

HOUSE BILL No. 2550

By Committee on Taxation

1-27

9 AN ACT concerning income taxation; relating to certain credits; prohib-
10 iting future transferability thereof; repealing certain credits; amending
11 K.S.A. 39-7,132 and 65-7107 and K.S.A. 2009 Supp. 74-5005, 74-
12 50,201, 74-50,202, 74-50,203, 74-50,205, 74-8133, 79-32,199a, 79-
13 32,199b, 79-32,211 and 79-32,261 and repealing the existing sections;
14 also repealing K.S.A. 79-32,200 and K.S.A. 2009 Supp. 74-50,208, 79-
15 32,197a, 79-32,204, 79-32,207 and 79-32,242.

16
17 *Be it enacted by the Legislature of the State of Kansas:*

18 Section 1. K.S.A. 39-7,132 is hereby amended to read as follows: 39-
19 7,132. (a) Any person ~~who agrees~~ *may agree* to provide financial support
20 to a person who would otherwise be eligible to receive aid to families
21 with dependent children and ~~who has entered~~ *may enter* into an agree-
22 ment with the secretary of social and rehabilitation services for this pur-
23 pose, in accordance with rules and regulations adopted by the secretary
24 of social and rehabilitation services establishing the terms and conditions
25 of such agreement, ~~shall receive a credit against the tax liability imposed~~
26 ~~under the Kansas income tax act as provided under K.S.A. 79-32,200, and~~
27 ~~amendments thereto.~~

28 (b) Moneys received by the secretary under this section shall be used
29 to match available federal moneys for providing aid to families with de-
30 pendent children in the following manner: (1) The portion equal to 80%
31 of such moneys shall be credited to the state general fund, (2) the portion
32 equal to 15% of such moneys shall be used by the secretary to match
33 available federal moneys and shall be added by the secretary to the grant
34 of the recipient family, (3) the remaining portion equal to 5% of such
35 moneys shall be credited to the social welfare fund for administrative
36 expenses and one-time grants.

37 Sec. 2. K.S.A. 65-7107 is hereby amended to read as follows: 65-
38 7107. ~~(a)~~ Appropriate state agencies are hereby directed to amend their
39 state plans to protect the benefits of those receiving such benefits by
40 adding language consistent with the following: Any funds in an individual
41 development account, including accrued interest, shall be disregarded
42 when determining eligibility to receive the amount of any public assis-
43 tance or benefits.

1 ~~(b) A program contributor shall be allowed a credit against state in-~~
2 ~~come tax imposed under the Kansas income tax act in an amount equal~~
3 ~~to 25% of the contribution amount.~~

4 ~~—(c) The institute shall verify all tax credit claims by contributors. The~~
5 ~~administration of the community-based organization, with the coopera-~~
6 ~~tion of the participating financial institutions, shall submit the names of~~
7 ~~contributors and the total amount each contributor contributes to the~~
8 ~~individual development account reserve fund for the calendar year. The~~
9 ~~institute shall determine the date by which such information shall be~~
10 ~~submitted to the institute by the local administrator. The institute shall~~
11 ~~submit verification of qualified tax credits pursuant to K.S.A. 65-7101~~
12 ~~through 65-7107 and amendments thereto to the department of revenue.~~

13 ~~—(d) The total tax credits authorized pursuant to this section shall not~~
14 ~~exceed \$6,250 in any fiscal year.~~

15 ~~—(e) The provisions of this section shall be applicable to all taxable~~
16 ~~years commencing after December 31, 2002.~~

17 Sec. 3. K.S.A. 2009 Supp. 74-5005 is hereby amended to read as
18 follows: 74-5005. The department shall be the lead agency of the state
19 for economic development of commerce through the promotion of busi-
20 ness, industry, trade and tourism within the state. In general, but not by
21 way of limitation, the department shall have, exercise and perform the
22 following powers and duties:

23 (a) To assume central responsibility for implementing all facets of a
24 comprehensive, long-term, economic development strategy and for co-
25 ordinating the efforts of both state agencies and local economic devel-
26 opment groups as they relate to that objective;

