

SESSION OF 2018

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 449**

As Amended by House Committee on Taxation

**Brief\***

SB 449 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 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

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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>

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.

## **Background**

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. There was no other testimony.

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

At 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 amended the bill to clarify the circumstances under which the State or its agencies or instrumentalities would be prohibited from seeking proceeds from section 529A accounts.

According to the fiscal note prepared by the Division of the Budget on the bill, the Department of Revenue estimates the bill would reduce State General Fund 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*.