

HOUSE BILL No. 2439

By Representative Claeys

12-9

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. 2015 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. 2015 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. 2015 Supp.
14 75-5701a, and amendments thereto, prior to its repeal, and except as
15 otherwise provided, includes all powers, duties and functions transferred to
16 that division or to the secretary of commerce by K.S.A. 2015 Supp. 75-
17 5701a, and amendments thereto, prior to its repeal, and all powers, duties
18 and functions of that division in existence immediately prior to the
19 effective date of this act, whether that division is known as the division of
20 workforce development, the workforce services division or 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. 2015 Supp.
23 75-5701a, and amendments thereto, prior to its repeal, whether known as
24 the director of workforce development, the director of workforce services
25 or another title.

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

36 New Sec. 3. (a) The division of workforce development within the

1 department of commerce created by K.S.A. 2015 Supp. 75-5701a, and
2 amendments thereto, prior to its repeal, is hereby abolished. On the
3 effective date of this act, the division of workforce development of the
4 department of commerce is hereby renamed the division of workforce and
5 employment development of the department of labor.

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

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

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

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

28 (A) Powers, duties and functions relating to the Kansas investments
29 in major projects and comprehensive training or IMPACT act, K.S.A. 74-
30 50,102 et seq., and amendments thereto;

31 (B) powers, duties and functions relating to the university
32 engineering initiative act, K.S.A. 2015 Supp. 76-7,136 et seq., and
33 amendments thereto; and

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

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

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

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

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

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

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

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

1 transferred by this act are hereby transferred within the state treasury to the
2 department of labor and shall be used only for the purpose for which the
3 appropriation was originally made.

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

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

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

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

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

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

40 (b) Officers and employees of the department of commerce
41 transferred by this act shall retain all retirement benefits and leave
42 balances and rights which had accrued or vested prior to the date of
43 transfer. The service of each such officer and employee so transferred shall

1 be deemed to have been continuous. Any subsequent transfers, layoffs or
2 abolition of classified service positions under the Kansas civil service act
3 shall be made in accordance with the civil service laws and any rules and
4 regulations adopted thereunder. Nothing in this act shall affect the
5 classified status of any transferred person employed by the department of
6 commerce prior to the date of transfer.

7 Sec. 9. K.S.A. 2015 Supp. 72-4427 is hereby amended to read as
8 follows: 72-4427. The secretary of ~~commerce~~ labor and the state board of
9 regents are hereby authorized to participate in the federal workforce
10 investment act (public law 105-220), and amendments thereto, by
11 providing from funds made available under the federal act and
12 appropriated by the legislature for vocational training in accordance with
13 and to the extent required by the federal act.

14 Sec. 10. K.S.A. 2015 Supp. 72-4460 is hereby amended to read as
15 follows: 72-4460. As used in this act:

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

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

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

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

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

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

43 (g) "Program term" means $\frac{1}{2}$ the duration of the period of time

1 required for completion of a career technical education program when
2 such period of time encompasses more than one school year.

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

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

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

10 Sec. 11. K.S.A. 2015 Supp. 74-32,151 is hereby amended to read as
11 follows: 74-32,151. (a) This section and K.S.A. 74-32,152 through 74-
12 32,159, and amendments thereto, shall be known and may be cited as the
13 workforce development loan program act.

14 (b) As used in the workforce development loan act, "postsecondary
15 educational institution" shall have the meaning ascribed thereto by K.S.A.
16 74-3201b, and amendments thereto.

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

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

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

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

1 residents who were laid off from employment within the prior six months.
2 The board may also establish preferences for workers deemed to be
3 eligible for North American free trade agreement transition assistance
4 under United States department of labor standards or the Kansas
5 department of labor standards.

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

11 Sec. 12. K.S.A. 2015 Supp. 74-32,160 is hereby amended to read as
12 follows: 74-32,160. Financing of the workforce development loan program
13 act shall be from moneys made available from the Kansas department of
14 ~~commerce~~ labor received from the United States department of labor and
15 the Kansas department for children and families received from the United
16 States department of health and human services in accordance with the
17 provisions of this section and in accordance with and subject to the
18 provisions of Kansas appropriation acts.

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

40 The secretary for children and families shall cooperate in the
41 administration of the workforce development loan program act which may
42 be funded with the \$500,000 which is to be contributed annually by the
43 Kansas department for children and families in accordance with and

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

13 Sec. 13. K.S.A. 2015 Supp. 74-5002y is hereby amended to read as
14 follows: 74-5002y. Subject to the approval of the governor, the secretary of
15 ~~commerce~~ *labor* is authorized to contract with federal government
16 agencies, governmental entities of any state, and private not-for-profit
17 corporations for the performance of data processing services and training.

18 Sec. 14. K.S.A. 2015 Supp. 74-50,209 is hereby amended to read as
19 follows: 74-50,209. (a) The secretary of ~~commerce~~ *labor* shall provide
20 access to workforce training for every qualified older Kansan who desires
21 such training. To accomplish this, the secretary, in coordination with the
22 area agencies on aging and the older Kansans employment program, shall
23 prepare a strategic plan and amend the state plan as appropriate, to outline
24 the proposed delivery of training to older Kansans. Such strategic plan
25 shall be submitted to the legislature ~~by August 1, 2006, and thereafter~~
26 whenever the state plan is amended, and shall contain the following
27 information:

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

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

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

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

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

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

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

42 (b) For the purposes of this section:

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

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

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

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

8 Sec. 15. K.S.A. 2015 Supp. 75-5701b is hereby amended to read as
9 follows: 75-5701b. (a) ~~Except with respect to the powers, duties, and~~
10 ~~functions that are transferred by this order to the department or secretary~~
11 ~~of commerce or the division or director of workforce development within~~
12 ~~the department of commerce, The department of labor and the secretary of~~
13 labor shall be the successor in every way to the powers, duties; and
14 functions of the department and secretary of human resources in which the
15 same were vested prior to the effective date of this order. Every act
16 performed in the exercise of such powers, duties; and functions by or
17 under the authority of the department of labor or the secretary of labor
18 shall be deemed to have the same force and effect as if performed by the
19 department of human resources or the secretary of human resources in
20 which such powers, duties; and functions were vested prior to the effective
21 date of this order.

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

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

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

40 Sec. 16. K.S.A. 2015 Supp. 72-4427, 72-4460, 74-32,151, 74-32,160,
41 74-5002s, 74-5002t, 74-5002u, 74-5002v, 74-5002w, 74-5002x, 74-5002y,
42 74-50,209, 75-5701a and 75-5701b are hereby repealed.

43 Sec. 17. This act shall take effect and be in force from and after its

- 1 publication in the statute book.