit from tax year 2021 through tax year 2026.

***Definitions***

The bill would amend the definition of “qualified securities” with respect to the use of debt instruments as qualifying forms of investment. Debt instruments permitted to be used as a form of investment would include any debt that:

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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>

- Is subordinate to the creditors of the business receiving the investment;
- Requires no payment by such business; and
- Will convert to some form of equity before the business receives any additional funds.

#### *Tax Credit Limits*

The bill would make the following changes to limits on tax credit dollar amounts:

- Increase single-year tax credit amounts:
  - From \$50,000 to \$100,000 for a single Kansas business; and
  - From \$250,000 to \$350,000 for a single qualified investor;
- Change the maximum value of the tax credit from equal to 50 percent, to up to 50 percent of the qualifying investment; and
- Set annual tax credit limits at \$6.0 million in tax years 2021 and 2022, with a \$0.5 million increase each tax year after that through tax year 2026.
  - Any unused tax credits for a given year would be carried over for use in future tax years through tax year 2026.

#### *Restrictions on Investments and Investors*

The bill would remove or modify certain restrictions on investments and investors:

- Venture capital companies would be permitted to receive tax credits;

- Investments in Kansas Venture Capital, Inc., would be permitted;
- In order to receive a transferable credit, the bill would require an investor to have no current tax liability at the time of investment, rather than no tax liability for the preceding three years;
- The recipient of a transferable credit would not need to be an accredited investor as defined by federal regulation (17 CFR 230.501(a)); and
- Provided that an investment was made lawfully, investors would not lose any tax credits if the business in which the investment was made were to lose its designation as a qualified business.

#### *Clawback Provision*

The bill would modify the clawback provision in the Act. Currently, any business receiving financial assistance under the Act is required to make repayment to the Kansas Department of Commerce if the business ceases to be a qualified business or moves its operations outside of Kansas within ten years. The bill would require businesses to meet these qualifications for a minimum of:

- Ten years for bioscience businesses; and
- Five years for any other business.

#### ***Home Renovation Tax Credit for Disabled Family Members***

The bill would increase the maximum tax credit, from \$9,000 to \$15,000, for home renovations made for a disabled family member's access. Under current law, the tax credit that may be claimed is equal to the lesser of either \$9,000 or the applicable percentage of construction expenditures, which

decreases as the taxpayers' federal adjusted gross income (FAGI) increases; a taxpayer with an FAGI no greater than \$25,000 has an applicable percentage of 100.0 percent. The bill would allow taxpayers with an FAGI of \$60,000 or less to be eligible for the tax credit of \$15,000. The bill would phase out the credit by increments of 10.0 percent for each \$10,000 increase in FAGI. The bill would also distinguish tax credits eligible for married individuals filing jointly and all other individual taxpayers, who would be eligible for the maximum credit if their FAGI is no greater than \$40,000.

Under current law, if a taxpayer's liability is less than \$2,250, then portions of the credit may be refundable in the first, second, and third years equal to one-fourth, one-third, and one-half, respectively. The bill would increase the taxpayer's liability threshold from \$2,250 to \$3,750.

Starting in tax year 2022 and for all subsequent tax years, the bill would adjust the maximum tax credit and the tax liability threshold by a cost-of-living amount determined under Internal Revenue Code section 1(f)(3).

## **Background**

The bill was introduced by the Senate Committee on Commerce at the request of the Kansas Department of Commerce.

### ***Senate Committee on Commerce***

In the Senate Committee hearing, **proponent** testimony was provided by Representative Stephen Owens and representatives of Biokansas, Enterprise Center in Johnson County, and the Kansas Department of Commerce. The proponents generally stated the Kansas Angel Investor Tax Credit Act is important for new business development within Kansas.

Neutral testimony was provided by a representative of the Kansas Legislative Division of Post Audit.

No **opponent** testimony was provided.

The Senate Committee recommended the bill be placed on the Consent Calendar.

***House Committee on Commerce, Labor and Economic Development***

In the House Committee hearing, no testimony was provided. The chairperson noted he requested conferees not provide testimony, in the interest of time, due to the contents of the bill being substantially similar to those of HB 2045, as introduced.

The House Committee adopted amendments to make technical changes and clarify that investors would not lose tax credits if the investment was made lawfully, even if the business invested in were to lose its designation as a qualified business, and to add provisions related to tax credits for home renovations for disabled family members.

***Fiscal Information***

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Department of Revenue (Department) indicates enactment of the bill would require expenditures of \$6,445 from the State General Fund for FY 2022 to implement the bill and modify the automated tax system. The Department estimates enactment of the bill would decrease State General Fund revenues in the following amounts:

- \$1,900,000 in FY 2022;
- \$6,000,000 in FY 2023;

- \$6,500,000 in FY 2024;
- \$7,000,000 in FY 2025; and
- \$7,500,000 in FY 2026.

Any fiscal effect associated with the bill is not reflected in the *The FY 2022 Governor's Budget Report*.

Tax credits; Angel Investors; Disabled Access