

HOUSE BILL No. 2163

By Committee on Commerce, Labor and Economic Development

1-25

1 AN ACT concerning income taxation; relating to credits, certain
2 contributions to technical colleges; amending K.S.A. 2016 Supp. 79-
3 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. 2016 Supp. 79-32,261 is hereby amended to read as
7 follows: 79-32,261. (a) On and after ~~July 1, 2008~~ *January 1, 2017*, any
8 taxpayer who contributes in the manner prescribed by this section to a
9 ~~community college located in Kansas for capital improvements, to a~~
10 ~~technical college for capital improvements, deferred maintenance or the~~
11 ~~purchase of technology or equipment or to a postsecondary educational~~
12 ~~institution located in Kansas for deferred maintenance, shall be allowed a~~
13 ~~credit against the tax imposed by the Kansas income tax act, the premium~~
14 ~~tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments~~
15 ~~thereto, or the privilege tax as measured by net income of financial~~
16 ~~institutions imposed pursuant to article 11 of chapter 79 of the Kansas~~
17 ~~Statutes Annotated, and amendments thereto. The tax credit allowed by~~
18 ~~this section is applicable for the tax year 2008 for any contributions made~~
19 ~~on and after July 1, 2008, and for the tax years 2009, 2010, 2011 and 2012~~
20 ~~for any contributions made during the entire tax year. The amount of the~~
21 ~~credit allowed by this section shall not exceed 60% of the total amount~~
22 ~~contributed during the taxable year by the taxpayer to a community college~~
23 ~~or a technical college located in Kansas for such purposes. The amount of~~
24 ~~the credit allowed by this section shall not exceed 50% of the total amount~~
25 ~~contributed during the taxable year by the taxpayer to a postsecondary~~
26 ~~educational institution for such purposes. If the amount of the credit~~
27 ~~allowed by this section for a taxpayer who contributes to a community~~
28 ~~college or a technical college exceeds the taxpayer's income tax liability~~
29 ~~imposed by the Kansas income tax act, such excess amount shall be~~
30 ~~refunded to the taxpayer. If the amount of the tax credit for a taxpayer who~~
31 ~~contributes to a postsecondary educational institution exceeds the~~
32 ~~taxpayer's income tax liability for the taxable year, the amount which~~
33 ~~exceeds the tax liability may be carried over for deduction from the~~
34 ~~taxpayer's income tax liability in the next succeeding taxable year or years~~
35 ~~until the total amount of the tax credit has been deducted from tax liability,~~
36 ~~except that no such tax credit shall be carried over for deduction after the~~

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

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

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

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

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

42 ~~(2) In no event shall the total of credits allowed under this section for~~
43 ~~taxpayers who contribute to postsecondary educational institutions exceed~~

1 the following amounts: For the tax year 2008, an amount not to exceed
2 \$5,625,000; for the tax year 2009, an amount not to exceed \$11,250,000;
3 and for the tax years 2010, 2011 and 2012, an amount not to exceed
4 \$15,000,000. Except as otherwise provided, the allocation of such tax
5 credits for each individual state educational institution shall be determined
6 by the state board of regents in consultation with the secretary of revenue
7 and the university foundation or endowment association of each
8 postsecondary educational institution, and such determination shall be
9 completed prior to the issuance of any tax credits pursuant to this section.
10 Not more than 40% of the total of credits allowed under this section shall
11 be allocated to any one postsecondary educational institution unless all
12 such postsecondary educational institutions approve an allocation to any
13 one such postsecondary educational institution which exceeds 40% of the
14 total of such credits allowed under this section.

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

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

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

33 (4)(2) "technical college" means a technical college as designated
34 pursuant to K.S.A. 72-4472, 72-4473, 72-4474, 72-4475 and 72-4477, and
35 amendments thereto.

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

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

29 Sec. 2. K.S.A. 2016 Supp. 79-32,261 is hereby repealed.

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