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Laura Kelly, Governor

February 26, 2024

The Honorable Caryn Tyson, Chairperson
Senate Committee on Assessment and Taxation
300 SW 10th Avenue, Room 548-S
Topeka, Kansas 66612

Dear Senator Tyson:

SUBJECT: Fiscal Note for SB 498 by Senate Committee on Assessment and Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning SB 498 is respectfully submitted to your committee.

SB 498 would enact the Pregnancy Resource Act. The bill would allow contributions to eligible charitable organizations operating pregnancy centers or residential maternity facilities to receive a 70.0 percent tax credit beginning in tax year 2024. Eligible charitable organizations would be required to be exempt from federal income taxation and a nonprofit organization organized under the laws of this state. The pregnancy center or residential maternity facility would be required to maintain a dedicated phone number for clients; maintain in this state its primary physical office, clinic, or residential home that is open for clients for a minimum of 20 hours a week, excluding state holidays; offer services, at no cost to the client, that provide assistance to women in order to carry their pregnancy to term, encourage parenting or adoption, prevent abortion, and promote healthy childbirth; and utilize trained and licensed medical professionals to perform any available medical procedures. Tax credits would be limited to $10.0 million per tax year and tax credits for contributions to a single eligible charitable organization would be limited to $5.0 million per tax year. If the tax credit amount exceeds the taxpayer's Kansas adjusted gross income for that taxable year, the amount that exceeds the Kansas adjusted gross income could be carried forward for up to five years. The bill includes administrative requirements and procedures for the qualification and certification of an eligible charitable organization, the allocation of tax credits if the aggregate amount of tax credits requested is above the limit, and the reallocation of any unused tax credits.

The bill would provide a refundable income tax credit of $1,000 for each qualifying child of the taxpayer beginning in tax year 2024. The taxpayer could claim an additional $1,000 tax credit for each unborn child that would be claimed in the taxable year that the unborn child is born or stillborn. The bill includes relationship, residency, and age requirements to be considered a qualified child. The bill would require the taxpayer provide the social security number of the qualifying child or documents that show the birth result in a stillbirth. The bill includes definitions for "qualified child" and "unborn child."

Under current law, taxpayers are allowed to claim a non-refundable income tax credit based on the amount claimed on the federal adoption tax credit that is set at 25.0 percent for an adopted child that was not a Kansas resident prior to adoption, 50.0 percent for an adopted child that was a Kansas resident prior to adoption, and 75.0 percent for an adopted child with special needs that was a Kansas resident prior to adoption. The bill would increase the state adoption tax credit to 100.0 percent of the amount claimed on the federal adoption tax credit for any adopted child beginning in tax year 2024. In addition, the bill would allow the tax credit to be refunded to the taxpayer in any amount that exceeds the taxpayer's income tax liability.

The bill would provide a sales tax exemption to pregnancy resource centers and residential maternity facilities. The sales tax exemption would go into effect on July 1, 2024.

Estimated State Fiscal Effect			
	FY 2024	FY 2025	FY 2026
Expenditures			
State General Fund	--	$339,427	$123,520
Fee Fund(s)	--	--	--
Federal Fund	--	--	--
Total Expenditures	--	$339,427	$123,520
Revenues			
State General Fund	--	($807,521,000)	($814,800,000)
Fee Fund(s)	--	(70,000)	(77,000)
Federal Fund	--	--	--
Total Revenues	--	($807,591,000)	(814,877,000)
FTE Positions	--	2.00	2.00

The Department of Revenue estimates that SB 498 would decrease state revenue by $807,591,000 in FY 2025. Of that total the State General Fund is estimated to decrease by $807,521,000 in FY 2025, while the State Highway Fund is estimated to decrease by $70,000 in FY 2025. The fiscal effect to state revenues during subsequent years would be as follows:

	FY 2026	FY 2027
State General Fund	($814,800,000)	($821,700,000)
State Highway Fund	(77,000)	(77,000)
	($814,877,000)	($821,777,000)

The Department of Revenue indicates that there is no information to accurately estimate the number of taxpayers that would claim the new pregnancy center charitable contribution tax credit or the amount of contributions to eligible charitable organizations to accurately estimate the fiscal effect of this provision of the bill. However, the bill limits the maximum credits allowed to $10.0 million per tax year which is reflected in this fiscal note. For each $1.0 million in contributions to eligible charitable organizations, $700,000 in tax credits could be claimed.

