

HOUSE BILL No. 2645

By Committee on Taxation

Requested by Heather Morgan on behalf of community colleges

2-3

1 AN ACT concerning income taxation; relating to credits; extending the tax
2 credit for certain contributions to community colleges and technical
3 colleges for capital improvements, deferred maintenance or the
4 purchase of technology or equipment; amending K.S.A. 2025 Supp. 79-
5 32,261 and repealing the existing section.
6

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

8 Section 1. K.S.A. 2025 Supp. 79-32,261 is hereby amended to read as
9 follows: 79-32,261. (a) (1) On and after July 1, 2008, any taxpayer who
10 contributes in the manner prescribed by this paragraph to a community
11 college located in Kansas for capital improvements, to a technical college
12 for deferred maintenance or the purchase of technology or equipment or to
13 a postsecondary educational institution located in Kansas for deferred
14 maintenance, shall be allowed a credit against the tax imposed by the
15 Kansas income tax act, the premium tax or privilege fees imposed
16 pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as
17 measured by net income of financial institutions imposed pursuant to
18 article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments
19 thereto. The tax credit allowed by this paragraph is applicable for the tax
20 year 2008 for any contributions made on and after July 1, 2008, and for the
21 tax years 2009, 2010, 2011 and 2012 for any contributions made during
22 the entire tax year. The amount of the credit allowed by this paragraph
23 shall not exceed 60% of the total amount contributed during the taxable
24 year by the taxpayer to a community college or a technical college located
25 in Kansas for such purposes. The amount of the credit allowed by this
26 paragraph 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. If the amount of the credit allowed by this paragraph for a
29 taxpayer who contributes to a community college or a technical college
30 exceeds the taxpayer's income tax liability imposed by the Kansas income
31 tax act, such excess amount shall be refunded to the taxpayer. If the
32 amount of the tax credit for a taxpayer who contributes to a postsecondary
33 educational institution exceeds the taxpayer's income tax liability for the
34 taxable year, the amount which exceeds the tax liability may be carried
35 over for deduction from the taxpayer's income tax liability in the next

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

16 (2) On and after July 1, 2022, any taxpayer who contributes in the
17 manner prescribed by this paragraph to a community college or technical
18 college located in Kansas for capital improvements, deferred maintenance
19 or the purchase of technology or equipment shall be allowed a credit
20 against the tax imposed by the Kansas income tax act, the premium tax or
21 privilege fees imposed pursuant to K.S.A. 40-252, and amendments
22 thereto, or the privilege tax as measured by net income of financial
23 institutions imposed pursuant to article 11 of chapter 79 of the Kansas
24 Statutes Annotated, and amendments thereto. The tax credit allowed by
25 this paragraph is applicable for the tax ~~year~~ years 2022 for ~~any~~
26 ~~contributions made on and after July 1, 2022, and for the tax years 2023,~~
27 ~~2024, 2025 and 2026 through 2031~~ for any contributions made during the
28 entire tax year. The amount of the credit allowed by this paragraph shall
29 equal 60% of the total amount contributed during the taxable year by the
30 taxpayer to a community college or a technical college located in Kansas
31 for such purposes. Prior to the issuance of any tax credits pursuant to this
32 paragraph, the structure of the process in which contributions received by
33 a community college or technical college qualify as tax credits allowed
34 and issued pursuant to this paragraph shall be developed by a community
35 college and technical college in consultation with the secretary of revenue
36 and the foundation or endowment association of any such community
37 college or technical college in a manner that complies with requirements
38 specified in the federal internal revenue code of 1986, as amended, so that
39 contributions qualify as charitable contributions allowable as deductions
40 from federal adjusted gross income.

41 (b) (1) Upon receipt of any contributions to a community college
42 made pursuant to the provisions of subsection (a)(1), the treasurer of the
43 community college shall deposit such contributions to the credit of the

1 capital outlay fund of such community college established as provided by
2 K.S.A. 71-501a, and amendments thereto. Expenditures from such fund
3 shall be made for the purposes described in K.S.A. 71-501(a), and
4 amendments thereto, except that expenditures shall not be made from such
5 fund for new construction or the acquisition of real property for use as
6 building sites or for educational programs.

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

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

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

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

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

1 (a)(1). Not more than 40% of the total of credits allowed under subsection
2 (a)(1) shall be allocated to any one postsecondary educational institution
3 unless all such postsecondary educational institutions approve an
4 allocation to any one such postsecondary educational institution which
5 exceeds 40% of the total of such credits allowed under subsection (a)(1).

6 (3) For the tax years 2022 through ~~2026~~ 2031, the amount of such
7 credit awarded under subsection (a)(2) for each taxpayer shall not exceed
8 \$250,000 per tax year.

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

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

14 (d) As used in this section: (1) "Community college" means a
15 community college established under the provisions of the community
16 college act;

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

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

32 (4) "technical college" means a technical college as designated
33 pursuant to K.S.A. 74-32,458, 74-32,460, 74-32,461, 74-32,462, 74-
34 32,464 and 74-32,465, and amendments thereto, and the institute of
35 technology at Washburn university.

36 (e) (1) Any taxpayer not subject to Kansas income, privilege or
37 premiums tax who contributes to a community college, technical college
38 or postsecondary educational institution, hereinafter designated the
39 transferor, may sell, assign, convey or otherwise transfer tax credits
40 allowed and earned pursuant to this section. The sale price of a tax credit
41 shall be at least 50% of the full value of the credit. Such credit shall be
42 deemed to be allowed and earned by any such taxpayer which is only
43 disqualified therefrom by reason of not being subject to such Kansas taxes.

1 The taxpayer acquiring earned credits, hereinafter designated the
2 transferee, may use the amount of the acquired credits to offset up to 100%
3 of the taxpayer's income, privilege or premiums tax liability for the taxable
4 year in which such acquisition was made. Such credits may be sold or
5 transferred only one time and, if sold or transferred, shall be transferred in
6 the tax year such credit is earned or the two successive tax years. A
7 transferred credit shall be claimed in the year purchased. The transferor
8 shall enter into a written agreement with the transferee establishing the
9 terms and conditions of the sale or transfer and shall perfect such transfer
10 by notifying the secretary of revenue in writing within 30 calendar days
11 following the effective date of the transfer, subject to the review and
12 approval or denial of such transfer by the secretary of revenue. The
13 transferor and transferee shall provide any information pertaining to the
14 sale or transfer as may be required by the secretary of revenue to
15 administer and carry out the provisions of this section. The amount
16 received by the transferor of such tax credit shall be taxable as income of
17 the transferor, and the excess of the value of such credit over the amount
18 paid by the transferee for such credit shall be taxable as income of the
19 transferee.

20 (2) The provisions of this subsection shall not apply to tax credits
21 earned pursuant to subsection (a)(2).

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

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

31 Sec. 2. K.S.A. 2025 Supp. 79-32,261 is hereby repealed.

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