

SESSION OF 2023

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2292

As Amended by House Committee of the Whole

Brief*

HB 2292, as amended, would create the Kansas Apprenticeship Act (Act), which would establish a tax credit and grant incentive programs for apprenticeships.

Apprenticeship Tax Credit

Tax Years 2023, 2024, and 2025

The bill would allow an eligible employer to claim the apprenticeship tax credit for tax years commencing after December 31, 2022, and ending before January 1, 2026, if the eligible employer employs an apprentice:

- Pursuant to a registered apprenticeship agreement;
- In accordance with a registered apprenticeship plan for all or a portion of the probationary period, as defined for that apprenticeship in the registered apprenticeship standards, work process schedule otherwise known as appendix A, or as designated by the Secretary of Commerce (Secretary); and
- At the time such probationary period is completed.

The bill would require the tax credit to be claimed by an eligible employer for the taxable year in which the apprentice completed the probationary period or the taxable year

*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>

succeeding the calendar year in which the apprentice completed the probationary period while employed by the eligible employer, as determined by the Secretary and set forth in the agreement with the Secretary.

The bill would allow subsequent tax credits to be claimed for up to three successive calendar years after the date on which the probationary period of the apprentice was met by any eligible employer who subsequently employs such apprentice in all or a portion of the year. The bill would require the tax credit to be claimed by an eligible employer for the taxable year in which the apprentice was employed or the taxable year succeeding the calendar year in which the apprentice was employed by the eligible employer, as determined by the Secretary and set forth in the agreement with the Secretary.

The Secretary of Revenue, in consultation with the Secretary of Commerce, would be required to establish a scale reflecting the ranges of wages and other expenditures an eligible employer has invested in an apprentice and a corresponding tax credit amount. The amount of the tax credit awarded would be in accordance with the scale, up to \$2,500 for each apprentice employed.

The tax credit could be awarded for up to 20 apprentices employed in each taxable year per eligible employer and would not be awarded for employment of the same apprentice more than 4 times.

Tax Years After December 31, 2025

For tax years commencing after December 31, 2025, the bill would allow an eligible employer to claim the apprenticeship tax credit, if the eligible employer employs an apprentice:

- Pursuant to a registered apprenticeship agreement; and

- In accordance with a registered apprenticeship plan for a continuous period of time constituting at least 25.0 percent of the apprenticeship time period required by the registered apprenticeship program.

The bill would require the tax credit to be taken in the tax year next succeeding the calendar year in which the employment requirement to claim the credit is met.

The eligible employer would be able to claim the tax credit in successive tax years based on up to a cumulative total of four successive calendar years of employment for an individual apprentice.

The amount of the tax credit would be up to \$2,750 for each employed apprentice, not to exceed 20 such credits in any taxable year per eligible employer. The Secretary could authorize a credit for employment of less than a full calendar year pursuant to rules and regulations adopted by the Secretary.

Career and Technical Education (CTE) Program

In addition to the credit allowed for an apprentice in tax years commencing after December 31, 2025, the bill would also allow an eligible employer to claim a tax credit for an apprentice who is enrolled in a secondary or postsecondary CTE program, is under 18 years of age at the time the credit is claimed, has been employed by the eligible employer for at least 90 days, and is participating in:

- An apprenticeship program registered with the Secretary and funded through the Carl D. Perkins Career and Technical Education Act of 2006, as revised by the Strengthening Career and Technical Education for the 21st Century Act;

- An adult basic education and literacy program funded under Title II of the Workforce Innovation and Opportunity Act; or
- A public workforce program funded under Title I and Title III of the Workforce Innovation and Opportunity Act.

An eligible employer would be required to claim the credit in the taxable year next succeeding the calendar year in which the requirements to claim the credit are met.

The bill would limit the amount of the credit to not exceed \$500 and would limit the number of credits an eligible employer could claim per tax year to no more than 10 credits.

Limitations

The bill would limit the aggregate amount of all tax credits for all eligible employers issued under the Act to \$7.5 million each taxable year.

Tax credits would not be refundable or transferable and would be claimed on a pro-rata basis by the owners of eligible employers that are entities taxed under subchapter S or K of the federal Internal Revenue Code, limited liability companies, or professional corporations authorized to do business in the state.

Agreement with the Secretary of Commerce

The bill would require eligible employers to enter into an agreement regarding the employment of apprentices with the Secretary on such terms and conditions as the Secretary may require. The agreement would:

- Set forth the amount per credit or amount of cumulative credits an employer may earn based on specified conditions or attainment of specified

employment or training goals and any other conditions for such credits;

- If applicable, set forth the relevant provisions of the scale reflecting the ranges of wages and other expenditures an eligible employer has invested in an apprentice and a corresponding tax credit amount, as determined by the Secretary of Revenue in consultation with the Secretary of Commerce; and
- Require the eligible employer provide such information as required by the Secretary of Commerce or Secretary of Revenue for purposes of substantiating eligibility for the tax credit, the development and expansion of apprenticeships in the state and the report required under the Act.