To formulate the estimates for the refundable income tax credit of $1,000 for each qualifying child and unborn child, the Department of Revenue reviewed birth data and birth rate trend data from the Kansas Department of Health and Environment (KDHE) and tax return data from 2021. The Department of Revenue estimates the number of children of Kansas residents was 733,161 based on exemptions claimed on tax year 2021 tax returns and filing status. The tax credit is estimated to reduce State General Fund revenues by $755.5 million in tax year 2024 or FY 2025. The additional $1,000 credit for the child being born is estimated to reduce State General Fund revenues by $33.7 million in FY 2025 based on the KDHE *Preliminary Birth Report 2022*. It is estimated that the birth rate will decrease by 0.9 percent each year.

To formulate the estimates of the expanded state adoption tax credit, the Department of Revenue reviewed data on the adoption tax credit from tax years 2020 through 2022. Allowing 100.0 percent of the federal tax credit to be claimed on the state tax return and allowing the full amount claimed to be refunded is estimated to allow an additional $8.0 million of state adoption credits to be claimed tax year 2024 or FY 2025, which would reduce State General Fund revenues by that same amount.

The sales tax exemption for a pregnancy resource center or residential maternity facility is estimated to reduce state revenues by $391,000 in FY 2025. Of that total, the State General Fund is estimated to decrease by $321,000 in FY 2025, while the State Highway Fund is estimated to decrease by $70,000 in FY 2025. This bill is also estimated to decrease local sales tax revenues; however, the specific estimate of lower local sales tax revenues was not calculated by the Department of Revenue. The Division of the Budget notes that the definitions of “pregnancy resource center” and “residential maternity facility” used for the sales tax exemption and the definitions of “pregnancy center” and “residential maternity care facilities” used for the contribution income tax credit would be the same.

The Department indicates that the bill would require $339,427 from the State General Fund in FY 2025 to implement the bill and to modify the automated tax system. The bill would require the Department to hire 2.00 new FTE positions to answer questions from taxpayers. The Department estimates that ongoing expenses for salaries and wages for the 2.00 FTE positions and overhead expenses would total $123,520 from the State General Fund in FY 2026. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue. In addition, if the combined effect of implementing this bill and other enacted legislation exceeds the Department’s programming resources, or if the time for implementing the changes is too short, additional expenditures for outside contract programmer services beyond the Department’s current budget may be required.

The Insurance Department indicates that the bill would also allow insurance companies to claim the new contributions to eligible charitable organizations tax credit. If insurance companies claim this tax credit, then it would reduce insurance premiums taxes collections that are distributed to the Start General Fund (99.0 percent) and the Insurance Department Service Regulation Fund (1.0 percent). The Insurance Department indicates the computer programming costs to allow the processing of insurance premium tax returns with this new tax credit would be negligible and could be absorbed within existing resources.

The Kansas Department of Transportation indicates that the bill would reduce state revenues to the State Highway Fund as noted above. Any fiscal effect associated with SB 498 is not reflected in *The FY 2025 Governor's Budget Report*.

The Kansas Association of Counties and the League of Kansas Municipalities indicate the bill would provide a net reduction to local sales tax collections that are used in part to finance local governments. This bill has the potential to reduce revenues that are pledged to repay STAR bond projects; however, it is unknown what impact the bill would have on the viability of those projects.

Sincerely,

Adam C. Proffitt
Director of the Budget

cc: Lynn Robinson, Department of Revenue
Jay Hall, Kansas Association of Counties
Wendi Stark, League of Kansas Municipalities
Brendan Yorkey, Department of Transportation
Bobbi Mariani, Insurance Department