27 (b) to coordinate the implementation of the strategy with all other
28 state and local agencies and offices and state educational institutions
29 which do research work, develop materials and programs, gather statistics,
30 or which perform functions related to economic development; and such
31 state and local agencies and offices and state educational institutions shall
32 advise and cooperate with the department in the planning and accom-
33 plishment of the purposes of this act;

34 (c) to advise and cooperate with all federal departments, research
35 institutions, educational institutions and agencies, quasi-public profes-
36 sional societies, private business and agricultural organizations and asso-
37 ciations, and any other party, public or private, and to call upon such
38 parties for consultation, and assistance in their respective fields of inter-
39 est, to the end that all up to date available technical advice, information
40 and assistance be gathered for the use of the department, the governor,
41 the legislature, and the people of this state;

42 (d) to enter into agreements necessary to carry out the purposes of
43 this act;

- 1 (e) to conduct an effective business information service, keeping up
2 to date information on such things as manufacturing industries, labor
3 supply and economic trends in employment, income, savings and pur-
4 chasing power within the state, utilizing the services and information
5 available from the division of the budget of the department of
6 administration;
- 7 (f) to support a coordinated program of scientific and industrial re-
8 search with the objective of developing additional uses of the state's nat-
9 ural resources, agriculture, agricultural products, new and better indus-
10 trial products and processes, and the best possible utilization of the raw
11 materials in the state; and to coordinate this responsibility with the state
12 educational institutions, with all state and federal agencies, and all public
13 and private institutions within or outside the state, all in an effort to assist
14 and encourage new industries or expansion of existing industries through
15 basic research, applied research and new development;
- 16 (g) to maintain and keep current all available information regarding
17 the industrial opportunities and possibilities of the state, including raw
18 materials and by-products; power and water resources; transportation fa-
19 cilities; available markets and the marketing limitations of the state; labor
20 supply; banking and financing facilities; availability of industrial sites; and
21 the advantages the state and its particular sections have as industrial lo-
22 cations; and such information shall be used for the encouragement of new
23 industries in the state and the expansion of existing industries within the
24 state;
- 25 (h) to publicize information and the economic advantages of the state
26 which make it a desirable place for commercial and industrial operations
27 and as a good place in which to live;
- 28 (i) to establish a clearinghouse for the collection and dissemination
29 of information concerning the number and location of public and private
30 postsecondary vocational and technical education programs in areas crit-
31 ical to economic development;
- 32 (j) to acquaint the people of this state with the industries within the
33 state and encourage closer cooperation between the farming, commercial
34 and industrial enterprises and the people of the state;
- 35 (k) to encourage and promote the traveling public to visit this state
36 by publicizing information as to the recreational, historic and natural ad-
37 vantages of the state and its facilities for transient travel and to contract
38 with organizations for the purpose of promoting tourism within the state;
39 and the department may request other state agencies such as, but not
40 limited to, the Kansas water office, the Kansas department of wildlife and
41 parks and the department of transportation, for assistance and all such
42 agencies shall coordinate information and their respective efforts with the
43 department to most efficiently and economically carry out the purpose

1 and intent of this subsection;

2 (l) to participate in economic development and planning assistance
3 programs of the federal government to political subdivisions;

4 (m) to assist counties and cities in industrial development through
5 the establishment of industrial development corporations, including site
6 surveys, small business administration situations, and render such other
7 similar assistance as may be required; and in those instances where it is
8 deemed appropriate, to contract with and make a service charge to the
9 county or city involved for such services rendered;

10 (n) to render assistance to private enterprise on planning problems
11 and site surveys upon request and shall make a reasonable service charge
12 for such services rendered; and any moneys received for services ren-
13 dered, as provided in this subsection, shall be deposited in the fund and
14 expended therefrom, as provided in subsection (o);