If an agreement is approved by the Secretary, the eligible employer would be required to submit such information in the manner and form as prescribed by the Secretary of Commerce and Secretary of Revenue to demonstrate eligibility for the credit each tax year a credit is claimed. The eligible employer would also need to meet the requirements of any rules and regulations of the Secretary of Commerce or Secretary of Revenue.

Duties of Secretary of Commerce

The Secretary of Commerce would be required to advise the Secretary of Revenue of the potential tax credits available to the eligible employer. The Secretary of Commerce would also be required to certify eligible employers to the Secretary of Revenue before a tax credit may be awarded.

The Secretary of Commerce would be required to consult with the Secretary of Revenue, Kansas postsecondary technical education authority and educational institutions, technical schools, secondary schools, business or industry associations, and other appropriate entities to

coordinate implementation, administration, and development of apprenticeship programs in the state, including through the use of apprenticeship tax credits.

The Secretary would be required to provide an annual report before January 31 of each year to the House Committee on Commerce, Labor and Economic Development and the Senate Committee on Commerce to account for the effectiveness of the Act. The report would be required to include information regarding:

- The number and type of eligible employers, eligible nonprofit employers, and eligible health care employers;
- The number and type of apprenticeships incentivized;
- The amount of tax credits and grants issued and the amounts issued per industry and per eligible employer, eligible nonprofit employer, and eligible health care employer;
- Results of the program including information on the employment of individuals following the participation in an apprenticeship program, the extent and nature of coordination and efforts with other entities to develop apprenticeship programs, and the effect of such efforts on the tax credits and grants on apprenticeship program development; and
- Other information requested by the respective committees.

Rules and Regulations

The bill would authorize the Secretary of Commerce or the Secretary of Revenue to adopt rules and regulations as

necessary to establish standards for participation and eligibility and to implement and administer the Act.

Union Affiliation

The bill would stipulate that participation of an employee with an apprenticeship program under the Act and registration with the Secretary would not constitute union affiliation, unless the employee expressly elects to affiliate with a union.

Kansas Nonprofit Apprenticeship Grant Program

The bill would also create the Kansas Nonprofit Apprenticeship Grant Program (Program) and authorize the Secretary to develop and administer the Program to award grants to eligible nonprofit employers and eligible nonprofit health care employers that employ an apprentice pursuant to a registered apprenticeship agreement and in accordance with a registered apprenticeship plan for the purpose of covering administrative costs of registered apprenticeship programs. The Secretary would be required to develop application procedures, forms and grant award terms, conditions, and criteria and consult with appropriate state agencies, institutions, nonprofit organizations and associations, private health care associations, nonprofit Kansas health care providers, and other appropriate entities in developing the grant program.

To be eligible for grants under the Program, an eligible nonprofit employer or eligible nonprofit health care employer would be required to enter into an agreement with the Secretary to employ an apprentice for the same period of time as the probationary period, as defined for the apprenticeship in the registered apprenticeship program standards, or a continuous period of time constituting at least 25.0 percent of the apprenticeship time period required by the registered apprenticeship program. The Secretary could authorize employment of an apprentice for less than a full year.

The bill would require grants to be awarded pursuant to an agreement with the eligible nonprofit employer or eligible nonprofit health care employer upon such terms and conditions as the Secretary may require and could include program development or employment or training goals in addition to specified employment requirements with respect to an apprentice.

The bill would limit the grant amount to \$2,750 per apprenticeship per taxable year, not to exceed 4 successive years, and limit the number of grants to no more than 20 per eligible nonprofit employer or per eligible nonprofit health care employer per taxable year.

Kansas Nonprofit Apprenticeship Grant Program Fund

The bill would create the Kansas Nonprofit Apprenticeship Grant Program Fund (Fund) to be administered by the Secretary. All moneys credited to the Fund would be used to provide grants for the administration of apprenticeship programs by eligible nonprofit employers and eligible nonprofit health care employers in Kansas.

On July 1, 2023, and each July 1 thereafter, the bill would require, subject to appropriation acts, \$2.5 million from the State General Fund be transferred to the Fund. Any unexpended balance in the Fund at the close of a fiscal year would remain credited to the Fund for use in the succeeding fiscal year.

The bill would limit the sum of the amount of all tax credits and grants issued pursuant to the Act to not exceed a total amount of \$10.0 million in each taxable year.

Kansas Educator Registered Apprenticeship Grant Program

The bill would also create the Kansas Educator Registered Apprenticeship Program (Educator Program) and

direct the State Board of Education, Commissioner of Education, and the Secretary to coordinate to develop the program, obtain necessary approvals for the program under state and federal law, and administer the program, which would award grants to applicant schools for the purpose of increasing the number of qualified, credentialed teachers in Kansas by identifying candidates to participate in the Educator Program, secure licensure, and engage in the profession of teaching in Kansas. Grants would be awarded upon the approval of the Educator Program by the Secretary.

