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MEMORANDUM

To: Senate Committee on Assessment and Taxation

From: Office of Revisor of Statutes

Date: March 5, 2024

Subject: Senate Bill No. 498

Summary

Senate Bill No. 498 would: (1) Establish the pregnancy resource act providing income, privilege or premium tax credits for contributions to eligible charitable organizations operating pregnancy centers or residential maternity facilities; (2) establish a child tax credit; (3) increase the tax credit amount for adoption expenses and make the credit refundable; and (4) provide a sales tax exemption for pregnancy resource centers and residential maternity facilities.

New Section 1 would establish a tax credit allowed against income, privilege or premium tax liabilities in an amount equal to 70% of the total amount contributed during the tax year by a taxpayer to an eligible charitable organization for tax years commencing after December 31, 2023.

The bill defines “eligible charitable organization” to mean “an organization that is:

- (1) Exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;
- (2) a nonprofit organization organized under the laws of this state; and
- (3) (A) a member of an organization whose members are pregnancy centers or residential maternity care facilities based in the state; or
(B) a pregnancy center or residential maternity facility that:
 - (i) Maintains a dedicated phone number for clients;
 - (ii) maintains 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;

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(iii) offers services, at no cost to the client, for the express purpose of providing assistance to women in order to carry their pregnancy to term, encourage parenting or adoption, prevent abortion and promote healthy childbirth; and

(iv) utilizes trained and licensed medical professionals to perform any available medical procedures.”

If the credit exceeds the taxpayer’s tax liability, then the excess may be carried over to succeeding tax years, except not after the fifth tax year.

The total amount of credits allowed for contributions to a single eligible charitable organization shall not exceed \$5,000,000 per tax year, and the aggregate amount of credits claimed shall not exceed \$10,000,000 per tax year.

The bill also provides administrative procedures including that eligible charitable organizations would provide the department with written certification of meeting eligibility criteria, the department would review such certifications and notify organizations of its determinations and the department would make available to the public a list of eligible charitable organizations.

Taxpayers would be required to apply for credits with the department of revenue prior to claiming a credit on a return. The department would allocate the credits based on the amount of contributions made or to be made certified in the application. If the taxpayer had not yet made the contribution, the taxpayer would then have 90 days after the allocation to make the contribution or the allocation of the tax credit would be cancelled. If the department cannot allocate the full amount of credits due to the limit on aggregate amounts, the department would notify the taxpayer within 30 days.

New Section 2 would establish a child tax credit allowed against the income tax liability of a resident individual beginning with tax year 2024. The amount of credit allowed would be an amount equal to \$1,000 for each qualifying child of the taxpayer. An additional credit would be allowed in an amount equal to \$1,000 for each unborn child. Definitions of “qualifying child” and “unborn child” are provided in the bill.

If the amount of the credit exceeds the taxpayer's income tax liability, the excess amount would be refunded to the taxpayer.

Currently, K.S.A. 79-32,202a(a) provides a tax credit to resident individuals for adoption expenses in an amount equal to 25% of the amount of the credit allowed against such taxpayer's federal income tax liability pursuant to Section 23 of the federal Internal Revenue Code. In addition, another 25% is allowed if the child adopted by the taxpayer was a resident of Kansas prior to such lawful adoption, and another 25% is allowed if the child adopted by the taxpayer is a child with special needs. A \$1,500 tax credit is also allowed under subsection (b) for the tax year in which occurs the lawful adoption of a child in the custody of the Secretary for Children and Families or a child with special needs. Excess credit amounts may be carried over to succeeding tax years until the total amount has been deducted.

Section 3 of the bill would amend K.S.A. 79-32,202a(a) to discontinue the 25% provisions after tax year 2023 and to increase the amount of the credit provided in subsection (a) to an amount equal to 100% of the amount of such federal credit beginning with tax year 2024. The \$1,500 tax credit of subsection (b) would not change. The bill would also amend the statute to provide that for tax year 2024, and thereafter, if the tax credit amount allowed by the new subsection (a)(2) and (b) exceeds the taxpayer's income tax liability, the excess amount shall be refunded to the taxpayer.

Section 4 would amend K.S.A. 2023 Supp. 79-3606 to provide a sales tax exemption for all sales of tangible personal property or services purchased by a pregnancy resource center or residential maternity facility.

For purposes of the exemption, "pregnancy resource center" or "residential maternity facility" means an organization that is:

- (A) Exempt from federal income taxation pursuant to section 501(c) (3) of the federal internal revenue code of 1986;
- (B) a nonprofit organization organized under the laws of this state; and
- (C) a pregnancy resource center or residential maternity facility that:
 - (i) Maintains a dedicated phone number for clients;
 - (ii) maintains in this state its primary physical office, clinic or residential home that is open for clients for a minimum of 20 hours per week, excluding state holidays;

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(iii) offers services, at no cost to the client, for the express purpose of providing assistance to women in order to carry their pregnancy to term, encourage parenting or adoption, prevent abortion and promote healthy childbirth; and

(iv) utilizes trained and licensed medical professionals to perform any available medical procedures.”

The bill would take effect from and after its publication in the statute book.