15 (o) to make agreements with other states and with the United States
16 government, or its agencies, and to accept funds from the federal gov-
17 ernment, or its agencies, or any other source for research studies, inves-
18 tigation, planning and other purposes related to the duties of the depart-
19 ment; and any funds so received shall be remitted to the state treasurer
20 in accordance with the provisions of K.S.A. 75-4215, and amendments
21 thereto. Upon receipt of each such remittance, the state treasurer shall
22 deposit the entire amount in the state treasury to the credit of a special
23 revenue fund which is hereby created and shall be known as the "eco-
24 nomic development fund" or used in accordance with or direction of the
25 contributing federal agencies; and expenditures from such fund may be
26 made for any purpose in keeping with the responsibilities, functions and
27 authority of the department; and warrants on such fund shall be drawn
28 in the same manner as required of other state agencies upon vouchers
29 signed by the secretary;

30 (p) to do other and further acts as shall be necessary and proper in
31 fostering and promoting the industrial development and economic wel-
32 fare of the state;

33 (q) to organize, or cause to be organized, an advisory board or boards
34 representing interested groups, including industry, labor, agriculture, sci-
35 entific research, the press, the professions, industrial associations, civic
36 groups, etc.; and such board or boards shall advise with the department
37 as to its work and the department shall, as far as practicable, cooperate
38 with such board or boards, and secure the active aid thereof in the ac-
39 complishment of the aims and objectives of the department;

40 (r) to perform the duties imposed under the Kansas venture capital
41 company act;

42 (s) to serve as the central agency and clearinghouse to collect and
43 disseminate ideas and information bearing on local planning problems;

1 and, in so doing, the department, upon request of the board of county
2 commissioners of any county or the governing body of any city in the
3 state, may make a study and report upon any planning problem of such
4 county or city submitted to it;

5 (t) to disseminate to the public information concerning economic de-
6 velopment programs available in the state, regardless of whether such
7 programs are administered by the department or some other agency and
8 the department shall make available audio-visual and written materials
9 describing the economic development programs to local chambers of
10 commerce, economic development organizations, banks and public li-
11 braries and shall take other measures as may be necessary to effectuate
12 the purpose of this subsection; and

13 (u) to perform the duties imposed under the individual development
14 account program act, K.S.A. 2009 Supp. 74-50,201 through ~~74-50,208~~ 74-
15 50,207, and amendments thereto.

16 Sec. 4. K.S.A. 2009 Supp. 74-50,201 is hereby amended to read as
17 follows: 74-50,201. The provisions of K.S.A. 2009 Supp. 74-50,201
18 through ~~74-50,208~~ 74-50,207, and amendments thereto, shall be known
19 and may be cited as the individual development account program act.

20 Sec. 5. K.S.A. 2009 Supp. 74-50,202 is hereby amended to read as
21 follows: 74-50,202. As used in this act:

22 (a) "Account holder" means a legal resident who is the owner of an
23 individual development account.

24 (b) "Community-based organization" means any religious or chari-
25 table association or tribal entity that is approved by the department to
26 implement the individual development account reserve fund.

27 (c) "Department" means the department of commerce.

28 (d) "Federal poverty level" means the most recent poverty income
29 guidelines published in the calendar year by the United States depart-
30 ment of health and human services.

31 (e) "Financial institution" means any bank, trust company, savings
32 bank, credit union or savings and loan association or any other financial
33 institution regulated by the state of Kansas, any agency of the United
34 States or other state with an office in Kansas which is approved by the
35 secretary to create and maintain the necessary financial instruments set-
36 ting up individual development accounts for eligible families or individ-
37 uals to implement this program.

38 (f) "Individual development account" means a financial instrument
39 established in K.S.A. 2009 Supp. 74-50,203, and amendments thereto.

40 (g) "Individual development account reserve fund" means the fund
41 created by an approved community-based organization for the purposes
42 of funding the costs incurred in the administration of the program by the
43 financial institutions and the community-based organizations and for pro-