The bill would require the State Board of Education, in coordination with the Secretary, to adopt, by March 1, 2024, rules and regulations to implement the Educator Program, including establishing:

- The grant application procedure and forms;
- Terms and conditions for the award of a grant, which would include requiring partnerships between applicant schools and eligible training instruction providers, requiring the identification of projected candidates in the manner designated by the Secretary, and the use of grant funds for the payment of apprentice tuition and fees up to a maximum of \$2,750 per year for four years, and the payment of apprenticeship wages;
- Prioritization of grant applications providing for the apprentice to continue current employment by utilizing flexible learning models; and
- A method to award grants equitably across the state geographically.

The bill would require the Commissioner of Education and the State Board of Education, in coordination with the Secretary, to annually evaluate the Educator Program beginning in 2025 and submit a report of the evaluation to the

House and Senate committees dealing with education and commerce by January 31 of each succeeding year.

Kansas Educator Registered Apprenticeship Grant Program Fund

The bill would create the Kansas Educator Registered Apprenticeship Grant Program Fund (Educator Program Fund) and provide for expenditures from the fund to be made to award grants under the Educator Program. Expenditures from the Educator Program Fund would be made in accordance with appropriations acts. The bill would provide for an annual transfer, beginning July 1, 2023, of \$3.0 million from the State General Fund (SGF) to the Educator Program Fund, and any unexpended balance of the Educator Program Fund at the end of each fiscal year would remain in the Educator Program Fund for use in the succeeding fiscal year.

Definitions

The bill would define the terms “Act,” “apprentice,” “apprenticeship,” “apprenticeship agreement,” “apprenticeship program,” “applicant school,” “candidate,” “education apprentice,” “eligible employer,” “eligible nonprofit employer,” “eligible healthcare employer,” “eligible related training instruction provider,” “intermediary,” “registered apprenticeship agreement,” “registered education apprenticeship program,” “registered apprenticeship program,” “Secretary,” and “sponsor.”

Background

The bill was introduced in the House Committee on Commerce, Labor and Economic Development at the request of a representative of the Kansas Chamber of Commerce.

House Committee on Commerce, Labor and Economic Development

In the House Committee hearing, **proponent** testimony was provided by representatives of Kansas Business Roundtable, Kansas Chamber of Commerce, Kansas Department of Commerce, Kansas Society for Human Resources Management, Hamilton-Ryker, and a representative of Community Care Network of Kansas, the Kansas Hospital Association, Kansas Health Care Association, and Leading Age Kansas. The proponents generally stated the bill would encourage the development of apprenticeship programs in Kansas and help address workforce shortages.

Written-only proponent testimony was provided by a representative of the Kansas Agribusiness Retailers Association, Kansas Grain and Feed Association, and Renew Kansas Biofuels Association and representatives of the Greater Kansas City Chamber of Commerce, Kansas Economic Development Alliance, Overland Park Chamber of Commerce, and Wichita Regional Chamber of Commerce.

Neutral testimony was provided by a representative of Kansas AFL-CIO.

No other testimony was provided.

The House Committee amended the bill to:

- Change the qualifying period of apprenticeship from seven months to the probationary period, as defined for the apprenticeship in the registered apprenticeship program standards;
- Add the Kansas Nonprofit Apprenticeship Grant Program; and
- Increase the aggregate amount of all tax credits issued and grants awarded each taxable year for

all eligible employers from \$7.5 million to \$10.0 million.

House Committee of the Whole

The House Committee of the Whole amended the bill to insert the provisions providing for the Educator Program and the Educator Program Fund.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department of Revenue estimates that enactment of the bill would decrease SGF revenues by \$5,945,000 in FY 2024 and \$7.5 million in both FY 2025 and FY 2026. The Department indicates the bill would require \$41,882 SGF in FY 2024 to implement the bill and modify the automated tax system. The required programming would be performed by existing staff. In addition, if the combined effect of implementing this bill and other enacted legislation exceeds the Department's programming resources, or if the time for implementing the changes is too short, additional expenditures for outside contract programmer services beyond the Department's current budget may be required.

The Department of Commerce indicates that it is currently responsible for administering the Kansas Office of Registered Apprenticeship. The Department of Commerce indicates that the administrative costs associated with managing the tax credits under the Act would be accomplished within existing staff levels and resources.

A revised fiscal note on the amended bill was not immediately available. Any fiscal effect associated with HB 2292 is not reflected in *The FY 2024 Governor's Budget Report*.

Apprenticeship; Kansas Apprenticeship Act; tax credit; Kansas Nonprofit Apprenticeship Grant Program; Kansas Nonprofit Apprenticeship Grant Program Fund; Kansas Department of Commerce; registered apprenticeship; Office of Registered Apprenticeship; Kansas Educator Registered Apprenticeship Grant Program; Kansas Educator Registered Apprenticeship Grant Program Fund; economic development