

HOUSE BILL No. 2275

By Committee on Commerce, Labor and Economic Development

2-2

1 AN ACT concerning ~~income taxation~~ **{employment}**; relating to ~~credits~~
2 **{persons with disabilities}**; increasing the maximum yearly amount of
3 ~~credit~~ **{income tax credits}** available for purchases under the disability
4 employment act from qualified vendors and continuing in existence
5 such credits beyond tax year 2023; defining qualifying vendors and
6 eligible employees; **{establishing a grant program administered by**
7 **the secretary of labor to facilitate transitions from sub-minimum to**
8 **at least minimum wage employment for persons with disabilities;**
9 **creating the Kansas sheltered workshop transition fund;}** amending
10 K.S.A. 79-32,273 and repealing the existing section.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 **{New Section 1. As used in sections 1 through 3, and amendments**
14 **thereto:**

15 (a) "Kansas sheltered workshop employer" or "workshop
16 employer" means a private nonprofit, state or local government
17 institution that provides employment opportunities for individuals
18 with intellectual, developmental or physical disabilities and provides
19 such employment opportunities for all or a portion of such individuals
20 under a certificate issued by the United States secretary of labor under
21 29 U.S.C. § 214(c).

22 (b) "Secretary" means the secretary of labor.

23 **New Sec. 2. (a) There is hereby created in the state treasury the**
24 **Kansas sheltered workshop transition fund. The secretary of labor**
25 **shall administer the fund. All expenditures from the fund shall be for**
26 **the purpose of facilitating transitions by Kansas sheltered workshop**
27 **employers away from employing individuals with disabilities under a**
28 **certificate issued by the United States secretary of labor under 29**
29 **U.S.C. § 214(c) and toward paying all such employees at least the**
30 **minimum wage. Such purpose shall be achieved by providing**
31 **matching grants from fund moneys to Kansas sheltered workshop**
32 **employers that commit to paying at least the minimum wage to all**
33 **employees. A grant shall be matched on a \$1-to-\$1 basis by the Kansas**
34 **sheltered workshop employer from nonstate sources.**

35 (b) Applications for matching grants shall be made by Kansas
36 sheltered workshop employers to the secretary in the form and

1 manner required by the secretary. In determining whether applicants
2 should be approved and receive a grant, the secretary shall seek the
3 assistance of the secretary for children and families, the secretary for
4 aging and disability services or any other appropriate state agency.
5 The secretary for children and families, secretary for aging and
6 disability services or other state agency shall provide such assistance
7 to the secretary as requested by the secretary. The applicant shall
8 provide a transition plan to the secretary demonstrating how the
9 applicant will use the grant and other funding to transition away from
10 use of a certificate issued by the United States secretary of labor under
11 29 U.S.C. § 214(c). The Kansas sheltered workshop shall commit to
12 completing the plan to receive a grant. If the secretary approves the
13 transition plan, finds that the Kansas sheltered workshop has
14 sufficient nonstate funding to match the grant with nonstate funds on
15 a \$1-to-\$1 basis and approves the application, the secretary shall
16 award the Kansas sheltered workshop a matching grant in the amount
17 determined by the secretary. The secretary may award subsequent
18 additional grants to the same Kansas sheltered workshop employer
19 upon satisfactory progress shown by such workshop employer
20 pursuant to the workshop employer's transition plan.

21 (c) Kansas sheltered workshop employers that receive a matching
22 grant shall provide such information to the secretary as requested,
23 excluding any information prohibited from disclosure under state or
24 federal law, regarding the use of grant funds, use of associated
25 nonstate funds and progress made toward achievement of the
26 transition plan as developed pursuant to subsection (b). Such
27 information shall be utilized by the secretary to analyze and monitor
28 the use of grant funds and compliance with and progress toward
29 completion of the transition plan by workshop employers and to
30 develop best uses of grant funds and transition methods to attain the
31 goal of sections 1 through 3, and amendments thereto.

32 (d) On or before January 31, 2024, and annually on or before
33 January 31 thereafter, the secretary shall report to the house of
34 representatives standing committee on commerce, labor and economic
35 development or its successor committee and the senate standing
36 committee on commerce or its successor committee on the amount and
37 uses of grant funding by each Kansas sheltered workshop employer
38 that has received a matching grant and the progress made by each
39 Kansas sheltered workshop employer toward the goal of sections 1
40 through 3, and amendments thereto.

41 (e) All expenditures from the Kansas sheltered workshop
42 transition fund shall be for the purpose described in subsection (a)
43 and shall be made in accordance with appropriation acts upon

1 warrants of the director of accounts and reports issued pursuant to
2 vouchers approved by the secretary of labor or the secretary's
3 designee.

