AN ACT concerning taxation; relating to incentives for employment of persons who rely upon medicaid or other government subsidies in order to decrease such reliance; enacting the Kansas tax weight loss act.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) The provisions of sections 1 through 11, and amendments thereto, shall be known and may be cited as the Kansas tax weight loss act.

(b) It shall be the intent of this act to measurably decrease the reliance upon medicaid and other sources of governmental funding by persons who are primarily reliant upon these sources of funding for their sustenance or shelter and by social service organizations that provide services to such persons through incentivizing the creation of new jobs and opportunities for such persons in Kansas.

Sec. 2. As used in this act, unless the context otherwise requires:

(a) "Certified tax weight-loss business" means:

(1) A for-profit or not-for-profit sole proprietorship, partnership, association or corporation domiciled in Kansas, or any for-profit or not-for-profit corporation, even if a wholly owned subsidiary of a foreign corporation, that:

(A) Is authorized to and does business primarily in Kansas or substantially all of its production in Kansas;

(B) paid, during the tax year for which tax credits or benefits are claimed pursuant to this act, at least 2,080 hours of earned income to eligible employees directly or provides 2,080 hours of work for eligible employees through subcontracting with other certified tax weight-loss businesses;

(C) offers to contribute at least 70% of the premium cost for individual health insurance coverage for each full time employee; and

(D) pays all its employees at least the minimum wage required by law;

(2) a "certified business" as defined in K.S.A. 75-3740, and amendments thereto; or

(3) a sheltered workshop that converts to become a certified tax weight-loss business by meeting the following requirements:

(A) It is located in Kansas;
it employs an integrated workforce consisting of persons with
developmental or intellectual disabilities and at least 50% non-disabled
persons who are not staff paid to provide support or services to employees
with developmental or intellectual disabilities;
(C) it does not employ any staff for the purpose of providing support
or services to persons with developmental or intellectual disabilities;
(D) it pays all employees at least the minimum wage, offers health
insurance coverage and pays at least 70% of the health insurance premium;
(E) it provides eligible employees an average of at least 20 hours per
week of work for at least 40 weeks of the taxable year, excepting
employees terminated for cause;
(F) it does not permit use of its facilities for unpaid day service
activities; and
(G) it is separately organized or incorporated from any community
services provider and, if located on the same premises or sharing business
facilities with a community services provider, does not share the same
business space with the community services provider.

(b) "Community services provider" means an association or
organization licensed by the Kansas department for aging and disability
services and whose purpose is to provide support and services relating to
the ability to work and live in the community to persons who, without such
support and services, would be unable to or have significant difficulty
maintaining employment or living in the community. "Community services
provider" does not include an employer of the persons for whom services
are provided.

(c) "Competitive employment" means work:
(1) In the competitive labor market that is performed on a full-time or
part-time basis in an integrated setting; and
(2) for which a person is compensated at or above the minimum
wage, but not less than the customary wage and level of benefits paid by
the employer for the same or similar work performed by persons who are
not disabled.

(d) "Developmental disability" has the meaning provided in K.S.A.
39-1803, and amendments thereto.
(e) "Earned income" means income derived from working and
earning wages paid by a certified weight-loss business to an eligible
employee for competitive employment in an integrated setting. "Earned
income" does not include paid vacation, leave or sick leave.
(f) "Unearned income" means income, whether in cash or in-kind,
that is not compensation for work received from public sources for which
the recipient is eligible on the basis of financial need, including medicaid,
food stamps, supplemental security income, temporary assistance for
needy families, general assistance, earned income credit, the low income
energy assistance program, and section 8, and other forms of public
housing assistance. "Unearned income" shall not include funds or other
support from home and community-based services programs.

(g) "Eligible individual" means an individual who would like to
decrease the individual’s reliance upon unearned income. Eligible
individuals may include persons with intellectual or developmental
disabilities.

(h) "Integrated setting" means, with respect to employment, a setting
typically found in the community in which tax weight-loss program
applicants, disabled eligible individuals or disabled eligible employees
interact with non-disabled individuals, other than non-disabled individuals
who are providing services to those applicants, eligible individuals or
employees, to the same extent that non-disabled individuals in comparable
positions interact with other non-disabled individuals.

(i) "Sub-contract" means components of work that are outsourced by
a manufacturing or other business enterprise that may or may not be a
certified tax weight-loss business to a certified tax weight-loss business in
order to reduce costs for the business enterprise that outsources the work.

(j) "Sheltered workshops" means work centers that provide vocational
training and paid work opportunities for people who have intellectual or
developmental disabilities. A "sheltered workshop" is not eligible for the
provisions of this act unless the sheltered workshop meets all requirements
for conversion to a certified tax weight loss business as set forth in
subsection (a)(3).

