

SESSION OF 2023

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2135

As Recommended by House Committee on
Taxation

Brief*

HB 2135 would create the Pregnancy Resource Act (Act), which would provide for a tax credit for contributions to nonprofit pregnancy centers or residential maternity centers exempt from federal income tax pursuant to section 501(c)(3) of the federal Internal Revenue Code, provided that such centers:

- Maintain a dedicated phone number for clients;
- Maintain a primary physical office, clinic, or residential home in Kansas for a minimum of 20 hours a week, excluding state holidays;
- Offer services free of charge to clients for the express purpose of providing assistance to women in carrying pregnancies to term, preventing abortion, and promoting healthy childbirths, and
- Utilize trained and licensed medical professionals in the performance of any available medical procedures.

The credit could be claimed against income, privilege, or premium tax liability beginning tax year 2023, in an amount equal to 70.0 percent of voluntary contributions made to such centers, and could be carried forward for up to five future tax years following the tax year in which the eligible contribution

*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>

was made. Contributions would be prohibited from being payment for services rendered.

The aggregate amount of credits claimed would be limited to \$10.0 million per tax year, with no more than \$5.0 million per tax year in credits claimed for contributions to any single organization.

Administration of Credits

Taxpayers claiming the credit would be required to provide the Department of Revenue (Department) with the amount of the contribution and the name of the organization to which it was made. Prior to claiming credits, taxpayers would be required to make application on forms provided by the Department certifying the dollar amount of the contribution made or to be made within the calendar year.

The Department would be required to allocate credits within 30 days after the receipt of an application. If the full credit amount cannot be allocated due to the annual aggregate limit having been reached, the Department would be required to notify applicants within 30 days of any amount to be allocated. Prospective contributions would be required to be made within 90 days of the allocation of a credit, which would otherwise be canceled and reallocated.

Eligible charitable organizations would be required to provide the Department with a written certification, made under penalty of perjury, of eligibility in regard to the requirements specified by the bill, along with any other information the Department would require to administer its provisions. The Department would be required to review each such certification and make a determination of eligibility, and make publicly available a list of eligible organizations. The Department would be authorized to periodically request recertification from organizations.

Credits claimed by S-corporations, partnerships, limited liability companies, or other pass-through entities would be distributed proportionally by shareholders, partners, or members according to ownership or as mutually agreed to by the parties.

Background

The bill was introduced by the House Committee on Taxation at the request of Representative Wasinger.

House Committee on Taxation

In the House Committee hearing, **proponent** testimony was provided by a client of Insight Women's Center and representatives of Campaign Life Missouri; Embrace; Advice and Aid Pregnancy Center; the KC Pregnancy Clinic; and Insight Women's Center. Proponents generally stated nonprofit pregnancy centers and residential maternity centers provide valuable services to pregnant women and children and relieve taxpayers of some of the burden of supporting families in crisis, and the bill would increase donations to such organizations and allow them to increase services.

Written-only proponent testimony was provided by representatives of Kansans for Life, the Kansas Catholic Conference, Kansas Family Voice, Heart Choices Pregnancy & Parenting Resource Center, Lifeline Children's Services, Pregnancy & Family Center of Southeast Kansas, and Wyandotte Pregnancy Clinic, and a client of Advice and Aid Pregnancy Center.

Written-only **opponent** testimony was provided by representatives of American Civil Liberties Union Kansas, the Kansas Birth Justice Society, and Planned Parenthood of Great Plains.

No other testimony was provided.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget, the Department of Revenue indicates that while the number of taxpayers who would claim the tax credit cannot be estimated, up to \$10.0 million per tax year in credits could be claimed. Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Income taxation; tax credits; charitable contributions; pregnancy centers; residential maternity facilities