

HOUSE BILL No. 2057

By Committee on Commerce, Labor and Economic Development

1-12

1 AN ACT concerning the division of workforce development of the
2 department of commerce; abolishing the division and transferring its
3 powers, functions, assets and liabilities to the department of labor;
4 amending K.S.A. 2016 Supp. 72-4427, 72-4460, 74-32,151, 74-32,160,
5 74-5002y, 74-50,209 and 75-5701b and repealing the existing sections;
6 also repealing K.S.A. 2016 Supp. 74-5002s, 74-5002t, 74-5002u, 74-
7 5002v, 74-5002w, 74-5002x and 75-5701a.

8
9 *Be it enacted by the Legislature of the State of Kansas:*

10 New Section 1. As used in this act:

11 (a) "Division of workforce development" or the "division of
12 workforce development within the department of commerce" means the
13 division within the department of commerce created by K.S.A. 2016 Supp.
14 75-5701a, prior to its repeal, and except as otherwise provided, includes all
15 powers, duties and functions transferred to that division or to the secretary
16 of commerce by K.S.A. 2016 Supp. 75-5701a, prior to its repeal, and all
17 powers, duties and functions of that division in existence immediately
18 prior to the effective date of this act, whether that division is known as the
19 division of workforce development, the workforce services division or
20 another name.

21 (b) "Director of workforce development" means the head of the
22 division within the department of commerce created by K.S.A. 2016 Supp.
23 75-5701a, prior to its repeal, whether known as the director of workforce
24 development, the director of workforce services or another title.

25 New Sec. 2. There is hereby established, within the Kansas
26 department of labor, a division of workforce and employment
27 development. The head of the division shall be the director of workforce
28 and employment development, who shall be appointed by and serve at the
29 pleasure of the secretary of labor. The director shall be in the unclassified
30 service under the Kansas civil service act and shall receive an annual
31 salary fixed by the secretary of labor, with the approval of the governor.
32 Under the supervision of the secretary of labor, the director of workforce
33 and employment development shall administer the division of workforce
34 and employment development.

35 New Sec. 3. (a) The division of workforce development within the
36 department of commerce created by K.S.A. 2016 Supp. 75-5701a, prior to

1 its repeal, is hereby abolished. On the effective date of this act, the division
2 of workforce development of the department of commerce is hereby
3 renamed the division of workforce and employment development of the
4 department of labor.

5 (b) Except as otherwise provided by this act, all of the powers, duties
6 and functions of the division of workforce development within the
7 department of commerce and of the director of workforce development in
8 existence immediately prior to the effective date of this act are hereby
9 transferred to and imposed upon the division of workforce and
10 employment development within the department of labor and the director
11 of workforce and employment development established by this act.

12 (c) (1) Except as otherwise provided by this act, all of the powers,
13 duties and functions of the division of workforce development and the
14 secretary of commerce that relate to labor exchange and training,
15 including, but not limited to, those powers, duties and functions that relate
16 to the Kansasworks state board or local workforce development boards,
17 are hereby transferred to and imposed upon the division of workforce and
18 employment development of the department of labor and the secretary of
19 labor.

20 (2) Notwithstanding the provisions of subsection (c)(1), both the
21 secretary of commerce and the secretary of labor shall continue to be ex
22 officio members of the commission on disability concerns.

23 (3) Notwithstanding the provisions of this section, the following
24 powers, duties and functions of the division of workforce development
25 within the department of commerce shall remain powers, duties and
26 functions of the department of commerce:

27 (A) Powers, duties and functions relating to the Kansas investments
28 in major projects and comprehensive training or IMPACT act, K.S.A. 74-
29 50,102 et seq., and amendments thereto;

30 (B) powers, duties and functions relating to the university
31 engineering initiative act, K.S.A. 2016 Supp. 76-7,136 et seq., and
32 amendments thereto; and

33 (C) powers, duties and functions relating to the innovation growth
34 program or commerce university partnerships program or its steering
35 committee.

