

As Amended by Senate Committee

Session of 2021

HOUSE BILL No. 2315

By Committee on Taxation

2-10

1 AN ACT concerning taxation; relating to income, premiums and privilege
2 tax; providing a credit for contributions to **community colleges and**
3 technical colleges; amending K.S.A. 79-32,261 and repealing the
4 existing section.
5

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

7 Section 1. K.S.A. 79-32,261 is hereby amended to read as follows:
8 79-32,261. (a) (1) On and after July 1, 2008, any taxpayer who contributes
9 in the manner prescribed by this ~~section~~ *paragraph* to a community
10 college located in Kansas for capital improvements, to a technical college
11 for deferred maintenance or the purchase of technology or equipment or to
12 a postsecondary educational institution located in Kansas for deferred
13 maintenance, shall be allowed a credit against the tax imposed by the
14 Kansas income tax act, the premium tax or privilege fees imposed
15 pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as
16 measured by net income of financial institutions imposed pursuant to
17 article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments
18 thereto. The tax credit allowed by this ~~section~~ *paragraph* is applicable for
19 the tax year 2008 for any contributions made on and after July 1, 2008,
20 and for the tax years 2009, 2010, 2011 and 2012 for any contributions
21 made during the entire tax year. The amount of the credit allowed by this
22 ~~section~~ *paragraph* shall not exceed 60% of the total amount contributed
23 during the taxable year by the taxpayer to a community college or a
24 technical college located in Kansas for such purposes. The amount of the
25 credit allowed by this ~~section~~ *paragraph* shall not exceed 50% of the total
26 amount contributed during the taxable year by the taxpayer to a
27 postsecondary educational institution for such purposes. If the amount of
28 the credit allowed by this ~~section~~ *paragraph* for a taxpayer who
29 contributes to a community college or a technical college exceeds the
30 taxpayer's income tax liability imposed by the Kansas income tax act, such
31 excess amount shall be refunded to the taxpayer. If the amount of the tax
32 credit for a taxpayer who contributes to a postsecondary educational
33 institution exceeds the taxpayer's income tax liability for the taxable year,
34 the amount which exceeds the tax liability may be carried over for
35 deduction from the taxpayer's income tax liability in the next succeeding
36 taxable year or years until the total amount of the tax credit has been

1 deducted from tax liability, except that no such tax credit shall be carried
2 over for deduction after the third taxable year succeeding the taxable year
3 in which the contribution is made. Prior to the issuance of any tax credits
4 pursuant to this ~~section~~ *paragraph*, the structure of the process in which
5 contributions received by a community college, a technical college or a
6 postsecondary educational institution qualify as tax credits allowed and
7 issued pursuant to this ~~section~~ *paragraph* shall be developed by a
8 community college, a technical college and a postsecondary educational
9 institution in consultation with the secretary of revenue and the foundation
10 or endowment association of any such community college, technical
11 college or postsecondary educational institution in a manner that complies
12 with requirements specified in the federal internal revenue code of 1986,
13 as amended, so that contributions qualify as charitable contributions
14 allowable as deductions from federal adjusted gross income.

15 (2) *On and after July 1, ~~2021~~ 2022, any taxpayer who contributes in*
16 *the manner prescribed by this paragraph to a **community college or***
17 *technical college located in Kansas for capital improvements, deferred*
18 *maintenance or the purchase of technology or equipment shall be allowed*
19 *a credit against the tax imposed by the Kansas income tax act, the*
20 *premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and*
21 *amendments thereto, or the privilege tax as measured by net income of*
22 *financial institutions imposed pursuant to article 11 of chapter 79 of the*
23 *Kansas Statutes Annotated, and amendments thereto. The tax credit*
24 *allowed by this paragraph is applicable for the tax year ~~2021~~ 2022 for any*
25 *contributions made on and after July 1, ~~2021~~ 2022, and for the tax years*
26 *~~2022~~, 2023, 2024 ~~and~~, 2025 **and 2026** for any contributions made during*
27 *the entire tax year. **The amount of the credit allowed by this paragraph***
28 *shall equal 60% of the total amount contributed during the taxable year*
29 *by the taxpayer to a **community college or a technical college located in***
30 ***Kansas for such purposes.** If the amount of the credit allowed by this*
31 *paragraph for a taxpayer who contributes to a **community college or***
32 *technical college exceeds the taxpayer's income tax liability imposed by*
33 *the Kansas income tax act, such excess amount shall **not** be refunded to*
34 *the taxpayer. Prior to the issuance of any tax credits pursuant to this*
35 *paragraph, the structure of the process in which contributions received by*
36 *a **community college or** technical college qualify as tax credits allowed*
37 *and issued pursuant to this paragraph shall be developed by a **community***
38 ***college and** technical college in consultation with the secretary of revenue*
39 *and the foundation or endowment association of any such **community***
40 ***college or** technical college in a manner that complies with requirements*
41 *specified in the federal internal revenue code of 1986, as amended, so that*
42 *contributions qualify as charitable contributions allowable as deductions*
43 *from federal adjusted gross income.*

