

SESSION OF 2023

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2275**

As Amended by House Committee of the Whole

**Brief\***

HB 2275, as amended, would make several changes to a tax credit available for certain purchases from qualifying vendors employing individuals with disabilities and create a matching grant program to facilitate the transition of certain employers toward paying employees at least minimum wage.

***Tax Credit Changes***

Changes to the tax credit would include naming the credit, modifying the duration and extent of the credit, expanding the definition of “individuals with disabilities,” and restructuring the definition of “qualified vendor” from whom purchases may be made.

***Name Change***

The provisions of the tax credit would be named the Disability Employment Act (Act).

***Duration and Extent of Credit***

The bill would eliminate the provision specifying the credit to expire after tax year 2023. The bill would provide for a cap on the aggregate amount of credits under the Act to be \$5.0 million in tax years 2019 through 2023, \$10.0 million in tax years 2024 through 2028, and \$10.0 million for each successive five tax years starting in tax year 2029.

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\*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>

### *Individuals with Disabilities Definition*

The bill would expand the definition of “individuals with disabilities” to include individuals who are certified by a healthcare provider, as determined by the Department of Revenue, who can substantiate an individual as having a physical or mental impairment that constitutes a substantial barrier to employment. The bill would also eliminate a requirement that individuals with disabilities work a minimum number of hours per week to qualify for health insurance coverage.

### *Qualified Vendor Definition*

The bill would provide for three options by which an entity may qualify as a qualified vendor:

- A not-for-profit business qualifying as a certified business pursuant to KSA 75-3740 that:
  - Does business primarily in Kansas or substantially all of its production in Kansas;
  - Employs at least 30.0 percent of its employees in an integrated setting;
  - Offers to contribute at least 75.0 percent of the premium cost for health insurance coverage for each eligible employee; and
  - Does not employ individuals under a certificate issued by the U.S. Secretary of Labor under 29 U.S. Code section 214(c).
- A qualified vendor pursuant to KSA 75-3317 that:
  - Employs at least 30.0 percent of its employees in an integrated setting;
  - Offers to contribute at least 75.0 percent of the premium cost for health insurance coverage for each eligible employee, offers a company-sponsored insurance plan under the

Affordable Care Act, pays the required subsidy to the Internal Revenue Service for employees to purchase insurance through the open market, or offers assistance to employees to cover at least 75.0 percent of their health insurance costs through legal and appropriate methodology; and

- Does not employ individuals under a certificate issued by the U.S. Secretary of Labor under 29 U.S. Code section 214(c).
- A division of a Kansas not-for-profit organization that:
  - Does business primarily in Kansas or substantially all of its production in Kansas;
  - Within such division, employs at least 30.0 percent of its employees in an integrated setting;
  - Within such division, offers to contribute at least 75.0 percent of the premium cost for health insurance coverage for each eligible employee, offers a company-sponsored insurance plan under the Affordable Care Act, pays the required subsidy to the Internal Revenue Service for employees to purchase insurance through the open market, or offers assistance to employees to cover at least 75.0 percent of their health insurance costs through legal and appropriate methodology; and
  - Does not employ individuals under a certificate issued by the U.S. Secretary of Labor under 29 U.S. Code section 214(c) within such division or any other division of the not-for-profit corporation.

Current law limits qualified vendors to not-for-profit businesses qualifying as certified businesses pursuant to KSA 75-3740 and qualified vendors pursuant to KSA 75-3317

and prohibits any employment by the vendor under a certificate issued by the U.S. Secretary of Labor under 29 U.S. Code section 214(c).

### ***Sheltered Workshop Transition Grant Program***

The bill would create a grant program to assist Kansas sheltered workshop employers away from employing individuals with disabilities under a certificate issued by the U.S. Secretary of Labor under 29 U.S. Code section 214(c) and toward paying all such employees at least the minimum wage.