36 New Sec. 4. (a) The division of workforce and employment
37 development within the department of labor and the director of workforce
38 and employment development established by this act shall be the successor
39 in every way to the powers, duties and functions of the division of
40 workforce development within the department of commerce and the
41 director of workforce development in which the same were vested prior to
42 the effective date of this act and that are transferred pursuant to section 3,
43 and amendments thereto. The department of labor and the secretary of

1 labor shall be the successor in every way to the powers, duties and
2 functions of the department of commerce and secretary of commerce in
3 which the same were vested prior to the effective date of this act and that
4 are transferred pursuant to section 3, and amendments thereto. Every act
5 performed in the exercise of such transferred powers, duties and functions
6 by or under the authority of the department or secretary of labor or the
7 division or director of workforce and employment development within the
8 department of labor shall be deemed to have the same force and effect as if
9 performed by the department or secretary of commerce or the division or
10 director of workforce development within the department of commerce in
11 which such powers, duties and functions were vested prior to the effective
12 date of this act.

13 (b) Whenever the division of workforce development of the
14 department of commerce, or words of like effect, are referred to or
15 designated by a statute, contract or other document, such reference or
16 designation shall be deemed to apply to the division of workforce and
17 employment development of the department of labor established by this
18 act.

19 (c) Whenever the director of workforce development within the
20 department of commerce, or words of like effect, are referred to or
21 designated by a statute, contract or other document, such reference or
22 designation shall be deemed to apply to the director of workforce and
23 employment development within the department of labor established by
24 this act.

25 (d) Whenever the division of workforce development of the
26 department of commerce, the department of commerce or the secretary of
27 commerce, or words of like effect, are referred to or designated by a
28 statute, contract or other document and such reference is in regard to any
29 of the powers, duties or functions transferred to the department of labor or
30 secretary of labor pursuant to this act, such reference or designation shall
31 be deemed to apply to the department of labor or the secretary of labor.

32 (e) All rules and regulations, orders and directives of the secretary of
33 commerce or the director of workforce development of the department of
34 commerce which relate to the functions transferred by this act and which
35 are in effect on the effective date of this act shall continue to be effective
36 and shall be deemed to be rules and regulations, orders and directives of
37 the secretary of labor or the director of workforce and employment
38 development of the department of labor until revised, amended, revoked or
39 nullified pursuant to law.

40 New Sec. 5. (a) On the effective date of this act, the balances of all
41 funds or accounts thereof appropriated or reappropriated for the
42 department of commerce relating to the powers, duties and functions
43 transferred by this act are hereby transferred within the state treasury to the

1 department of labor and shall be used only for the purpose for which the
2 appropriation was originally made.

3 (b) On the effective date of this act, liability for all accrued
4 compensation or salaries of officers and employees who are transferred to
5 the department of labor under this act shall be assumed and paid by the
6 department of labor.

7 New Sec. 6. (a) When any conflict arises as to the disposition of any
8 property, power, duty or function or the unexpended balance of any
9 appropriation as a result of any abolition or transfer made by or under the
10 authority of this act, such conflict shall be resolved by the governor, whose
11 decision shall be final.

12 (b) The department of labor shall succeed to all property, property
13 rights and records which were used for or pertain to the performance of
14 powers, duties and functions transferred to the department of labor. Any
15 conflict as to the proper disposition of property, personnel and records
16 arising under this act shall be determined by the governor, whose decision
17 shall be final.

18 New Sec. 7. (a) No suit, action and other proceeding, judicial or
19 administrative, lawfully commenced, or which could have been
20 commenced, by or against any state agency or program mentioned in this
21 act, or by or against any officer of the state in such officer's official
22 capacity or in relation to the discharge of such officer's official duties, shall
23 abate by reason of the governmental reorganization effected under the
24 provisions of this act. The court may allow any such suit, action and other
25 proceeding to be maintained by or against the successor of any such state
26 agency or any officer affected.

27 (b) No criminal action commenced or which could have been
28 commenced by the state shall abate by the taking effect of this act.

29 New Sec. 8. (a) All officers and employees of the division of
30 workforce development within the department of commerce who,
31 immediately prior to the effective date of this act, are engaged in the
32 exercise and performance of the powers, duties and functions transferred
33 by this act, who are determined by the secretary of labor to be engaged in
34 providing professional, administrative, technical and other support services
35 that are essential to the exercise and performance of the powers, duties and
36 functions transferred by this act, are hereby transferred to the department
37 of labor. All classified employees so transferred shall retain their status as
38 classified employees.