- 1 viding matching funds for moneys in individual development accounts.
- 2 (h) “Matching funds” mean the moneys designated for contribution
3 from an individual development account reserve fund to an individual
4 development account by a community-based organization at a one-to-one
5 ratio up to a three-to-one ratio.
- 6 (i) “Postsecondary education expenses” mean tuition and fees re-
7 quired for enrollment or attendance, and fees, books, supplies and equip-
8 ment required for courses of instruction at an educational institution.
- 9 (j) “Program” means the Kansas individual development account pro-
10 gram established in K.S.A. 2009 Supp. 74-50,201 through ~~74-50,208~~ 74-
11 50,207, and amendments thereto.
- 12 (k) “Program contributor” means a person or entity who makes a
13 contribution to an individual development account reserve fund.
- 14 (l) “Qualified acquisition costs” mean the costs of acquiring, con-
15 structing or reconstructing a residence. The term includes any usual or
16 reasonable settlement, financing or other closing costs.
- 17 (m) “Qualified business” means any business that does not contra-
18 vene any law or public policy, as determined by the secretary.
- 19 (n) “Qualified business capitalization expenses” mean qualified ex-
20 penditures for the capitalization of a qualified business pursuant to a
21 qualified plan.
- 22 (o) “Qualified expenditures” mean expenditures included in a quali-
23 fied plan, including capital, plant, equipment, working capital and inven-
24 tory expenses.
- 25 (p) “Qualified first-time homebuyer” means a taxpayer, and, if mar-
26 ried, the taxpayer’s spouse, who has no present ownership interest in a
27 principal residence during the three-year period ending on the date on
28 which a binding contract to acquire, construct or reconstruct the principal
29 residence to which this subsection applies is entered into.
- 30 (q) “Qualified plan” means a business plan which:
- 31 (1) Is approved by a financial institution, or by a nonprofit loan fund
32 having demonstrated fiduciary integrity;
- 33 (2) includes a description of services or goods to be sold, a marketing
34 plan and projected financial statements; and
- 35 (3) may require the eligible individual to obtain the assistance of an
36 experienced entrepreneurial advisor.
- 37 (r) “Qualified principal residence” means a principal residence, the
38 qualified acquisition costs of which do not exceed 100% of the average
39 area purchase price applicable to such residence.
- 40 (s) “Secretary” means the secretary of commerce.
- 41 Sec. 6. K.S.A. 2009 Supp. 74-50,203 is hereby amended to read as
42 follows: 74-50,203. (a) There is hereby established within the department
43 a program to be known as the individual development account program.

- 1 The program shall provide eligible families and individuals with an op-
2 portunity to establish special savings accounts for moneys which may be
3 used by such families and individuals for the purposes enumerated by
4 K.S.A. 2009 Supp. 74-50,204, and amendments thereto.
- 5 (b) The secretary shall adopt rules and regulations and policies to
6 implement and administer the provisions of K.S.A. 2009 Supp. 74-50,201
7 through ~~74-50,208~~ 74-50,207, and amendments thereto.
- 8 (c) The secretary shall enter into contracts as deemed appropriate to
9 carry out the provisions of this act.
- 10 (d) The department shall prepare a request for proposals from com-
11 munity-based organizations seeking to administer an individual develop-
12 ment account reserve fund on a not-for-profit basis. The community-
13 based organization proposals shall include:
- 14 (1) A requirement that the community-based organization make
15 matching contributions to the development account of an individual ac-
16 count holder's or family's contributions to the individual development
17 account;
- 18 (2) a process for including account holders in decision making re-
19 garding the investment of funds in the accounts;
- 20 (3) specifications of the population or populations targeted for pri-
21 ority participation in the program;
- 22 (4) a requirement that the individual account holder or the family of
23 the account holder attend economic education seminars;
- 24 (5) a process for including economic education seminars in the in-
25 dividual development account program;
- 26 (6) a process for regular evaluation and review of individual devel-
27 opment accounts to ensure program compliance by account holders; and
- 28 (7) a requirement that the community-based organization obtain an
29 annual independent audit of the organization's administration of the pro-
30 visions of K.S.A. 2009 Supp. 74-50,201 through ~~74-50,208~~ 74-50,207, and
31 amendments thereto.
- 32 (e) A notice of the request for proposals shall be published once in
33 the Kansas register at least 10 days before any action thereon.
- 34 (f) In reviewing the proposals of community-based organizations, the
35 department shall consider the following factors:
- 36 (1) The not-for-profit status or tribal status of such community-based
37 organization;
- 38 (2) the fiscal accountability of the community-based organization;
- 39 (3) the ability of the community-based organization to provide or
40 raise moneys for matching contributions;
- 41 (4) the ability of the community-based organization to establish and
42 administer an individual development reserve fund account which shall
43 receive all contributions from program contributors;

1 (5) the significance and quality of proposed auxiliary services, includ-
2 ing economic education seminars and their relationship to the goals of
3 the individual development account program; and

4 (6) the percentage of funds in the reserve fund account that shall be
5 used for administrative costs of the program.

