

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 technical colleges; amending
3 K.S.A. 79-32,261 and repealing the existing section.
4

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

6 Section 1. K.S.A. 79-32,261 is hereby amended to read as follows:
7 79-32,261. (a) (1) On and after July 1, 2008, any taxpayer who contributes
8 in the manner prescribed by this ~~section~~ *paragraph* to a community
9 college located in Kansas for capital improvements, to a technical college
10 for deferred maintenance or the purchase of technology or equipment or to
11 a postsecondary educational institution located in Kansas for deferred
12 maintenance, shall be allowed a credit against the tax imposed by the
13 Kansas income tax act, the premium tax or privilege fees imposed
14 pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as
15 measured by net income of financial institutions imposed pursuant to
16 article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments
17 thereto. The tax credit allowed by this ~~section~~ *paragraph* is applicable for
18 the tax year 2008 for any contributions made on and after July 1, 2008,
19 and for the tax years 2009, 2010, 2011 and 2012 for any contributions
20 made during the entire tax year. The amount of the credit allowed by this
21 ~~section~~ *paragraph* shall not exceed 60% of the total amount contributed
22 during the taxable year by the taxpayer to a community college or a
23 technical college located in Kansas for such purposes. The amount of the
24 credit allowed by this ~~section~~ *paragraph* shall not exceed 50% of the total
25 amount contributed during the taxable year by the taxpayer to a
26 postsecondary educational institution for such purposes. If the amount of
27 the credit allowed by this ~~section~~ *paragraph* for a taxpayer who
28 contributes to a community college or a technical college exceeds the
29 taxpayer's income tax liability imposed by the Kansas income tax act, such
30 excess amount shall be refunded to the taxpayer. If the amount of the tax
31 credit for a taxpayer who contributes to a postsecondary educational
32 institution exceeds the taxpayer's income tax liability for the taxable year,
33 the amount which exceeds the tax liability may be carried over for
34 deduction from the taxpayer's income tax liability in the next succeeding
35 taxable year or years until the total amount of the tax credit has been
36 deducted from tax liability, except that no such tax credit shall be carried

1 over for deduction after the third taxable year succeeding the taxable year
2 in which the contribution is made. Prior to the issuance of any tax credits
3 pursuant to this ~~section~~ *paragraph*, the structure of the process in which
4 contributions received by a community college, a technical college or a
5 postsecondary educational institution qualify as tax credits allowed and
6 issued pursuant to this ~~section~~ *paragraph* shall be developed by a
7 community college, a technical college and a postsecondary educational
8 institution in consultation with the secretary of revenue and the foundation
9 or endowment association of any such community college, technical
10 college or postsecondary educational institution in a manner that complies
11 with requirements specified in the federal internal revenue code of 1986,
12 as amended, so that contributions qualify as charitable contributions
13 allowable as deductions from federal adjusted gross income.

14 *(2) On and after July 1, 2021, any taxpayer who contributes in the*
15 *manner prescribed by this paragraph to a technical college located in*
16 *Kansas for capital improvements, deferred maintenance or the purchase of*
17 *technology or equipment shall be allowed a credit against the tax imposed*
18 *by the Kansas income tax act, the premium tax or privilege fees imposed*
19 *pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax*
20 *as measured by net income of financial institutions imposed pursuant to*
21 *article 11 of chapter 79 of the Kansas Statutes Annotated, and*
22 *amendments thereto. The tax credit allowed by this paragraph is*
23 *applicable for the tax year 2021 for any contributions made on and after*
24 *July 1, 2021, and for the tax years 2022, 2023, 2024 and 2025 for any*
25 *contributions made during the entire tax year. If the amount of the credit*
26 *allowed by this paragraph for a taxpayer who contributes to a technical*
27 *college exceeds the taxpayer's income tax liability imposed by the Kansas*
28 *income tax act, such excess amount shall be refunded to the taxpayer.*
29 *Prior to the issuance of any tax credits pursuant to this paragraph, the*
30 *structure of the process in which contributions received by a technical*
31 *college qualify as tax credits allowed and issued pursuant to this*
32 *paragraph shall be developed by a technical college in consultation with*
33 *the secretary of revenue and the foundation or endowment association of*
34 *any such technical college in a manner that complies with requirements*
35 *specified in the federal internal revenue code of 1986, as amended, so that*
36 *contributions qualify as charitable contributions allowable as deductions*
37 *from federal adjusted gross income.*

38 (b) (1) Upon receipt of any ~~such~~ contributions to a community
39 college made pursuant to the provisions of ~~this section~~ *subsection (a)(1)*,
40 the treasurer of the community college shall deposit such contributions to
41 the credit of the capital outlay fund of such community college established
42 as provided by K.S.A. 71-501a, and amendments thereto. Expenditures
43 from such fund shall be made for the purposes described in ~~subsection (a)~~

1 of K.S.A. 71-501(a), and amendments thereto, except that expenditures
2 shall not be made from such fund for new construction or the acquisition
3 of real property for use as building sites or for educational programs.

4 (2) Upon receipt of any ~~such~~ contributions to a technical college
5 made pursuant to the provisions of ~~this section~~ subsection (a)(1), such
6 contributions shall be deposited to the credit of a deferred maintenance
7 fund or a technology and equipment fund established by the technical
8 college which received the contribution. Expenditures from such fund
9 shall be made only for the purpose as provided in ~~this~~ subsection (b)(1).

