

## HOUSE BILL No. 2011

By Legislative Educational Planning Committee

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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. 2010 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. 2010 Supp. 79-32,261 is hereby amended to read  
8 as 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  
12 to 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  
16 as 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~~ for any contributions made during the entire tax  
21 year *for tax year 2009 and all succeeding tax years*. The amount of the  
22 credit allowed by this section shall not exceed 60% of the total amount  
23 contributed during the taxable year by the taxpayer to a community  
24 college or a technical college located in Kansas for such purposes. The  
25 amount of the credit allowed by this section shall not exceed 50% of the  
26 total 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 for a taxpayer who contributes to a  
29 community college or a technical college exceeds the taxpayer's income  
30 tax liability imposed by the Kansas income tax act, such excess amount  
31 shall be refunded to the taxpayer. If the amount of the tax credit for a  
32 taxpayer who contributes to a postsecondary educational institution  
33 exceeds the taxpayer's income tax liability for the taxable year, the  
34 amount which exceeds the tax liability may be carried over for deduction  
35 from the taxpayer's income tax liability in the next succeeding taxable  
36 year or years until the total amount of the tax credit has been deducted

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

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

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

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

37 (c) (1) In no event shall the total amount of credits allowed under  
38 this section for taxpayers who contribute to any one such community  
39 college or technical college exceed the following amounts: For the tax  
40 year 2008, an amount not to exceed \$78,125; for the tax year 2009, an  
41 amount not to exceed \$156,250; and for ~~the~~ *all succeeding* tax years  
42 ~~2010, 2011 and 2012~~, an amount not to exceed \$208,233.33. *If a*  
43 *community college has not used the maximum amount of allowed credits*

1 *pursuant to this paragraph as of a date certain, to be determined by the*  
2 *board of regents in conjunction with the department of revenue and after*  
3 *dialogue with the community colleges, such unused credits may be*  
4 *reallocated to another community college. Such reallocated credits must*  
5 *be used in the same tax year and in the same manner as provided in this*  
6 *section.*

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

24 (d) As used in this section: (1) "Community college" means a  
25 community college established under the provisions of the community  
26 college act;

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

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

39 (4) "technical college" means a technical college as designated  
40 pursuant to K.S.A. 72-4472, 72-4473, 72-4474, 72-4475 and 72-4477,  
41 and amendments thereto.

42 (e) Any taxpayer not subject to Kansas income, privilege or  
43 premiums tax who contributes to a community college, technical college

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

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

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

35 Sec. 2. K.S.A. 2010 Supp. 79-32,261 is hereby repealed.

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