6 (g) No more than 20% of all funds in the reserve fund account may
7 be used for administrative costs of the program in the first and second
8 years of the program, and no more than 15% of such funds may be used
9 for administrative costs in any subsequent year. Funds deposited by ac-
10 count holders shall not be used for administrative costs.

11 Sec. 7. K.S.A. 2009 Supp. 74-50,205 is hereby amended to read as
12 follows: 74-50,205. (a) Financial institutions seeking to open and maintain
13 individual development accounts approved by the secretary for account
14 holders shall be permitted to establish individual development accounts
15 pursuant to K.S.A. 2009 Supp. 74-50,201 through ~~74-50,208~~ 74-50,207,
16 and amendments thereto.

17 (b) A financial institution establishing an individual development ac-
18 count shall:

19 (1) Keep the account in the name of the account holder;

20 (2) permit deposits to be made in the account by the following, sub-
21 ject to the indicated conditions:

22 (A) The account holder; or

23 (B) a community-based organization on behalf of the account holder.
24 Such a deposit may include moneys to match the account holder's de-
25 posits, up to a three-to-one match ratio;

26 (3) require the account to earn at least the market rate of interest;
27 and

28 (4) permit the account holder to withdraw moneys upon approval of
29 a community-based organization from the account for any of the purposes
30 listed in subsections (a) through (e) of K.S.A. 2009 Supp. 74-50,204, and
31 amendments thereto.

32 (c) The total of all deposits by the account holder into an individual
33 development account in a calendar year shall not exceed 30% of an ac-
34 count holder's annual personal income not to exceed \$4,000, except when
35 necessary to comply with the emergency withdrawal provisions contained
36 in K.S.A. 2009 Supp. 74-50,206, and amendments thereto. The total bal-
37 ance in an individual development account at any time shall not exceed
38 \$50,000.

39 Sec. 8. K.S.A. 2009 Supp. 74-8133 is hereby amended to read as
40 follows: 74-8133. (a) A credit against the tax imposed by article 32 of
41 chapter 79 of the Kansas Statutes Annotated on the Kansas taxable in-
42 come of an angel investor and against the tax imposed by K.S.A. 40-252,
43 and amendments thereto, shall be allowed for a cash investment in the

1 qualified securities of a qualified Kansas business. The credit shall be in
2 a total amount equal to 50% of such investors' cash investment in any
3 qualified Kansas business, subject to the limitations set forth in subsection
4 (b). This tax credit may be used in its entirety in the taxable year in which
5 the cash investment is made except that no tax credit shall be allowed in
6 a year prior to January 1, 2005. If the amount by which that portion of
7 the credit allowed by this section exceeds the investors' liability in any
8 one taxable year, beginning in the year 2005, the remaining portion of
9 the credit may be carried forward until the total amount of the credit is
10 used. If the investor is a permitted entity investor, the credit provided by
11 this section shall be claimed by the owners of the permitted entity investor
12 in proportion to their ownership share of the permitted entity investor.

13 (b) The secretary of revenue shall not allow tax credits of more than
14 \$50,000 for a single Kansas business or a total of \$250,000 in tax credits
15 for a single year per investor who is a natural person or owner of a per-
16 mitted entity investor. No tax credits authorized by this act shall be al-
17 lowed for any cash investments in qualified securities for any year after
18 the year 2016. The total amount of tax credits which may be allowed
19 under this section shall not exceed \$4,000,000 during the tax year 2007
20 and \$6,000,000 for tax year 2008 and each tax year thereafter. The balance
21 of unissued tax credits may be carried over for issuance in future years
22 until 2016.

23 (c) A cash investment in a qualified security shall be deemed to have
24 been made on the date of acquisition of the qualified security, as such
25 date is determined in accordance with the provisions of the internal rev-
26 enue code.