10 (3) Upon receipt of any such contributions to a postsecondary
11 educational institution made pursuant to the provisions of ~~this section~~
12 subsection (a)(1), such contributions shall be deposited to the credit of the
13 appropriate deferred maintenance support fund of the postsecondary
14 educational institution ~~which~~ that received the contribution. Expenditures
15 from such fund shall be made only for the purposes designated for such
16 fund pursuant to law.

17 (4) *Upon receipt of any such contributions to a technical college*
18 *made pursuant to the provisions of subsection (a)(2), the treasurer of the*
19 *technical college shall deposit such contributions to the credit of the*
20 *capital outlay fund of such technical college established as provided by*
21 *K.S.A. 71-501a, and amendments thereto. Expenditures from such fund*
22 *shall be made for the purposes designated for such fund pursuant to law.*

23 (c) (1) In no event shall the total amount of credits allowed under ~~this~~
24 ~~section~~ subsection (a)(1) for taxpayers who contribute to any one such
25 community college or technical college exceed the following amounts: For
26 the tax year 2008, an amount not to exceed \$78,125; for the tax year 2009,
27 an amount not to exceed \$156,250; and for the tax years 2010, 2011 and
28 2012, an amount not to exceed \$208,233.33.

29 (2) In no event shall the total of credits allowed under ~~this section~~
30 subsection (a)(1) for taxpayers who contribute to postsecondary
31 educational institutions exceed the following amounts: For the tax year
32 2008, an amount not to exceed \$5,625,000; for the tax year 2009, an
33 amount not to exceed \$11,250,000; and for the tax years 2010, 2011 and
34 2012, an amount not to exceed \$15,000,000. Except as otherwise provided,
35 the allocation of such tax credits for each individual state educational
36 institution shall be determined by the state board of regents in consultation
37 with the secretary of revenue and the university foundation or endowment
38 association of each postsecondary educational institution, and such
39 determination shall be completed prior to the issuance of any tax credits
40 pursuant to ~~this section~~ subsection (a)(1). Not more than 40% of the total
41 of credits allowed under ~~this section~~ subsection (a)(1) shall be allocated to
42 any one postsecondary educational institution unless all such
43 postsecondary educational institutions approve an allocation to any one

1 such postsecondary educational institution which exceeds 40% of the total
2 of such credits allowed under ~~this section~~ subsection (a)(1).

3 (3) For the tax years 2021 through 2025, the amount of such credit
4 awarded under subsection (a)(2) for each taxpayer shall not exceed
5 \$500,000 per tax year.

6 (4) In no event shall the total of credits allowed under subsection (a)
7 (2) for contributions to any one technical college exceed \$500,000 per tax
8 year.

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

11 (d) As used in this section: (1) "Community college" means a
12 community college established under the provisions of the community
13 college act;

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

25 (3) "postsecondary educational institution" means the university of
26 Kansas, Kansas state university of agriculture and applied science, Wichita
27 state university, Emporia state university, Pittsburg state university, Fort
28 Hays state university and Washburn university of Topeka; and

29 (4) "technical college" means a technical college as designated
30 pursuant to K.S.A. 74-32,458, 74-32,460, 74-32,461, 74-32,462-~~and~~, 74-
31 32,464; *and* 74-32,465, and amendments thereto, *and the institute of*
32 *technology at Washburn university.*

33 (e) Any taxpayer not subject to Kansas income, privilege or
34 premiums tax who contributes to a community college, technical college
35 or postsecondary educational institution, hereinafter designated the
36 transferor, may sell, assign, convey or otherwise transfer tax credits
37 allowed and earned pursuant to this section. The sale price of a tax credit
38 shall be at least 50% of the full value of the credit. Such credit shall be
39 deemed to be allowed and earned by any such taxpayer which is only
40 disqualified therefrom by reason of not being subject to such Kansas taxes.
41 The taxpayer acquiring earned credits, hereinafter designated the
42 transferee, may use the amount of the acquired credits to offset up to 100%
43 of the taxpayer's income, privilege or premiums tax liability for the taxable

1 year in which such acquisition was made. Such credits may be sold or
2 transferred only one time and, if sold or transferred, shall be transferred in
3 the tax year such credit is earned or the two successive tax years. A
4 transferred credit shall be claimed in the year purchased. The transferor
5 shall enter into a written agreement with the transferee establishing the
6 terms and conditions of the sale or transfer and shall perfect such transfer
7 by notifying the secretary of revenue in writing within 30 calendar days
8 following the effective date of the transfer, subject to the review and
9 approval or denial of such transfer by the secretary of revenue. The
10 transferor and transferee shall provide any information pertaining to the
11 sale or transfer as may be required by the secretary of revenue to
12 administer and carry out the provisions of this section. The amount
13 received by the transferor of such tax credit shall be taxable as income of
14 the transferor, and the excess of the value of such credit over the amount
15 paid by the transferee for such credit shall be taxable as income of the
16 transferee.

17 (f) The secretary of revenue shall submit an annual report to the
18 legislature to assist the legislature in the evaluation of the utilization of any
19 credits claimed pursuant to this act, including information specific as to
20 each community college, technical college or postsecondary educational
21 institution. Such report shall be due on or before the first day of the
22 legislative session following the tax year in which the credits were
23 claimed.

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

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

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