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**MEMORANDUM**

To: Chairperson Erickson and Senate Committee on Commerce  
From: Charles Reimer, Office of Revisor of Statutes  
Date: 3/9/2023  
Subject: HB2292

HB2292 enacts the Kansas apprenticeship tax credit act, establishing a tax credit program for Kansas businesses that employ apprentices who are Kansas residents in Kansas pursuant to a registered apprenticeship program administered by the Office of Registered Apprenticeship of the Department of Commerce. (This memo assumes the Office of Registered Apprenticeship will administer the program.) The Office of Registered Apprenticeship is directed to consult with the Secretary of Revenue, the 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 Kansas.

The House Committee on Commerce, Labor and Economic Development amended the bill to include an apprenticeship grant program for nonprofit employers, including nonprofit healthcare employers, and also included for-profit eligible healthcare employers within the definition of “eligible employer.”

The House Committee of the Whole added a grant program for school districts specifically for apprenticeships and education expenses to train licensed teachers. This program will be discussed separately.

Definitions, Section 2.

“Apprentice” is defined in section 2 of the bill as a Kanas resident, at least 16 years of age, except where required to be older by law, who is employed to learn an apprenticeable occupation

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as defined by federal regulations. An “eligible employer” is defined as a business with a physical location in Kansas, authorized to conduct business in Kansas and subject to Kansas income tax. An apprentice must be employed pursuant to a registered apprenticeship agreement and in accordance with a registered apprenticeship program, both defined terms.

The House Committee on Commerce, Labor and Economic Development amended the bill to include definitions for “eligible nonprofit employer,” defined as “an organization that is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, with a physical location in Kansas and registered, if required by law, with the secretary of state that employs or supervises the work of an apprentice pursuant to a registered apprenticeship agreement and in accordance with a registered apprenticeship program.” “Eligible healthcare employer” means a “hospital, long-term care facility or federally qualified healthcare center with a physical location in Kansas that is engaged in providing healthcare to Kansas residents and that employs or supervises the work of an apprentice pursuant to a registered apprenticeship agreement and in accordance with a registered apprenticeship program.”

Tax Credit and Other Program Provisions, Section 3.

Eligibility and Agreement

To be eligible for a tax credit, the eligible employer must employ an apprentice pursuant to an apprenticeship agreement and in accordance with an apprenticeship plan that are compliant with federal and state law and are registered and approved by the Office of Apprenticeship of the Employment and Training Administration of the United States Department of Labor or by the Kansas Office of Registered Apprenticeship. The eligible employer must enter into an agreement with the Office of Registered Apprenticeship that sets forth specified conditions or attainment of specified employment or training goals and any other conditions for receipt of credits consistent with the purposes of the act. The agreement must also require the employer to provide information required by the Office of Registered Apprenticeship or the Secretary of Revenue for the purpose of demonstrating eligibility and for the report to legislative committees discussed below. The eligible employer must submit information to the Office of Registered Employment and the Secretary of Revenue demonstrating eligibility for the tax credit each tax year a credit is claimed. No credit is to be awarded unless the Office of Registered Employment has certified to the Secretary of Revenue that the eligible employer has met the requirements for the credit and is

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in compliance with all federal and state provisions pertaining to the registered apprenticeship program and the registered apprenticeship agreement.

Tax Credit for Tax Years 2023 through 2025 (Sec. 3(a))

To receive a tax credit for tax years 2023 through 2025, the original bill required that an eligible employer must employ an apprentice during the calendar year preceding the taxable year for which the credit is claimed. As introduced, the bill required the employment to be for at least seven consecutive months.

The House Committee amended the bill to replace the seven consecutive month employment requirement with a requirement that the employment be for all or a portion of the probationary period, as defined for that apprenticeship. The eligible employer who employed the apprentice when the probationary period was completed by the apprentice would receive the credit. Subsequent credits may be claimed for up to three successive calendar years, or portions thereof, after the date on which the probationary period of the apprentice was met, by any eligible employer who subsequently employs the apprentice.

The House Committee also expanded the time frame permitted for employment of an apprentice and receipt of the tax credit to also include employment of an apprentice and receipt of the credit by the employer within the same taxable year.

The amount of the credit is up to \$2,500, as determined by a scale to be developed by the Secretary of Revenue in consultation with the Office of Registered Apprenticeship. The scale is based on a range of wages and expenditures with corresponding tax credit amounts.

Tax Credit for Tax Years 2026 and Thereafter (Sec. 3(b))

For tax year 2026 and tax years thereafter, the eligible employer must employ the apprentice for a continuous period constituting at least 25% of the apprenticeship time period required by the registered apprenticeship program. The credit is taken in the tax year succeeding the calendar year in which the employment requirement is met, and may be taken in successive tax years based on employment for a full year for up to a total of four successive calendar years of employment for each apprentice. The amount of the credit is up to \$2,750 for each apprentice

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employed. An employer may receive such credit for up to 20 apprenticeships in a taxable year. The Office of Registered Apprenticeship has discretion to authorize a credit for employment of an apprentice for less than a full calendar year pursuant to rules and regulations to be adopted by the Secretary of Commerce.

Additional Tax Credit (Sec. 3(c))

There is also a provision for an additional credit if the apprentice is enrolled in a secondary or postsecondary career and technical education program, is under 18 years of age, has been employed by the eligible employer for at least 90 days and is participating in certain specified apprenticeship and other programs listed on page 3, lines 19 through 26 of the bill. These programs are an apprenticeship program funded through the Carl D. Perkins career and technical education act, or an adult basic education and literacy program or a public workforce program both funded under the federal workforce innovation and opportunity act. This additional credit is limited to \$500. An eligible employer may not claim more than 10 such credits per tax year.