27 (d) No investor shall claim a credit under this section for cash in-
28 vestments in Kansas venture capital, inc. No Kansas venture capital com-
29 pany shall qualify for the tax credit for an investment in a fund created
30 by articles 81, 82, 83 or 84 of chapter 74 of the Kansas Statutes Annotated.

31 ~~(e) Any investor who has not owed any Kansas income tax under the~~
32 ~~provisions of article 32, chapter 79 of the Kansas Statutes Annotated for~~
33 ~~the immediate past three taxable years, who does not reasonably believe~~
34 ~~that it will owe any such tax for the current taxable year and who makes~~
35 ~~a cash investment in a qualified security of a qualified Kansas business~~
36 ~~shall be deemed to acquire an interest in the nature of a transferable~~
37 ~~credit limited to an amount equal to 50% of this cash investment. This~~
38 ~~interest may be transferred to any natural person of net worth, as defined~~
39 ~~in 17 C.F.R. 230.501(a) as in effect on the effective date of this act~~
40 ~~whether or not such person is then an investor and be claimed by the~~
41 ~~transferee as a credit against the transferee's Kansas income tax liability~~
42 ~~beginning in the year provided in subsection (a). No person shall be en-~~
43 ~~titled to a refund for the interest created under this section. Only the full~~

1 ~~credit for any one investment may be transferred and this interest may~~
2 ~~only be transferred one time. A credit acquired by transfer shall be subject~~
3 ~~to the limitations prescribed in this section. Documentation of any credit~~
4 ~~acquired by transfer shall be provided by the investor in the manner~~
5 ~~required by the director of taxation.~~

6 ~~(f)~~ The reasonable costs of the administration of this act, the review
7 of applications for certification as qualified Kansas businesses and the
8 issuance of tax credits authorized by this act shall be reimbursed through
9 fees paid by the qualified Kansas businesses and the investors or the
10 transferees of investors, according to a reasonable fee schedule adopted
11 by the corporation.

12 Sec. 9. K.S.A. 2009 Supp. 79-32,199a is hereby amended to read as
13 follows: 79-32,199a. The provisions of K.S.A. 2009 Supp. 79-32,195; *and*
14 79-32,197 ~~and 79-32,197a~~ shall be applicable to all taxable years com-
15 mencing after December 31, ~~1998~~ 2009.

16 Sec. 10. K.S.A. 2009 Supp. 79-32,199b is hereby amended to read
17 as follows: 79-32,199b. The provisions of K.S.A. 2009 Supp. 79-32,195;
18 *and* 79-32,197 ~~and 79-32,197a~~ shall be applicable to all taxable years com-
19 mencing after December 31, ~~2000~~ 2009.

20 Sec. 11. K.S.A. 2009 Supp. 79-32,211 is hereby amended to read as
21 follows: 79-32,211. (a) For all taxable years commencing after December
22 31, 2006, there shall be allowed a tax credit against the income, privilege
23 or premium tax liability imposed upon a taxpayer pursuant to the Kansas
24 income tax act, the privilege tax imposed upon any national banking as-
25 sociation, state bank, trust company or savings and loan association pur-
26 suant to article 11 of chapter 79 of the Kansas Statutes Annotated, or the
27 premiums tax and privilege fees imposed upon an insurance company
28 pursuant to K.S.A. 40-252, and amendments thereto, in an amount equal
29 to 25% of qualified expenditures incurred in the restoration and preser-
30 vation of a qualified historic structure pursuant to a qualified rehabilita-
31 tion plan by a qualified taxpayer if the total amount of such expenditures
32 equal \$5,000 or more; or in an amount equal to 30% of qualified ex-
33 penditures incurred in the restoration and preservation of a qualified
34 historic structure which is exempt from federal income taxation pursuant
35 to section 501(c)(3) of the federal internal revenue code and which is not
36 income producing pursuant to a qualified rehabilitation plan by a qualified
37 taxpayer if the total amount of such expenditures equals \$5,000 or more.
38 In no event shall the total amount of credits allowed under this section
39 exceed \$3,750,000 for fiscal years 2010 and 2011. If the amount of such
40 tax credit exceeds the qualified taxpayer's income, privilege or premium
41 tax liability for the year in which the qualified rehabilitation plan was
42 placed in service, as defined by section 47(b)(1) of the federal internal
43 revenue code and federal regulation section 1.48-12(f)(2), such excess

