

SESSION OF 2020

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2689

As Amended by House Committee of the Whole

Brief*

HB 2689, 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 extend the sunset on the angel investor tax credit from tax year 2021 to tax year 2026. The annual cap on tax credits would increase in \$0.5 million increments annually, from \$6.0 million in tax year 2021 to \$8.0 million in tax year 2025 and thereafter. The balance of unissued tax credits, as allowed by continuing law, may be carried over in future tax years. The bill would increase the amount of tax credits claimed on a qualified business investment from \$50,000 to \$100,000. The total amount of tax credits an investor could claim in any one tax year would increase from \$250,000 to \$350,000. Currently, tax credits are issued to qualified investors at an amount equal to 50.0 percent of the investment. The bill would revise the credit to an amount up to 50.0 percent of the investment, as negotiated between the qualified investor and the qualified Kansas business.

If a qualified business or bioscience business fails to be in substantial compliance within five years or ten years, respectively, that business would be required to repay the financial assistance to the Secretary of Revenue. Under current law, qualified businesses must be in compliance for ten years.

*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>

The bill would revise the definition of “qualified securities,” as that term relates to certain debt instruments. Taxpayers without a current tax liability would be allowed to transfer tax credits. Under current law, a taxpayer must not have owed any Kansas income tax in the three years prior to transferring tax credits.

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, which decreases as the taxpayers’ federal adjusted gross income (FAGI) increases, from 100.0 percent if the taxpayers’ FAGI is no greater than \$25,000. The bill would allow taxpayers with a FAGI of \$60,000 or less to be eligible for the full \$15,000. The bill would phase out the credit by increments of 10.0 percent for each \$10,000 increase in FAGI. The bill also would distinguish tax credits eligible for married individuals filing jointly and all other taxpayers, who would be eligible for the full 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 a portion 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 2021 and 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 House Committee on Commerce, Labor and Economic Development (House Committee) at the request of the Department of Commerce (Department).

In the House Committee hearing, Representative Owens, entrepreneurs, and representatives of the Department, the Enterprise Center in Johnson County, and various technology and bioscience trade associations spoke in favor of the bill. Proponents generally stated the angel investor tax credit is a means to mitigate investment risk, encourage new capital to flow into the state, and grow the Kansas economy.

No opponent or neutral testimony was provided.

On February 24, the House Committee amended the bill to:

- Clarify the tax credit would apply to tax years 2020 and thereafter; and
- Allow bioscience businesses to qualify for participation with different claw-back provisions for them than for other qualified businesses.

On February 26, the bill was withdrawn from the House Calendar and referred to the House Committee on Appropriations. On March 4 the bill was rereferred to the House Committee on Commerce, Labor and Economic Development. On the following day, the House Committee reported the bill be passed with the amendments previously recommended.

The House Committee of the Whole amended the bill to revise the home renovation tax credit and to allow for subsequent inflation adjustments.

According to subsequent fiscal analysis prepared by the Division of the Budget on the bill as amended by the House Committee, revenues to the State General Fund would decrease by \$2.1 million in FY 2021 and FY 2022. Revenues are estimated to decrease by \$6.5 million, \$7.0 million, and \$7.5 million in FY 2023, FY 2024, and FY 2025, respectively. The Department states costs can be covered within existing resources. The Department of Revenue estimates administrative costs would increase by \$9,725 in FY 2021. Any fiscal effect associated with the bill is not reflected in *The FY 2021 Governor's Budget Report*.

A revised fiscal analysis on the bill as amended by the House Committee of the Whole was not immediately available.