39 (b) Officers and employees of the department of commerce
40 transferred by this act shall retain all retirement benefits and leave
41 balances and rights which had accrued or vested prior to the date of
42 transfer. The service of each such officer and employee so transferred shall
43 be deemed to have been continuous. Any subsequent transfers, layoffs or

1 abolition of classified service positions under the Kansas civil service act
2 shall be made in accordance with the civil service laws and any rules and
3 regulations adopted thereunder. Nothing in this act shall affect the
4 classified status of any transferred person employed by the department of
5 commerce prior to the date of transfer.

6 Sec. 9. K.S.A. 2016 Supp. 72-4427 is hereby amended to read as
7 follows: 72-4427. The secretary of ~~commerce~~ labor and the state board of
8 regents are hereby authorized to participate in the federal workforce
9 investment act (public law 105-220), and amendments thereto, by
10 providing from funds made available under the federal act and
11 appropriated by the legislature for vocational training in accordance with
12 and to the extent required by the federal act.

13 Sec. 10. K.S.A. 2016 Supp. 72-4460 is hereby amended to read as
14 follows: 72-4460. As used in this act:

15 (a) "Board of regents" means the state board of regents provided for
16 in the constitution of this state.

17 (b) "Career technical workforce grant" means the award of a financial
18 grant-in-aid by this state under this act to an eligible student.

19 (c) "Designated career technical education program" means a
20 program operated at the postsecondary level by a designated educational
21 institution that has been identified by the Kansas board of regents, working
22 in conjunction with the Kansas department of ~~commerce~~ labor, as a high
23 cost, high demand or critical industry field program.

24 (d) "Designated educational institution" means an educational
25 institution that: (1) Has been identified by the Kansas board of regents,
26 working in conjunction with the Kansas department of ~~commerce~~ labor, as
27 delivering programs that are high cost, high demand or in a critical
28 industry field; (2) is eligible to receive federal title IV funding; and (3) has
29 its main campus or principal place of operation located in Kansas.

30 (e) "Eligible career technical education program" means a designated
31 career technical education program operated at the postsecondary level by
32 a designated educational institution.

33 (f) "Eligible student" means a person who: (1) Is a resident of Kansas;
34 (2) has graduated from a high school accredited by the state board of
35 education or has received general educational development credentials
36 issued by the board of regents, or has graduated from a home school
37 program or a nonaccredited private secondary school, as defined and
38 authorized pursuant to K.S.A. 72-53,100 et seq., *and amendments thereto*;
39 and (3) is enrolled in or has been accepted for admission to an eligible
40 career technical education program operated by a designated Kansas
41 educational institution.

42 (g) "Program term" means $\frac{1}{2}$ the duration of the period of time
43 required for completion of a career technical education program when

1 such period of time encompasses more than one school year.

2 (h) "Satisfactory performance" means retaining admission in and
3 meeting the standards established by the Kansas educational institution
4 being attended by the eligible student.

5 (i) "School year" means the period of time beginning on July 1 in
6 each calendar year and ending on June 30 in the succeeding calendar year.

7 (j) "State board of education" means the state board of education
8 provided for in the constitution of this state.

9 Sec. 11. K.S.A. 2016 Supp. 74-32,151 is hereby amended to read as
10 follows: 74-32,151. (a) This section and K.S.A. 74-32,152 through 74-
11 32,159, and amendments thereto, shall be known and may be cited as the
12 workforce development loan program act.

13 (b) As used in the workforce development loan act, "postsecondary
14 educational institution" shall have the meaning ascribed thereto by K.S.A.
15 74-3201b, and amendments thereto.

16 (c) Within the limits of appropriations and private contributions
17 therefor, and in accordance with the provisions of this act, the state board
18 of regents may award such loans to Kansas residents who are enrolled in
19 or admitted to a technical college, community college, the institute of
20 technology at Washburn university or associate degree programs at
21 postsecondary educational institutions and who enter into a written
22 agreement with the state board of regents as provided in K.S.A. 74-32,152,
23 and amendments thereto.

24 (d) The board of regents may accept any private contributions to the
25 program. The chief executive officer of the board of regents shall turn such
26 contributions over to the state treasurer who shall deposit such moneys
27 into the workforce development loan fund.