(k) "Tax subsidy-reliant individual" means an eligible individual who
relies primarily upon unearned income for such individual's sustenance or
shelter.

(l) "Tax weight" of a tax subsidy-reliant individual or eligible
employee means the sum of:

(1) The home and community-based services and medicaid-waiver
funding or other government funding received per person served by the
community services provider serving the individual to pay for staffing and
overhead costs;

(2) the amount of social security disability or supplemental security
income received by the individual;

(3) the dollar amount of food stamps received by the individual;

(4) the subsidy cost of subsidized housing provided to the individual;

and

(5) an average cost figure for medical costs for the individual.

(m) "Tax weight loss" means the reduction in tax weight of a tax
subsidy reliant individual or eligible employee as the result of earned
income received by the individual from employment with a certified tax
weight-loss business.
(n) "Eligible employee" means a tax subsidy-reliant individual employed by a certified tax weight-loss business during the taxable year, who has agreed in writing to provide information on a confidential basis to the individual's community service provider and the department of revenue, as necessary, to enable calculation of benefits sought by the employing certified tax weight-loss business under section 3 or 4, and amendments thereto. An eligible employee must perform duties in Kansas in connection with the operation of the certified tax weight-loss business on: (1) A regular, full-time basis; or (2) a part-time basis, provided such person is customarily performing such duties at least 20 hours per week throughout the taxable year. An eligible employee does not include an individual whose cumulative tax weight for the preceding tax year has been determined by the secretary to be less than $10,000. An eligible employee who has home and community-based funding for services may receive such services while employed by a certified tax weight-loss business, including on the premises of a certified tax weight-loss business employing the eligible employee. All services must be provided by a community services provider that does not employ the eligible employee receiving services.

(o) "Taxpayer" means a certified tax weight-loss business that is authorized to do business in the state of Kansas and is subject to income tax liability imposed against such taxpayer pursuant to article 32 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 3. (a) A taxpayer employing an eligible employee or providing work for an eligible employee by means of a subcontract with a certified tax weight-loss business employing the eligible employee and approved by the secretary pursuant to section 7, and amendments thereto, shall be entitled to a credit against the income tax liability imposed against such taxpayer pursuant to article 32 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, as provided herein.

(b) To be eligible to receive the credit, the taxpayer shall provide competitive employment in an integrated setting to one or more eligible employees of at least 2,080 earned work hours in total in the tax year for which the credit is claimed, either directly or through entering into a subcontract with another certified tax weight-loss business that performs the work with eligible employees.

(c) No credit shall be provided for:

(1) The employment of an eligible employee who displaces any other individual from employment, except persons discharged for cause; or

(2) the employment of an eligible employee for less than one year, unless the person voluntarily leaves the employment, becomes disabled such that the individual can no longer meet the requirements of the position with accommodation as provided by state or federal law, or is
(d) If the eligible employee leaves the employment of the taxpayer voluntarily, becomes disabled or is terminated for cause in less than one year, the credit shall be reduced by the proportion of the year not worked.

(e) The tax credit shall be calculated by the department of revenue in cooperation with the community services provider providing supports and services to the eligible employee or employees. The credit shall be the amount of tax weight that is reduced during the tax year as a result of income received by the eligible employee or employees from the employment. The community services provider providing supports and services for the eligible employee or employees shall provide the department of revenue with appropriate information as necessary for the department of revenue to determine the credit or credits to be permitted the taxpayer. A certified tax weight-loss business that provides work for an eligible employee employed by another certified tax weight-loss business by subcontracting the work out to such other certified tax weight-loss business shall be solely entitled to the tax credit.

(f) The tax credit shall be deducted from the taxpayer's tax liability for the taxable year in which the tax weight reduction is made by the taxpayer. If the amount of the tax credit exceeds the taxpayer's income tax liability for the taxable year, the amount thereof which exceeds the tax liability may be carried over for deduction from the taxpayer's tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from the tax liability, except that no such tax credit shall be carried over for deduction after the fourth taxable year succeeding the taxable year in which the tax weight reduction is made.

Sec. 4. (a) In lieu of the tax credit pursuant to section 3, and amendments thereto, any certified tax weight-loss business approved by the secretary for benefits pursuant to section 7, and amendments thereto, that employs an eligible employee in an integrated setting at competitive wages, either directly or through subcontracting work out to another certified tax weight-loss business that performs the work with eligible employees, shall be eligible to receive a tax benefit in the amount of $5 for each earned income hour worked by an eligible employee as permitted by this section. A certified tax weight-loss business that provides work for an eligible employee employed by another certified tax weight-loss business by subcontracting the work out to such other certified tax weight-loss business shall be solely entitled to the tax benefit under this section.

