

As Amended by House Committee

Session of 2021

HOUSE BILL No. 2394

By Committee on Taxation

2-17

1 AN ACT concerning the research and development tax credit; relating to  
2 the amount of the credit; expanding eligibility beyond taxpayers subject  
3 to the corporate income tax; transferability; amending K.S.A. 79-  
4 32,182b and repealing the existing section.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 79-32,182b is hereby amended to read as follows:  
8 79-32,182b. (a) For all taxable years commencing after December 31,  
9 ~~2000~~2022, a credit shall be allowed against the tax imposed by the Kansas  
10 income tax act on the Kansas taxable income of a taxpayer for  
11 expenditures in research and development activities conducted within this  
12 state in an amount equal to ~~6<sup>1</sup>/<sub>2</sub>%~~ 10% of the amount by which the amount  
13 expended for such activities in the taxable year of the taxpayer exceeds the  
14 taxpayer's average of the actual expenditures for such purposes made in  
15 such taxable year and the next preceding two taxable years.

16 (b) In any one taxable year, the amount of such credit allowable for  
17 deduction from the taxpayer's tax liability shall not exceed 25% of the total  
18 amount of such credit plus any applicable carry forward amount. The  
19 amount by which that portion of the credit allowed by subsections (a) and  
20 (b) to be claimed in any one taxable year exceeds the taxpayer's tax  
21 liability in such year may be carried forward until the total amount of the  
22 credit is used.

23 (c) As used in this section, the term "expenditures in research and  
24 development activities" means expenditures made for such purposes, other  
25 than expenditures of moneys made available to the taxpayer pursuant to  
26 federal or state law, which are treated as expenses allowable for deduction  
27 under the provisions of the federal internal revenue code of 1986, as  
28 amended, except that for taxable years commencing after December 31,  
29 2013, expenditures in research and development activities shall not include  
30 any expenditures for the performance of any abortion, as defined in K.S.A.  
31 65-6701, and amendments thereto.

32 ~~(d) For tax year 2013 and all tax years thereafter, the income tax~~  
33 ~~credit provided by this section shall only be available to taxpayers subject~~  
34 ~~to the income tax on corporations imposed pursuant to subsection (c) of~~  
35 ~~K.S.A. 79-32,110, and amendments thereto, and shall be applied only~~  
36 ~~against such taxpayer's corporate income tax liability For tax year 2021~~

1 **2023**, and all tax years thereafter, the income tax credit allowed pursuant  
2 to this section shall be transferable by a taxpayer without a current tax  
3 liability. The tax credit may be transferred to any person and be claimed  
4 by the transferee as a credit against the transferee's Kansas income tax  
5 liability in the tax year when it was transferred. The credit shall be  
6 claimed and may be carried forward by the transferee as provided and  
7 limited by subsection (b). No person shall be entitled to a refund for the  
8 transferred tax credit. Only the full credit may be transferred, and the  
9 credit may only be transferred one time. Documentation of any credit  
10 acquired by transfer shall be provided by the taxpayer or the transferee in  
11 the manner required by the secretary of revenue.

12 Sec. 2. K.S.A. 79-32,182b is hereby repealed.

13 Sec. 3. This act shall take effect and be in force from and after  
14 **January 1, 2023, and** its publication in the statute book.