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300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: Chairman Olson
Members of the Senate Committee on Federal and State Affairs

From: The Office of Revisor of Statutes

Date: February 9, 2022

Subject: SB 369 – The Kansas Affordable Housing Tax Credit Act.

Senate Bill No. 369 (SB 369) would enact the Kansas Affordable Housing Tax Credit Act (Act). The Act would provide a tax credit against a qualified taxpayer's income, privilege, or premium tax liability beginning in tax year 2023. The tax credit provided against state tax liability would correspond to the tax credit provided by the federal low-income housing tax credit under the federal Internal Revenue Code.

The Act would be administered by the Kansas Housing Resources Corporation (KHRC). The KHRC would determine whether a taxpayer is a "qualified taxpayer" under the provisions of the Act. A "qualified taxpayer" is an individual or legal entity that owns an interest in a qualified development. A "qualified development" is defined as a "qualified low-income housing project" under 26 U.S.C. § 42. The federal statute defines the term as residential rental property that meets one of three resident income tests: (1) The 20-50 test; (2) the 40-60 test; or (3) the average income test.

The amount of the tax credit would be determined by the KHRC in accordance with the federal tax credit provisions. Under the federal statute that amount is calculated as either 70% or 30%, depending on the building, of the qualified basis of each qualified low-income housing building. The tax credit may be carried forward for up to 11 years if there is insufficient tax liability use the full tax credit amount. No portion of the tax credit is refundable to the taxpayer. If any portion of the federal tax credit allocated to the taxpayer is recaptured or otherwise disallowed, then the same amount will be disallowed for state tax credit purposes. There is no aggregate annual limit on the amount of tax credits that may be allocated under the Act.

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The KHRC is directed to monitor and oversee compliance with the Act and to report any noncompliance to the Director of Taxation. Additionally, the KHRC will submit an annual report by December 31st to the Legislature on the number of qualified developments for which tax credits have been allocated, the geographic and demographic details of each such development, and other housing market information that demonstrates how the Act is addressing the need for affordable housing.

If enacted, SB 369 would become effective on July 1, 2022.