

*As Amended by Senate Committee*

*Session of 2012*

**SENATE BILL No. 267**

By Legislative Educational Planning Committee

1-11

1 AN ACT concerning taxation; relating to tax credits for certain  
2 contributions to community colleges, technical colleges and  
3 postsecondary educational institutions; amending K.S.A. 2011 Supp.  
4 79-32,261 and repealing the existing section.  
5

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

7 Section 1. K.S.A. 2011 Supp. 79-32,261 is hereby amended to read as  
8 follows: 79-32,261. (a) On and after July 1, 2008, any taxpayer who  
9 contributes in the manner prescribed by this section 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. The tax credit  
18 allowed by this section is applicable ~~for the tax year 2008 for any~~  
19 ~~contributions made on and after July 1, 2008, and for the tax years 2009,~~  
20 ~~2010, 2011 and 2012 any tax year after tax year 2008~~ for any  
21 contributions made during the entire tax year. The amount of the credit  
22 allowed by this section shall not exceed 60% of the total amount  
23 contributed during the taxable year by the taxpayer to a community college  
24 or a technical college located in Kansas for such purposes. ~~For tax years~~  
25 ~~2008, 2009, 2010 and 2011,~~ The amount of the credit allowed by this  
26 section shall not exceed 50% of the total amount contributed during the  
27 taxable year by the taxpayer to a postsecondary educational institution for  
28 such purposes. ~~For tax years 2012, 2013, 2014 and 2015, the amount of~~  
29 ~~the credit allowed by this section shall not exceed 60% of the total amount~~  
30 ~~contributed during the taxable year by the taxpayer to a postsecondary~~  
31 ~~educational institution for such purposes. No credit shall be allowed~~  
32 ~~pursuant to this section after tax year 2015.~~ If the amount of the credit  
33 allowed by this section for a taxpayer who contributes to a community  
34 college or a technical college exceeds the taxpayer's income tax liability  
35 imposed by the Kansas income tax act, such excess amount shall be  
36 refunded to the taxpayer. If the amount of the tax credit for a taxpayer who

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

20 (b) (1) Upon receipt of any such contributions to a community  
21 college made pursuant to the provisions of this section, the treasurer of the  
22 community college shall deposit such contributions to the credit of the  
23 capital outlay fund of such community college established as provided by  
24 K.S.A. 71-501a, and amendments thereto. Expenditures from such fund  
25 shall be made for the purposes described in subsection (a) of K.S.A. 71-  
26 501, and amendments thereto, except that expenditures shall not be made  
27 from such fund for new construction or the acquisition of real property for  
28 use as building sites or for educational programs.

29 (2) Upon receipt of any such contributions to a technical college  
30 made pursuant to the provisions of this section, such contributions shall be  
31 deposited to the credit of a deferred maintenance fund or a technology and  
32 equipment fund established by the technical college which received the  
33 contribution. Expenditures from such fund shall be made only for the  
34 purpose as provided in this subsection.

35 (3) Upon receipt of any such contributions to a postsecondary  
36 educational institution made pursuant to the provisions of this section,  
37 such contributions shall be deposited to the credit of the appropriate  
38 deferred maintenance support fund of the postsecondary educational  
39 institution which received the contribution. Expenditures from such fund  
40 shall be made only for the purposes designated for such fund pursuant to  
41 law.

42 (c) (1) In no event shall the total amount of credits allowed under this  
43 section for taxpayers who contribute to any one such community college

1 or technical college exceed the following amounts: ~~For the tax year 2008,~~  
2 ~~an amount not to exceed \$78,125; for the tax year 2009, an amount not to~~  
3 ~~exceed \$156,250; and for the tax years 2010, **For tax years 2011 and** ,~~  
4 ~~2012, 2013, 2014 and 2015 an amount not to exceed \$208,233.33. *If a*~~  
5 ~~*community college or technical college has not used the maximum amount*~~  
6 ~~*of allowed credits pursuant to this paragraph as of a date certain, to be*~~  
7 ~~*determined by the board of regents in conjunction with the department of*~~  
8 ~~*revenue and after dialogue with the community colleges and technical*~~  
9 ~~*colleges, such unused credits may be reallocated to another community*~~  
10 ~~*college or technical college. Such reallocated credits must be used in the*~~  
11 ~~*same tax year and in the same manner as provided in this section.*~~

12 (2) In no event shall the total of credits allowed under this section for  
13 taxpayers who contribute to postsecondary educational institutions exceed  
14 the following amounts: ~~For the tax year 2008, an amount not to exceed~~  
15 ~~\$5,625,000; for the tax year 2009, an amount not to exceed \$11,250,000;~~  
16 ~~and for the tax years 2010, and 2011 and 2012, an amount not to exceed~~  
17 ~~\$15,000,000; and for tax years 2012, 2013, 2014 and 2015, an amount not~~  
18 ~~to exceed \$10,000,000. Except as otherwise provided, the allocation of~~  
19 ~~such tax credits for each individual state educational institution shall be~~  
20 ~~determined by the state board of regents in consultation with the secretary~~  
21 ~~of revenue and the university foundation or endowment association of~~  
22 ~~each postsecondary educational institution, and such determination shall~~  
23 ~~be completed prior to the issuance of any tax credits pursuant to this~~  
24 ~~section. Not more than 40% of the total of credits allowed under this~~  
25 ~~section shall be allocated to any one postsecondary educational institution~~  
26 ~~unless all such postsecondary educational institutions approve an~~  
27 ~~allocation to any one such postsecondary educational institution which~~  
28 ~~exceeds 40% of the total of such credits allowed under this section.~~

29 (d) As used in this section: (1) "Community college" means a  
30 community college established under the provisions of the community  
31 college act;

32 (2) "deferred maintenance" means the maintenance, repair,  
33 reconstruction or rehabilitation of a building located at a technical college  
34 or a postsecondary educational institution which has been deferred, any  
35 utility systems relating to such building, any life-safety upgrades to such  
36 building and any improvements necessary to be made to such building in  
37 order to comply with the requirements of the Americans with disabilities  
38 act or other federal or state law;

39 (3) "postsecondary educational institution" means the university of  
40 Kansas, Kansas state university of agriculture and applied science, Wichita  
41 state university, Emporia state university, Pittsburg state university, Fort  
42 Hays state university and Washburn university of Topeka; and

43 (4) "technical college" means a technical college as designated

1 pursuant to K.S.A. 72-4472, 72-4473, 72-4474, 72-4475 and 72-4477, and  
2 amendments thereto.

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

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

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

39 Sec. 2. K.S.A. 2011 Supp. 79-32,261 is hereby repealed.

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