The bill would create the Kansas Sheltered Workshop Transition Fund (Fund), to be administered by the Kansas Secretary of Labor (Secretary), and provide for an annual transfer of \$1.0 million to the Fund from the state Economic Development Initiatives Fund (EDIF).

Workshop employers seeking to receive grants would be required to provide a transition plan to the Secretary demonstrating how the applicant will use the grant to transition away from the use of a 214(c) certificate. The workshop employers would be required to commit to completing the plan and would be required to match grants on a dollar-for-dollar basis with nonstate funds. Workshop employers would be required to provide information to the Secretary regarding the use of grant funds and associated nonstate funds and the progress made towards achieving the goal of the transition plan.

The Secretary would be required to consult with the Secretary for Children and Families and the Secretary of Aging and Disability Services or other appropriate state agency in determining the approval of grants. If the Secretary approves the transition plan and determines the workshop employer has sufficient nonstate funds, the Secretary would award the grant in an amount determined by the Secretary. The Secretary would be permitted to award subsequent

grants to the same employer upon a showing of satisfactory progress towards the employer's transition plan.

The bill would define "Kansas sheltered workshop employer" and "workshop employer" to be a private nonprofit, state, or local government institution that provides employment opportunities for individuals with intellectual, developmental, or physical disabilities and provides such employment opportunities for all or a portion of such individuals under a certificate issued by the U.S. Secretary of Labor under 29 U.S. Code section 214(c).

The bill would require, beginning in January 2024, the Kansas Department of Labor to provide annual reports to the House Committee on Commerce, Labor and Economic Development and the Senate Committee on Commerce, or their successor committees, on the amounts and uses of grant funds by employers and the progress made by each employer towards paying all employees at least the minimum wage. The grant program would expire and all funds in the Fund would be transferred to the State General Fund on July 1, 2033.

### **Background**

The bill was introduced by the House Committee on Commerce, Labor and Economic Development at the request of Representative Mason.

***House Committee on Commerce, Labor and Economic Development***

In the House Committee hearing, **proponent** testimony was provided by representatives of Cerebral Palsy Research Foundation of Kansas, Goodwill Industries of Kansas, and Interhab. The proponents generally stated the bill would extend and expand a program that helps facilitate employment opportunities for individuals with disabilities who would otherwise likely be dependent on public support.

Written-only proponent testimony was provided by Representative Mason and representatives of Envision, Multi Community Diversified Services, and the Wichita Regional Chamber of Commerce.

**Opponent** testimony was provided by representatives of Disability Rights Center of Kansas, Kansas Council on Developmental Disabilities, and the Self Advocate Coalition of Kansas. The opponents generally stated changes in the bill would extend the benefits of the tax credit to organizations who pay less than minimum wages to individuals with disabilities.

Written-only opponent testimony was provided by representatives of the Self Advocate Coalition of Kansas and a private citizen.

The House Committee recommended the bill be passed on February 14, 2023, but the bill was withdrawn from the House Calendar and referred to the House Committee on Appropriations on February 23, 2023. The bill was then withdrawn from the House Committee on Appropriations and rereferred to the House Committee on Commerce, Labor and Economic Development on March 1, 2023. The House Committee again recommended the bill be passed on March 6, 2023.

### ***House Committee of the Whole***

The House Committee of the Whole amended the bill to eliminate the extension of the tax credit to organizations who pay less than minimum wages to individuals with disabilities and to create the Sheltered Workshop Transition Grant program.

### **Fiscal Information**

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department of Revenue estimates enactment of the bill would reduce state revenues by approximately \$500,000 per year beginning in fiscal year 2025.

The House Committee of the Whole amendment would create an annual transfer of \$1.0 million from the state Economic Development Initiatives Fund to the Kansas Sheltered Workshop Transition Fund beginning in fiscal year 2024.

Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Taxation; income tax; tax credit; Disability Employment Act; matching grants; Kansas Sheltered Workshop Transition Fund