

## HOUSE BILL No. 2593

By Committee on Taxation

2-7

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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.  
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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~~ subsection (a)(1) 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~~ subsection (a)(1) is  
18 applicable for the tax year 2008 for any contributions made on and after  
19 July 1, 2008, and for the tax years 2009, 2010, 2011 and 2012 for any  
20 contributions made during the entire tax year. The amount of the credit  
21 allowed by ~~this section~~ subsection (a)(1) shall not exceed 60% of the total  
22 amount contributed during the taxable year by the taxpayer to a  
23 community college or a technical college located in Kansas for such  
24 purposes. The amount of the credit allowed by ~~this section~~ subsection (a)  
25 (1) shall not exceed 50% of the total amount contributed during the taxable  
26 year by the taxpayer to a postsecondary educational institution for such  
27 purposes. If the amount of the credit allowed by ~~this section~~ subsection (a)  
28 (1) for a taxpayer who contributes to a community college or a technical  
29 college exceeds the taxpayer's income tax liability imposed by the Kansas  
30 income tax act, such excess amount shall be refunded to the taxpayer. If  
31 the amount of the tax credit for a taxpayer who contributes to a  
32 postsecondary educational institution exceeds the taxpayer's income tax  
33 liability for the taxable year, the amount which exceeds the tax liability  
34 may be carried over for deduction from the taxpayer's income tax liability  
35 in the next succeeding taxable year or years until the total amount of the  
36 tax credit has been deducted from tax liability, except that no such tax

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

15 (2) *On and after July 1, 2020, any taxpayer who contributes in the*  
16 *manner prescribed by subsection (a)(2) to a technical college located in*  
17 *Kansas for capital improvements, deferred maintenance or the purchase of*  
18 *technology or equipment shall be allowed a credit against the tax imposed*  
19 *by the Kansas income tax act, the premium tax or privilege fees imposed*  
20 *pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax*  
21 *as measured by net income of financial institutions imposed pursuant to*  
22 *article 11 of chapter 79 of the Kansas Statutes Annotated, and*  
23 *amendments thereto. The tax credit allowed by subsection (a)(2) is*  
24 *applicable for the tax year 2020 for any contributions made on and after*  
25 *July 1, 2020, and for the tax years 2021, 2022, 2023 and 2024 for any*  
26 *contributions made during the entire tax year. If the amount of the credit*  
27 *allowed by subsection (a)(2) for a taxpayer who contributes to a technical*  
28 *college exceeds the taxpayer's income tax liability imposed by the Kansas*  
29 *income tax act, such excess amount shall be refunded to the taxpayer.*  
30 *Prior to the issuance of any tax credits pursuant to subsection (a)(2), the*  
31 *structure of the process in which contributions received by a technical*  
32 *college qualify as tax credits allowed and issued pursuant to subsection*  
33 *(a)(2) shall be developed by a technical college in consultation with the*  
34 *secretary of revenue and the foundation or endowment association of any*  
35 *such technical college in a manner that complies with requirements*  
36 *specified in the federal internal revenue code of 1986, as amended, so that*  
37 *contributions qualify as charitable contributions allowable as deductions*  
38 *from federal adjusted gross income.*

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

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

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

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

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

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

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

1 postsecondary educational institutions approve an allocation to any one  
2 such postsecondary educational institution which exceeds 40% of the total  
3 of such credits allowed under ~~this section~~ subsection (a)(1).

4 (3) For the tax years 2020 through 2024, the amount of such credit  
5 awarded under subsection (a)(2) for each taxpayer shall not exceed  
6 \$500,000 per tax year.

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

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

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

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

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

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

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

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

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

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

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

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