Terms, Requirements and Aggregate Amount Limitation for All Tax Credits (Sec. 3(d))

All credits under this program are not refundable or transferable. In the bill as introduced, the cumulative amount of all tax credits for all eligible employers in a tax year was limited to \$7,500,000. The House Committee amended this to accommodate the grant program for nonprofit employers, including nonprofit healthcare employers, by retaining the aggregate limit for tax credits at \$7,500,000 each taxable year, but adding a total aggregate limit, including all grants issued to nonprofit employers under the added nonprofit apprenticeship grant program, to \$10,000,000 each taxable year.

Provision Regarding Union Membership (Sec. 3(e))

The bill provides that the participation of an employee in an apprenticeship program is not to constitute union affiliation, unless the employee elects to affiliate with a union. (Sec. 3(e).)

Report to Legislature (Sec. 3(g))

The Secretary of Commerce or the Office of Registered Apprenticeship is 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. The report is to include information on the number and types of eligible employers and apprenticeships, the cumulative

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amount of tax credits issued broken down by industry and by eligible employer, results of the program including employment of apprentices following participation in an apprenticeship program, and efforts made to develop apprenticeship programs and the effect of such efforts and the tax credits on apprenticeship program development.

The House Committee amended this provision to include information pertaining to the added nonprofit apprenticeship grant program.

Kansas nonprofit apprenticeship grant program

The House Committee on Commerce, Labor and Economic Development added a new section 4, establishing the Kansas nonprofit apprenticeship grant program. This program is intended particularly to facilitate apprenticeships for healthcare organizations that are nonprofit, but also any nonprofit employer. For-profit healthcare organizations would be eligible to participate in the tax credit program.

This program authorizes the secretary of commerce to develop and administer a program to award grants to eligible nonprofit employers and eligible nonprofit healthcare employers that employ an apprentice pursuant to a registered apprenticeship agreement and in accordance with a registered apprenticeship plan. The grants would be for the purpose of covering administrative costs and program development costs associated with meeting the requirements of a registered apprenticeship program. The grant program is similar to the tax credit for for-profit employers. An agreement with the secretary is required and the nonprofit employer must employ the apprentice for the same periods of time as a for-profit employer. The secretary may require program development, employment or training goals by the nonprofit employer.

Grants may be awarded up to an amount of \$2,750 per apprentice per taxable year, not to exceed four successive years. Grants are limited to 20 per eligible nonprofit employer or nonprofit healthcare employer. The secretary is to develop application procedures and grant award terms, conditions and criteria. The section also provides the secretary is to consult with state agencies, institutions, nonprofit organizations and associations, private healthcare associations, nonprofit Kansas healthcare providers and other appropriate entities in developing the grant program, criteria, and priorities.

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This section creates the Kansas nonprofit apprenticeship grant program fund, to be administered by the secretary, for the purpose of funding the grants. Subject to appropriation acts, the bill provides for \$2,500,000 to be transferred to the fund from the state general fund each July 1, starting in 2023. Any unexpended balance carries over to the next year. The aggregate amount of all grants plus the aggregate amount of all tax credits shall not exceed a total of \$10,000,000 in each taxable year.

Kansas Educator Registered Apprenticeship Grant Program

The House Committee of the Whole amended the bill to add a grant program for high school districts specifically for apprenticeships for paraeducators or other employees of the school district who wish to become licensed teachers. The purpose is to increase the number of licensed teachers in the state. This program is set forth in sections 5 and 6 of the bill. Like the additional program for nonprofit employers in section 4, this program has similar requirements with respect to meeting federal and state requirements for apprentices and registered programs. (See definition of “education apprentice, section 5.) The commissioner of education, state board of education and the secretary of commerce are to coordinate to develop and administer the program and to obtain the approval of the education apprenticeship programs under federal law.

The bill requires the state board of education in coordination with the secretary of commerce to adopt rules and regulations to implement the program on or before March 1, 2024. These regulations are to include application procedures and terms and conditions for an award of a grant.

An applicant school district is required to enter into a partnership with at least one eligible related training instruction provider (an institution of higher education that provides a teacher preparation program, as defined in section 5). The applicant school district is to identify candidates, which are paraeducators or other persons employed by a school district who wish to become licensed teachers. (Defined in section 5.) Grant funds are to be used for payment of apprentice tuition at the institution of higher education up to a maximum of \$2,750 per year for four years, or completion of the academic program to obtain a teaching degree, and for payment of apprentice wages. Grant applications from applicant school districts that partner with an educational institution to provide the required education using flexible learning models that

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permits the apprentice to continue their current employment are to be prioritized. Grants are to be awarded in an equitable manner geographically within the state.

Starting in January, 2025, the commissioner of education and the state board of education, in coordination with the secretary of commerce are to annually evaluate the program and report to the Senate committees on education and commerce and to the house of representatives committees on education and commerce, labor and economic development.

Subject to appropriation acts, the program is to be funded by a transfer from the state general fund to a new Kansas educator registered apprenticeship grant program fund of \$3,000,000 each July 1, starting in 2023. Unexpended funds remain in the fund for use in the next fiscal year.

Vote in House

The bill passed the House 115 to 7.

Effective Date

July 1, 2023.