4 (f) On July 1, 2023, and each July 1 thereafter, or as soon
5 thereafter as moneys may be available, the director of accounts and
6 reports shall transfer \$1,000,000 from the state economic development
7 initiatives fund established by K.S.A. 79-4804, and amendments
8 thereto, to the Kansas sheltered workshop transition fund.

9 New Sec. 3. The provisions of sections 1 through 3, and
10 amendments thereto, shall expire on July 1, 2033. On July 1, 2033, the
11 director of accounts and reports shall transfer all unencumbered
12 moneys in the Kansas sheltered workshop transition fund to the state
13 general fund. After such transfer, the Kansas sheltered workshop
14 transition fund shall be abolished and all liabilities of the Kansas
15 sheltered workshop transition fund shall be transferred to and
16 imposed on the state general fund.}

17 ~~Section 4. {Sec. 4.} K.S.A. 79-32,273 is hereby amended to read as~~
18 ~~follows: 79-32,273. (a) For tax years 2019 through 2023, The provisions of~~
19 ~~this section shall be known and may be cited as the disability employment~~
20 ~~act.~~

21 (b) A credit shall be allowed against the tax imposed by the Kansas
22 income tax act in an amount equal to 15% of the amount for expenditures
23 of goods and services purchased by the taxpayer from a qualified vendor
24 on and after January 1, 2019, and before January 1, 2024, as certified by
25 the secretary of commerce as provided in subsection (e) (d). The amount
26 of such credit awarded for each taxpayer shall not exceed \$500,000 per
27 qualified vendor per tax year. In no event shall the total amount of
28 cumulative credits allowed under this section exceed:

- 29 (1) \$5,000,000 for tax years 2019 through 2023;
30 (2) \$10,000,000 for all tax years that the credit remains in effect tax
31 years 2024 through 2028; and
32 (3) \$10,000,000 for each consecutive five tax years thereafter
33 starting with tax year 2029.

34 (b)(c) The tax credit allowed by this section shall be deducted from
35 the taxpayer's income tax liability for the tax year in which the
36 expenditures were made by the taxpayer. If the amount of such tax credit
37 exceeds the taxpayer's income tax liability for such tax year, the taxpayer
38 may carry over the amount that exceeds such tax liability for deduction
39 from the taxpayer's liability in the next succeeding tax year or years until
40 the total amount of the tax credit has been deducted from tax liability,
41 except that no such tax credit shall be carried over for deduction after the
42 fourth tax year succeeding the tax year in which the expenditures were
43 incurred.

1 ~~(e)~~(d) The secretary of commerce shall annually certify that
2 expenditures for goods and services purchased by a taxpayer subject to the
3 tax credit provided in this section were made from a qualified vendor, and
4 provide such certification to the secretary of revenue. The secretary of
5 commerce is hereby authorized to promulgate rules and regulations for
6 establishing criteria based on the provisions of K.S.A. 75-3317 et seq., and
7 amendments thereto, for evaluating whether purchases by taxpayers from a
8 qualified vendor should be certified as provided in this section, with the
9 assistance and approval of the secretary of revenue.

10 ~~(d)~~(e) As used in this section:

11 (1) "~~Certified business~~"*Qualified vendor*" means:

12 (A) Any business ~~certified by the department of administration~~ that
13 *qualifies as a certified business pursuant to K.S.A. 75-3740, and*
14 *amendments thereto, and is a not-for-profit business that is a sole*
15 *proprietorship, partnership, association or corporation domiciled in*
16 *Kansas, or any corporation, even if a wholly owned subsidiary of a foreign*
17 *corporation, that:*

18 ~~(A)~~(i) Does business primarily in Kansas or substantially all of its
19 production in Kansas;

20 ~~(B)~~(ii) employs at least 30% of its employees *in an integrated setting*
21 *who are individuals with disabilities and reside in Kansas;*

22 ~~(C)~~(iii) offers to contribute at least 75% of the premium cost for
23 individual health insurance coverage for each *eligible* employee. The
24 department of administration shall require a certification of these facts;
25 and

26 ~~(D)~~(iv) does not employ individuals under a certificate issued by the
27 United States secretary of labor under 29 U.S.C. § 214(c);

28 (B) *qualifies as a qualified vendor pursuant to K.S.A. 75-3317, and*
29 *amendments thereto, and also:*

30 (i) *Employs at least 30% of its employees in an integrated setting;*

31 (ii) *offers to contribute at least 75% of the premium cost for*
32 *individual health insurance coverage for each eligible employee or offers*
33 *a qualified company-sponsored insurance plan under the affordable care*
34 *act or pays the required subsidy to the internal revenue service for*
35 *employees who purchase insurance through the open market, if a*
36 *company-sponsored plan is not offered. If any such company is not*
37 *covered under the affordable care act and does not offer a company-*
38 *sponsored insurance plan, such company must offer assistance to the*
39 *employee to cover at least 75% of their health insurance costs through a*
40 *health savings account or other legal and appropriate methodology; and*