1 amount may be carried over for deduction from such taxpayer's income,
2 privilege or premium tax liability in the next succeeding year or years
3 until the total amount of the credit has been deducted from tax liability,
4 except that no such credit shall be carried over for deduction after the
5 10th taxable year succeeding the taxable year in which the qualified re-
6 habilitation plan was placed in service.

7 (b) As used in this section, unless the context clearly indicates
8 otherwise:

9 (1) "Qualified expenditures" means the costs and expenses incurred
10 by a qualified taxpayer in the restoration and preservation of a qualified
11 historic structure pursuant to a qualified rehabilitation plan which are
12 defined as a qualified rehabilitation expenditure by section 47(c)(2) of the
13 federal internal revenue code;

14 (2) "qualified historic structure" means any building, whether or not
15 income producing, which is defined as a certified historic structure by
16 section 47(c)(3) of the federal internal revenue code, is individually listed
17 on the register of Kansas historic places, or is located and contributes to
18 a district listed on the register of Kansas historic places;

19 (3) "qualified rehabilitation plan" means a project which is approved
20 by the cultural resources division of the state historical society, or by a
21 local government certified by the division to so approve, as being consis-
22 tent with the standards for rehabilitation and guidelines for rehabilitation
23 of historic buildings as adopted by the federal secretary of interior and in
24 effect on the effective date of this act. The society shall adopt rules and
25 regulations providing application and approval procedures necessary to
26 effectively and efficiently provide compliance with this act, and may col-
27 lect fees in order to defray its approval costs in accordance with rules and
28 regulations adopted therefor; and

29 (4) "qualified taxpayer" means the owner of the qualified historic
30 structure or any other person who may qualify for the federal rehabili-
31 tation credit allowed by section 47 of the federal internal revenue code.

32 If the taxpayer is a corporation having an election in effect under sub-
33 chapter S of the federal internal revenue code, a partnership or a limited
34 liability company, the credit provided by this section shall be claimed by
35 the shareholders of such corporation, the partners of such partnership or
36 the members of such limited liability company in the same manner as
37 such shareholders, partners or members account for their proportionate
38 shares of the income or loss of the corporation, partnership or limited
39 liability company, or as the corporation, partnership or limited liability
40 company mutually agree as provided in the bylaws or other executed
41 agreement. Credits granted to a partnership, a limited liability company
42 taxed as a partnership or other multiple owners of property shall be passed
43 through to the partners, members or owners respectively pro rata or pur-

1 suant to an executed agreement among the partners, members or owners
2 documenting any alternate distribution method.

3 ~~(c) Any person, hereinafter designated the assignor, may sell, assign,
4 convey or otherwise transfer tax credits allowed and earned pursuant to
5 subsection (a). The taxpayer acquiring credits, hereinafter designated the
6 assignee, may use the amount of the acquired credits to offset up to 100%
7 of its income, privilege or premiums tax liability for either the taxable
8 year in which the qualified rehabilitation plan was first placed into service
9 or the taxable year in which such acquisition was made. Unused credit
10 amounts claimed by the assignee may be carried forward for up to five
11 years, except that all such amounts shall be claimed within 10 years fol-
12 lowing the tax year in which the qualified rehabilitation plan was first
13 placed into service. The assignor shall enter into a written agreement with
14 the assignee establishing the terms and conditions of the agreement and
15 shall perfect such transfer by notifying the cultural resources division of
16 the state historical society in writing within 90 calendar days following
17 the effective date of the transfer and shall provide any information as may
18 be required by such division to administer and carry out the provisions
19 of this section. The amount received by the assignor of such tax credit
20 shall be taxable as income of the assignor, and the excess of the value of
21 such credit over the amount paid by the assignee for such credit shall be
22 taxable as income of the assignee.~~