(b) No benefit shall be provided for:

(1) The earned income hours due to employment of an eligible employee who displaces any other individual from employment, except persons discharged for cause; or

(2) the earned income hours from employment of an eligible
employee for less than one year, unless the person voluntarily leaves the
employment, becomes disabled such that the individual can no longer meet
the requirements of the position with accommodation as provided by state
or federal law, or is terminated for cause.
(c) The tax benefit shall be calculated by the department of revenue in
cooperation with the community services provider providing supports and
services to the eligible employee or employees.
(d) The tax benefit may be applied by the certified tax weight-loss
business by one of the following means selected by the certified tax
weight-loss business:
   (1) The certified tax weight-loss business may retain $5 from the total
Kansas payroll withholding taxes to be remitted by the certified tax
weight-loss business to the state of Kansas, pursuant to the provisions of
the Kansas withholding and declaration of estimated tax act, K.S.A. 79-
3294 et seq., and amendments thereto, for each earned income hour
worked by an eligible employee until the eligible employee's tax weight,
as determined by the secretary, becomes less than $10,000.
(2) Alternatively, for tax years beginning after December 31, 2017,
the certified tax weight-loss business may request reimbursement from the
secretary for Kansas property taxes or Kansas sales or use taxes paid in the
preceding tax year in an amount of $5 for each earned-income hour
worked by an eligible employee during the preceding tax year.
Reimbursement shall be made by the secretary from the Kansas tax
weight-loss fund upon approval by the secretary or secretary's designee.
(e) (1) There is hereby created in the state treasury the Kansas tax
weight-loss fund. The secretary shall administer the fund. All awards by
the secretary from the fund shall be for the purpose of reimbursing Kansas
property taxes or Kansas sales or use taxes paid by a certified tax weight-
loss business as permitted by this section in accordance with the provisions
of this act and shall be made in accordance with appropriation acts upon
warrants of the director of accounts and reports issued pursuant to
vouchers approved by the secretary.
(2) The secretary shall determine the total tax weight loss achieved by
certified tax weight-loss businesses in Kansas in tax year 2017, and for
each succeeding tax year. Subject to appropriation acts, an amount
equivalent to 75% of the total tax weight loss as determined by the
secretary for each tax year shall be transferred by the director of accounts
and reports from the state general fund to the credit of the Kansas tax
weight loss fund for the next succeeding fiscal year, beginning with the
transfer for fiscal year 2019.
Sec. 5. On and after July 1, 2016, the rate of the tax imposed by
K.S.A. 79-3603, and amendments thereto, upon the sale at retail of
tangible personal property, as defined in K.S.A. 79-3602, and amendments
thereto, that is determined by the secretary to be primarily produced, packaged or assembled by a certified tax weight-loss business as defined in section 1, and amendments thereto, shall be 0%.

Sec. 6. A certified tax weight-loss business may engage a third-party community services provider to provide supports and services for the eligible employees of the certified tax weight-loss business at the premises of the certified tax weight-loss business to ensure the eligible employees are able to maintain their employment.

Sec. 7. (a) Any certified tax weight-loss business meeting the requirements of this act may apply to the secretary of revenue for the tax credits, benefits or sales tax exemption as provided and permitted by sections 3, 4 and 5, and amendments thereto. The application shall be submitted on a form or forms and in the manner prescribed by the secretary. The application process and forms shall be simplified to the extent possible in the judgment of the secretary for the sake of ease of participation of the prospective certified tax weight-loss business and eligible employee and the community service provider.

(b) The application shall include:

(1) Information showing that the business is a certified tax weight-loss business and eligible to receive the tax credit, benefit or sales tax exemption;

(2) information showing the number of eligible employees, number of earned-income hours to be worked by eligible employees, product production and sales information and any other information as requested by the secretary to enable the secretary to estimate, calculate or approve the requested tax credit, benefit or sales tax exemption; and

(3) such other information as may be necessary for the secretary to administer this act, determine eligibility and produce the reports required by this act.

(c) The secretary may either approve or disapprove the application. Upon approval of an application for a tax credit, benefit or sales tax exemption, the secretary may enter into an agreement with the certified tax weight-loss business. Any certified tax weight-loss business whose application is approved shall be eligible to receive the tax credit or benefit under this act as of the date such certified tax weight-loss business enters into the agreement with the secretary.