28 (e) After consultation with the secretaries of the Kansas department
29 for children and families and the department of ~~commerce~~ labor, the board
30 may establish a list of education programs in which an applicant must
31 enroll to be eligible for a loan under this program.

32 (f) The loans shall be awarded on a priority basis to qualified
33 applicants who have the greatest financial need with the highest priority
34 given to those applicants with the greatest financial need who were in
35 foster care on their 18th birthday or were released from foster care prior to
36 their 18th birthday after having graduated from high school or completing
37 the requirements for a general educational development (GED) certificate
38 while in foster care. All loans shall be awarded to resident students
39 attending technical colleges, community colleges, the institute of
40 technology at Washburn university or associate degree programs at
41 postsecondary educational institutions. Special preference shall also be
42 established for residents drawing unemployment compensation or such
43 residents who were laid off from employment within the prior six months.

1 The board may also establish preferences for workers deemed to be
2 eligible for North American free trade agreement transition assistance
3 under United States department of labor standards or the Kansas
4 department of labor standards.

5 (g) Loans awarded under this program shall be awarded on an annual
6 basis and shall be in effect for one year unless otherwise terminated before
7 the expiration of such period of time. Such loans shall be awarded for the
8 payment of tuition, fees, books, room and board and any other necessary
9 school related expenses.

10 Sec. 12. K.S.A. 2016 Supp. 74-32,160 is hereby amended to read as
11 follows: 74-32,160. Financing of the workforce development loan program
12 act shall be from moneys made available from the Kansas department of
13 ~~commerce~~ labor received from the United States department of labor and
14 the Kansas department for children and families received from the United
15 States department of health and human services in accordance with the
16 provisions of this section and in accordance with and subject to the
17 provisions of Kansas appropriation acts.

18 The Kansas department of ~~commerce~~ labor shall provide funding for
19 the purpose of this act which shall be limited to the use of federal
20 department of labor workforce investment act funds which are returned to
21 the state as unspent local WIA program year adult, youth and dislocated
22 worker funds. Such unspent funds shall be converted to and identified as
23 state-level set-aside funds for use in carrying out activities as provided
24 under this act. The annual amount of such funds shall not exceed
25 \$500,000. The WIA set-aside funds shall be made available subject to the
26 written approval from the United States department of labor authorizing
27 the use of such for the purpose of this act and appropriated by the United
28 States congress. Funding for this act by the Kansas department of
29 ~~commerce~~ labor shall be contingent on the availability of WIA funding
30 and shall terminate on or before the final WIA authorization date of June
31 30, 2005. Due to restrictions placed on the transfer of unspent federal
32 funds to the state treasury and the need for timely disbursement of federal
33 funds for WIA expenditures, the Kansas department of ~~commerce~~ labor
34 shall develop in cooperation with the Kansas board of regents, a system for
35 the reimbursement of actual expenses incurred pursuant to this act. Such
36 reimbursement procedures shall be in compliance with acceptable federal
37 department of labor and office of management and budget procedures
38 established for the draw down and disbursement of federal WIA funds.

39 The secretary for children and families shall cooperate in the
40 administration of the workforce development loan program act which may
41 be funded with the \$500,000 which is to be contributed annually by the
42 Kansas department for children and families in accordance with and
43 subject to the provisions of appropriation acts. When there is a candidate

1 that appears to meet the eligibility guidelines for federal funding
2 administered by the Kansas department for children and families, the
3 Kansas board of regents shall notify the Kansas department for children
4 and families. Upon the approval of the Kansas department for children and
5 families' of the candidate's eligibility, the director of accounts and reports
6 shall transfer funding from the appropriate federal source as identified by
7 the Kansas department for children and families to the Kansas state
8 treasurer. All receipts and interest collected from repayments of federal
9 funds transferred under the authority of this section shall be returned to the
10 director of accounts and reports for reposit to the originating federal
11 funding source.

12 Sec. 13. K.S.A. 2016 Supp. 74-5002y is hereby amended to read as
13 follows: 74-5002y. Subject to the approval of the governor, the secretary of
14 ~~commerce~~ *labor* is authorized to contract with federal government
15 agencies, governmental entities of any state, and private not-for-profit
16 corporations for the performance of data processing services and training.