1 (b) (1) Upon receipt of any ~~such~~ contributions to a community
2 college made pursuant to the provisions of ~~this section~~ *subsection (a)(1)*,
3 the treasurer of the community college shall deposit such contributions to
4 the credit of the capital outlay fund of such community college established
5 as provided by K.S.A. 71-501a, and amendments thereto. Expenditures
6 from such fund shall be made for the purposes described in ~~subsection (a)~~
7 ~~of~~ K.S.A. 71-501(a), and amendments thereto, except that expenditures
8 shall not be made from such fund for new construction or the acquisition
9 of real property for use as building sites or for educational programs.

10 (2) Upon receipt of any ~~such~~ contributions to a technical college
11 made pursuant to the provisions of ~~this section~~ *subsection (a)(1)*, such
12 contributions shall be deposited to the credit of a deferred maintenance
13 fund or a technology and equipment fund established by the technical
14 college which received the contribution. Expenditures from such fund
15 shall be made only for the purpose as provided in ~~this~~ *subsection (b)(1)*.

16 (3) Upon receipt of any such contributions to a postsecondary
17 educational institution made pursuant to the provisions of ~~this section~~
18 *subsection (a)(1)*, such contributions shall be deposited to the credit of the
19 appropriate deferred maintenance support fund of the postsecondary
20 educational institution ~~which~~ *that* received the contribution. Expenditures
21 from such fund shall be made only for the purposes designated for such
22 fund pursuant to law.

23 (4) *Upon receipt of any such contributions to a **community college or***
24 *technical college made pursuant to the provisions of subsection (a)(2), the*
25 *treasurer of the **community college or** technical college shall deposit such*
26 *contributions to the credit of the capital outlay fund of such **community***
27 ***college or** technical college established as provided by K.S.A. 71-501a,*
28 *and amendments thereto. Expenditures from such fund shall be made for*
29 *the purposes designated for such fund pursuant to law.*

30 (c) (1) In no event shall the total amount of credits allowed under ~~this~~
31 ~~section~~ *subsection (a)(1)* for taxpayers who contribute to any one such
32 community college or technical college exceed the following amounts: For
33 the tax year 2008, an amount not to exceed \$78,125; for the tax year 2009,
34 an amount not to exceed \$156,250; and for the tax years 2010, 2011 and
35 2012, an amount not to exceed \$208,233.33.

36 (2) In no event shall the total of credits allowed under ~~this section~~
37 *subsection (a)(1)* for taxpayers who contribute to postsecondary
38 educational institutions exceed the following amounts: For the tax year
39 2008, an amount not to exceed \$5,625,000; for the tax year 2009, an
40 amount not to exceed \$11,250,000; and for the tax years 2010, 2011 and
41 2012, an amount not to exceed \$15,000,000. Except as otherwise provided,
42 the allocation of such tax credits for each individual state educational
43 institution shall be determined by the state board of regents in consultation

1 with the secretary of revenue and the university foundation or endowment
2 association of each postsecondary educational institution, and such
3 determination shall be completed prior to the issuance of any tax credits
4 pursuant to ~~this section~~ subsection (a)(1). Not more than 40% of the total
5 of credits allowed under ~~this section~~ subsection (a)(1) shall be allocated to
6 any one postsecondary educational institution unless all such
7 postsecondary educational institutions approve an allocation to any one
8 such postsecondary educational institution which exceeds 40% of the total
9 of such credits allowed under ~~this section~~ subsection (a)(1).