(d) The secretary may require a certified tax weight-loss business that has been determined eligible and approved by the secretary for a credit, benefit or sales tax exemption to provide reports or additional information as determined necessary by the secretary at regular intervals or at such time or times as determined by the secretary, including, but not limited to:

(1) The amount of Kansas payroll withholding tax being retained by the certified tax weight-loss business; or
(2) such other information as may be required by the secretary to ensure eligibility and that the payroll withholding tax is being properly retained and the requirements and provisions of this act are met.

(e) The contents of completed forms shall be confidential as otherwise provided by Kansas or federal law.

(f) The agreement between the certified tax weight-loss business and the secretary shall be entered into before any credit, benefit or sales tax exemption may be provided to the certified tax weight-loss business under this act, and shall specify that should the certified tax weight-loss business fail to comply with the terms and conditions set forth in the agreement, or fail to comply with the provisions set forth in this act, the secretary may terminate the agreement, and the certified tax weight-loss business shall not be entitled to any further credit, benefit or sales tax exemption provided under this act and shall be required to remit to the state an amount equal to the aggregate Kansas payroll withholding taxes retained by the certified tax weight-loss business, or remitted to the certified tax weight-loss business by a third party, or the amount of income tax credit received, or the property or sales or use tax reimbursements received by the certified tax weight-loss business from the Kansas tax weight-loss fund as of the date the agreement is terminated.

(g) The secretary may also enter into an agreement with a third-party community services provider providing supports and services to eligible employees of the certified tax weight-loss business applying for a tax incentive under this act whereby the community services provider shall provide the secretary with tax weight-loss information that is necessary to enable the secretary to calculate the credit or benefit. Such agreement shall provide for confidentiality of the tax weight-loss information. No tax weight-loss information shall be provided by a third-party community services provider to the department unless a written consent to the release of such information has been made by the eligible employee.

Sec. 8. The secretary of revenue shall conduct at least an annual review of the activities undertaken by a certified tax weight-loss business receiving tax credits, benefits or a sales tax exemption to ensure that the certified tax weight-loss business is in compliance with the provisions of this act, any rules and regulations adopted by the secretary and the agreement with the secretary described in section 7, and amendments thereto. The books and records concerning employment and wages of any eligible employee for which the certified tax weight-loss business has received or is claiming a tax credit or benefit shall be available for inspection by the secretary of revenue or the secretary's duly authorized agents or employees at all times during business hours. In addition, a certified tax weight-loss business that has obtained an exemption from sales tax on the retail sale of tangible personal property pursuant to this act
shall make available all books and records regarding work, production and
sales for inspection by the secretary of revenue or the secretary's
authorized agents or employees at all times during business hours. The
department of revenue may audit a certified tax weight-loss business or a
community services provider for compliance with the provisions of this
act.

Sec. 9. The secretary of revenue shall transmit annually to the
governor and to the legislature a report, based on information received
from each certified tax weight-loss business receiving tax credits or
benefits and from community service providers providing supports and
services, describing the following:
(a) The number of eligible tax subsidy-reliant individuals employed;
(b) the wages paid for such employees;
(c) the estimated number of earned-income hours worked by such
employees;
(d) the annual amount of tax credits and benefits provided under this
act; and
(e) the estimated aggregate tax weight loss achieved.

Sec. 10. (a) The tax weight, tax weight loss and underlying
information utilized to make such determinations, where identifiable to an
eligible employee, shall be confidential and not subject to disclosure under
the Kansas open records act. It shall be unlawful for any person to disclose
such information, except for disclosures made for purposes of carrying out
the requirements of this act to persons who have been authorized to
receive such information by the community services provider or the
secretary of revenue. Disclosure of such information to a person not
authorized to receive such information shall constitute a class A nonperson
misdemeanor, punishable upon conviction in accordance with K.S.A. 21-
6602 or 21-6611, and amendments thereto. The provisions of this
subsection shall expire on July 1, 2021, unless the legislature reviews and
reenacts this provision pursuant to K.S.A. 45-229, and amendments
thereto, prior to July 1, 2021.
(b) Aggregate tax weight and tax weight-loss data and aggregate
underlying financial information utilized to make such determinations may
be disclosed where no personal identifying information is included in such
data and the identification of an eligible employee or tax subsidy-reliant
individual based on such data or the association of such data with an
eligible employee or tax subsidy-reliant individual would not reasonably
be possible.
(c) Nothing in this act shall be construed to allow disclosure of the
amount of income or any particulars set forth or disclosed in any report,
return, federal return or federal return information, where such disclosure
is prohibited by the federal internal revenue code as in effect on September
1, 1996, related federal internal revenue rules or regulations, or other federal law, or the disclosure of information pertaining to an eligible employee where such disclosure is otherwise prohibited by federal law.

Sec. 11. The secretary of revenue is authorized to adopt such rules and regulations as necessary to carry out the provisions of this act.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.