41 (iii) *does not employ individuals under a certificate issued by the*
42 *United States secretary of labor under 29 U.S.C. § 214(c); or*

43 (C) *a division within a Kansas not-for-profit organization that:*

1 (i) Does business primarily in Kansas or substantially all of its
2 production in Kansas;

3 (ii) within such division, employs in an integrated setting at least
4 30% of its employees who are individuals with disabilities and reside in
5 Kansas;

6 (iii) within such division, offers to contribute at least 75% of the
7 premium cost for individual health insurance coverage for each eligible
8 employee or offers a qualified company-sponsored insurance plan under
9 the affordable care act or pays the required subsidy to the internal revenue
10 service for employees who purchase insurance through the open market, if
11 a company-sponsored plan is not offered. If any such company is not
12 covered under the affordable care act and does not offer a company-
13 sponsored insurance plan, such company must offer assistance to the
14 employee to cover at least 75% of their health insurance costs through a
15 health savings account or other legal and appropriate methodology; and

16 (iv) ~~within such division, does not employ individuals under a~~
17 ~~certificate issued by the United States secretary of labor under 29 U.S.C. §~~
18 ~~214(c) {and the Kansas not-for-profit organization, including any~~
19 ~~other division within the Kansas not-for-profit organization, does not~~
20 ~~employ individuals under such a certificate}.~~

21 (2) "individuals with disabilities" or "individual with a disability"
22 means any individual who:

23 (A) Is certified by the Kansas department for aging and disability
24 services or by the Kansas department for children and families, which
25 administers the rehabilitation services program *or by a healthcare*
26 *provider determined by the secretary of revenue, that shall include, but is*
27 *not limited to, medical doctors, doctors of osteopathy, physician*
28 *assistants, nurse practitioners, physical therapists, occupational therapists*
29 *and optometrists who can substantiate an individual as having a physical*
30 *or mental impairment that constitutes a substantial barrier to employment;*
31 *and*

32 (B) ~~works a minimum number of hours per week for a certified~~
33 ~~business necessary to qualify for health insurance coverage offered~~
34 ~~pursuant to subsection (d)(1); and~~

35 (C) (i) is receiving services, has received services or is eligible to
36 receive services under a home and community based services program, as
37 defined by K.S.A. 39-7,100, and amendments thereto;

38 (ii) is employed by a charitable organization domiciled in the state of
39 Kansas and exempt from federal income taxation pursuant to section
40 501(c)(3) of the federal internal revenue code of 1986, as amended; or

41 (iii) is an individual with a disability pursuant to the disability
42 standards established by the social security administration as determined
43 by the Kansas disability determination services under the Kansas

1 department for children and families; and

2 ~~(3) "qualified vendor" means an entity that:~~

3 ~~(A) Is a "qualified vendor" pursuant to K.S.A. 75-3317, and~~
4 ~~amendments thereto, or is a "certified business" that is also a nonprofit~~
5 ~~organization pursuant to K.S.A. 75-3740, and amendments thereto;~~

6 ~~(B) pays minimum wage or above to all their employees in a manner~~
7 ~~that meets the definition of "competitive employment" pursuant to K.S.A.~~
8 ~~44-1136, and amendments thereto;~~

9 ~~(C) meets the definition of employing all of their workers in an~~
10 ~~"integrated setting" pursuant to K.S.A. 44-1136, and amendments thereto;~~
11 ~~and~~

12 ~~(D) offers a qualified company-sponsored insurance plan under the~~
13 ~~affordable care act or pays the required subsidy to the internal revenue~~
14 ~~service for employees who purchase insurance through the open market, if~~
15 ~~a company-sponsored plan is not offered. If any such company is not~~
16 ~~covered under the affordable care act, and does not offer a company-~~
17 ~~sponsored insurance plan, such company must offer assistance to the~~
18 ~~employee to cover at least 75% of their health insurance costs through a~~
19 ~~health savings account or other legal and appropriate methodology.~~

20 ~~(e)(f) The secretary of revenue shall report to the house committee on~~
21 ~~taxation and the senate committee on assessment and taxation on or before~~
22 ~~February 1, 2021, 2022, and 2023, concerning the implementation and~~
23 ~~effectiveness of the credit provided in this section.~~

24 ~~Sec. 2. {5.} K.S.A. 79-32,273 is hereby repealed.~~

25 ~~Sec. 3. {6.} This act shall take effect and be in force from and after its~~
26 ~~publication in the statute book.~~