

HOUSE BILL No. 2135

By Committee on Taxation

1-23

1 AN ACT concerning taxation; relating to income, privilege and premium
2 tax credits; establishing a tax credit for contributions to eligible
3 charitable organizations operating pregnancy centers or residential
4 maternity facilities.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. (a) This section shall be known and may be cited as the
8 pregnancy resource act.

9 (b) As used in this section, "eligible charitable organization" means
10 an organization that is:

11 (1) Exempt from federal income taxation pursuant to section 501(c)
12 (3) of the federal internal revenue code of 1986;

13 (2) a nonprofit organization organized under the laws of this state;
14 and

15 (3) a pregnancy center or residential maternity facility that:

16 (A) Maintains a dedicated phone number for clients;

17 (B) maintains in this state its primary physical office, clinic or
18 residential home that is open for clients for a minimum of 20 hours a
19 week, excluding state holidays;

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

24 (D) utilizes trained and licensed medical professionals to perform any
25 available medical procedures.

26 (c) (1) For taxable years commencing after December 31, 2022, a
27 credit shall be allowed against the income, privilege or premium tax
28 liability imposed upon a taxpayer pursuant to the Kansas income tax act,
29 the privilege tax imposed upon any national banking association, state
30 bank, trust company or savings and loan association pursuant to article 11
31 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto,
32 or the premiums tax and privilege fees imposed upon an insurance
33 company pursuant to K.S.A. 40-252, and amendments thereto, in an
34 amount equal to 70% of the total amount contributed during the taxable
35 year by a taxpayer to an eligible charitable organization.

36 (2) A contribution for which a credit is claimed must be a voluntary

1 contribution and shall not be a payment for services rendered.

2 (3) If the amount of such tax credit exceeds the taxpayer's tax liability
3 for such tax year, the taxpayer may carry over the amount that exceeds
4 such tax liability for deduction from the taxpayer's liability in the next
5 succeeding tax year or years until the total amount of the tax credit has
6 been deducted from tax liability, except that no such tax credit shall be
7 carried over for deduction after the fifth tax year succeeding the tax year in
8 which the contribution was made.

9 (4) In no event shall the total amount of credits allowed under this
10 section for contributions to a single eligible charitable organization exceed
11 \$5,000,000 per tax year.

12 (5) The aggregate amount of credits claimed pursuant to this section
13 shall not exceed \$10,000,000 per tax year.

14 (d) Taxpayers claiming a credit authorized by this section shall
15 provide the name of the eligible charitable organization and the amount of
16 the contribution to the department of revenue on forms provided by the
17 department.

18 (e) An eligible charitable organization shall provide the department
19 with a written certification pursuant to subsection (f) that it meets all
20 criteria to be considered an eligible charitable organization. The
21 organization shall also notify the department of any changes that may
22 affect eligibility under this section.

23 (f) The eligible charitable organization's written certification must be
24 signed by an officer of the organization under penalty of perjury. The
25 written certification shall include the following:

26 (1) Verification of the organization's status under section 501(c)(3) of
27 the federal internal revenue code of 1986;

28 (2) a statement that the organization does not provide, pay for, refer
29 for or provide coverage of abortions and does not financially support,
30 partner with or affiliate with any other entity that provides, pays for, refers
31 for or provides coverage of abortions, including nonsurgical abortions and
32 abortifacients;

33 (3) a statement that the organization maintains its principal office or
34 presence in this state and that at least 50% of its clients claim to be
35 residents of this state; and

36 (4) any other information that the department requires to administer
37 this section.

38 (g) The department shall review each written certification and
39 determine whether the organization meets all the criteria to be considered
40 an eligible charitable organization and notify the organization of its
41 determination. The department may also periodically request
42 recertification from the organization. The department shall compile and
43 make available to the public a list of eligible charitable organizations.

1 (h) Tax credits authorized by this section that are earned by a
2 partnership, limited liability company, S corporation or other similar pass-
3 through entity shall be allocated among all partners, members or
4 shareholders, respectively, either in proportion to their ownership interest
5 in such entity or as the partners, members or shareholders mutually agree
6 as provided in an executed agreement.

7 (i) Prior to claiming any credit on a return, a taxpayer shall apply for
8 credits with the department on forms prescribed by the department. In the
9 application the taxpayer shall certify to the department the dollar amount
10 of the contributions made or to be made during the calendar year. Within
11 30 days after the receipt of an application, the department shall allocate
12 credits based on the dollar amount of contributions as certified in the
13 application. If the department cannot allocate the full amount of credits
14 certified in the application due to the limit on the aggregate amount of
15 credits that may be awarded under this section in a tax year, the
16 department shall so notify the applicant within 30 days with the amount of
17 credits, if any, that may be allocated to the applicant in the calendar year.
18 Once the department has allocated credits to a taxpayer, if the contribution
19 for which a credit is allocated has not been made as of the date of the
20 allocation, then the contribution must be made not later than 90 days from
21 the date of the allocation. If the contribution is not made within such time
22 period, the allocation shall be cancelled and returned to the department for
23 reallocation.

24 Sec. 2. This act shall take effect and be in force from and after its
25 publication in the statute book.