17 Sec. 14. K.S.A. 2016 Supp. 74-50,209 is hereby amended to read as
18 follows: 74-50,209. (a) The secretary of ~~commerce~~ *labor* shall provide
19 access to workforce training for every qualified older Kansan who desires
20 such training. To accomplish this, the secretary, in coordination with the
21 area agencies on aging and the older Kansans employment program, shall
22 prepare a strategic plan and amend the state plan as appropriate, to outline
23 the proposed delivery of training to older Kansans. Such strategic plan
24 shall be submitted to the legislature ~~by August 1, 2006, and thereafter~~
25 whenever the state plan is amended, and shall contain the following
26 information:

27 (1) How resources may be used to ensure every qualified older
28 Kansan has access to workforce development;

29 (2) the minimum amount of money the department *of labor* plans to
30 spend on workforce development for older Kansans;

31 (3) examples of programs the department plans to implement or
32 enhance to promote workforce development for older Kansans;

33 (4) specific measurable criteria that will be used to determine the
34 effectiveness of the department's plan;

35 (5) designated target areas for funding and the projected source of
36 that funding;

37 (6) a statement regarding the programs and training that will be
38 provided and how such programs and training will be developed; and

39 (7) a plan outlining how services will be marketed so that older
40 Kansans will be aware of their availability.

41 (b) For the purposes of this section:

42 (1) "Kansas resident" means a person who lives in Kansas.

43 (2) "Older Kansan" has the meaning provided in K.S.A. 75-5741, and

1 amendments thereto.

2 (3) "Workforce development" means training of present, prospective
3 or potential employees for jobs presently available or expected to be
4 available in the future, based upon economic forecasts.

5 (4) "Qualified older Kansan" means an older Kansan who meets the
6 guidelines for participating in the workforce development program.

7 Sec. 15. K.S.A. 2016 Supp. 75-5701b is hereby amended to read as
8 follows: 75-5701b. ~~(a) Except with respect to the powers, duties, and~~
9 ~~functions that are transferred by this order to the department or secretary~~
10 ~~of commerce or the division or director of workforce development within~~
11 ~~the department of commerce, The department of labor and the secretary of~~
12 labor shall be the successor in every way to the powers, duties; and
13 functions of the department and secretary of human resources in which the
14 same were vested prior to the effective date of this order. Every act
15 performed in the exercise of such powers, duties; and functions by or
16 under the authority of the department of labor or the secretary of labor
17 shall be deemed to have the same force and effect as if performed by the
18 department of human resources or the secretary of human resources in
19 which such powers, duties; and functions were vested prior to the effective
20 date of this order.

21 (b) Whenever the department of human resources, or words of like
22 effect, are referred to or designated by a statute, contract; or other
23 document, and such reference or designation is in regard to any function,
24 power; or duty ~~other than those powers, duties, and functions that are~~
25 ~~transferred to the department of commerce under this order~~, such reference
26 or designation shall be deemed to apply to the department of labor.

27 (c) Whenever the secretary of human resources, or words of like
28 effect are referred to or designated by a statute, contract; or other
29 document, ~~and such reference or designation is in regard to any function,~~
30 ~~power, or duty other than those powers, duties, and functions that are~~
31 ~~transferred to the department of commerce under this order~~, such reference
32 or designation shall be deemed to apply to the secretary of labor.

33 (d) All rules and regulations, orders; and directives of the secretary of
34 the department of human resources that relate to functions other than those
35 functions transferred by this order and that are in effect on the effective
36 date of this order shall continue to be effective and shall be deemed to be
37 rules and regulations, orders; and directives of the secretary of labor until
38 revised, amended, revoked; or nullified pursuant to law.

39 Sec. 16. K.S.A. 2016 Supp. 72-4427, 72-4460, 74-32,151, 74-32,160,
40 74-5002s, 74-5002t, 74-5002u, 74-5002v, 74-5002w, 74-5002x, 74-5002y,
41 74-50,209, 75-5701a and 75-5701b are hereby repealed.

42 Sec. 17. This act shall take effect and be in force from and after July
43 1, 2018, and its publication in the statute book.