10 (3) For the tax years ~~2021~~ 2022 through ~~2025~~ 2026, the amount of
11 such credit awarded under subsection (a)(2) for each taxpayer shall not
12 exceed ~~\$500,000~~ \$1,000,000 per tax year.

13 (4) In no event shall the total of credits allowed under subsection (a)
14 (2) for contributions to any one **community college or technical college**
15 exceed ~~\$500,000~~ \$1,000,000 per tax year.

16 (5) In no event shall the total of credits allowed under subsection (a)
17 (2) exceed ~~\$3,500,000~~ \$7,000,000 for each tax year that the credit remains
18 in effect.

19 (d) As used in this section: (1) "Community college" means a
20 community college established under the provisions of the community
21 college act;

22 (2) "deferred maintenance" means the maintenance, repair,
23 reconstruction or rehabilitation of a building located at a technical college
24 or a postsecondary educational institution which has been deferred, any
25 utility systems relating to such building, any life-safety upgrades to such
26 building and any improvements necessary to be made to such building in
27 order to comply with the requirements of the Americans with disabilities
28 act or other federal or state law, except that for taxable years commencing
29 after December 31, 2013, deferred maintenance shall not include any
30 maintenance, repair, reconstruction or rehabilitation of any building in
31 which any abortion, as defined in K.S.A. 65-6701, and amendments
32 thereto, is performed;

33 (3) "postsecondary educational institution" means the university of
34 Kansas, Kansas state university of agriculture and applied science, Wichita
35 state university, Emporia state university, Pittsburg state university, Fort
36 Hays state university and Washburn university of Topeka; and

37 (4) "technical college" means a technical college as designated
38 pursuant to K.S.A. 74-32,458, 74-32,460, 74-32,461, 74-32,462 ~~and~~, 74-
39 32,464; ~~and~~ 74-32,465, and amendments thereto, ~~and the institute of~~
40 ~~technology at Washburn university.~~

41 (e) Any taxpayer not subject to Kansas income, privilege or
42 premiums tax who contributes to a community college, technical college
43 or postsecondary educational institution, hereinafter designated the

1 transferor, may sell, assign, convey or otherwise transfer tax credits
2 allowed and earned pursuant to this section. The sale price of a tax credit
3 shall be at least 50% of the full value of the credit. Such credit shall be
4 deemed to be allowed and earned by any such taxpayer which is only
5 disqualified therefrom by reason of not being subject to such Kansas taxes.
6 The taxpayer acquiring earned credits, hereinafter designated the
7 transferee, may use the amount of the acquired credits to offset up to 100%
8 of the taxpayer's income, privilege or premiums tax liability for the taxable
9 year in which such acquisition was made. Such credits may be sold or
10 transferred only one time and, if sold or transferred, shall be transferred in
11 the tax year such credit is earned or the two successive tax years. A
12 transferred credit shall be claimed in the year purchased. The transferor
13 shall enter into a written agreement with the transferee establishing the
14 terms and conditions of the sale or transfer and shall perfect such transfer
15 by notifying the secretary of revenue in writing within 30 calendar days
16 following the effective date of the transfer, subject to the review and
17 approval or denial of such transfer by the secretary of revenue. The
18 transferor and transferee shall provide any information pertaining to the
19 sale or transfer as may be required by the secretary of revenue to
20 administer and carry out the provisions of this section. The amount
21 received by the transferor of such tax credit shall be taxable as income of
22 the transferor, and the excess of the value of such credit over the amount
23 paid by the transferee for such credit shall be taxable as income of the
24 transferee.

25 (f) The secretary of revenue shall submit an annual report to the
26 legislature to assist the legislature in the evaluation of the utilization of any
27 credits claimed pursuant to this act, including information specific as to
28 each community college, technical college or postsecondary educational
29 institution. Such report shall be due on or before the first day of the
30 legislative session following the tax year in which the credits were
31 claimed.

32 (g) The secretary of revenue shall adopt rules and regulations
33 necessary to administer the provisions of this section.

34 Sec. 2. K.S.A. 79-32,261 is hereby repealed.

35 Sec. 3. This act shall take effect and be in force from and after its
36 publication in the statute book.