23 Sec. 12. K.S.A. 2009 Supp. 79-32,261 is hereby amended to read as
24 follows: 79-32,261. (a) On and after July 1, 2008, any taxpayer who con-
25 tributes in the manner prescribed by this section to a community college
26 located in Kansas for capital improvements, to a technical college for
27 deferred maintenance or the purchase of technology or equipment or to
28 a postsecondary educational institution located in Kansas for deferred
29 maintenance, shall be allowed a credit against the tax imposed by the
30 Kansas income tax act, the premium tax or privilege fees imposed pur-
31 suant to K.S.A. 40-252, and amendments thereto, or the privilege tax as
32 measured by net income of financial institutions imposed pursuant to
33 article 11 of chapter 79 of the Kansas Statutes Annotated. The tax credit
34 allowed by this section is applicable for the tax year 2008 for any contri-
35 butions made on and after July 1, 2008, and for the tax years 2009, 2010,
36 2011 and 2012 for any contributions made during the entire tax year. The
37 amount of the credit allowed by this section shall not exceed 60% of the
38 total amount contributed during the taxable year by the taxpayer to a
39 community college or a technical college located in Kansas for such pur-
40 poses. The amount of the credit allowed by this section shall not exceed
41 50% of the total amount contributed during the taxable year by the tax-
42 payer to a postsecondary educational institution for such purposes. If the
43 amount of the credit allowed by this section for a taxpayer who contributes

1 to a community college or a technical college exceeds the taxpayer's in-
2 come tax liability imposed by the Kansas income tax act, such excess
3 amount shall be refunded to the taxpayer. If the amount of the tax credit
4 for a taxpayer who contributes to a postsecondary educational institution
5 exceeds the taxpayer's income tax liability for the taxable year, the amount
6 which exceeds the tax liability may be carried over for deduction from
7 the taxpayer's income tax liability in the next succeeding taxable year or
8 years until the total amount of the tax credit has been deducted from tax
9 liability, except that no such tax credit shall be carried over for deduction
10 after the third taxable year succeeding the taxable year in which the con-
11 tribution is made. Prior to the issuance of any tax credits pursuant to this
12 section, the structure of the process in which contributions received by a
13 community college, a technical college or a postsecondary educational
14 institution qualify as tax credits allowed and issued pursuant to this section
15 shall be developed by a community college, a technical college and a
16 postsecondary educational institution in consultation with the secretary
17 of revenue and the foundation or endowment association of any such
18 community college, technical college or postsecondary educational insti-
19 tution in a manner that complies with requirements specified in the fed-
20 eral internal revenue code of 1986, as amended, so that contributions
21 qualify as charitable contributions allowable as deductions from federal
22 adjusted gross income.

23 (b) (1) Upon receipt of any such contributions to a community col-
24 lege made pursuant to the provisions of this section, the treasurer of the
25 community college shall deposit such contributions to the credit of the
26 capital outlay fund of such community college established as provided by
27 K.S.A. 71-501a, and amendments thereto. Expenditures from such fund
28 shall be made for the purposes described in subsection (a) of K.S.A. 71-
29 501, and amendments thereto, except that expenditures shall not be made
30 from such fund for new construction or the acquisition of real property
31 for use as building sites or for educational programs.

32 (2) Upon receipt of any such contributions to a technical college
33 made pursuant to the provisions of this section, such contributions shall
34 be deposited to the credit of a deferred maintenance fund or a technology
35 and equipment fund established by the technical college which received
36 the contribution. Expenditures from such fund shall be made only for the
37 purpose as provided in this subsection.

38 (3) Upon receipt of any such contributions to a postsecondary edu-
39 cational institution made pursuant to the provisions of this section, such
40 contributions shall be deposited to the credit of the appropriate deferred
41 maintenance support fund of the postsecondary educational institution
42 which received the contribution. Expenditures from such fund shall be
43 made only for the purposes designated for such fund pursuant to law.

1 (c) (1) In no event shall the total amount of credits allowed under
2 this section for taxpayers who contribute to any one such community
3 college or technical college exceed the following amounts: For the tax
4 year 2008, an amount not to exceed \$78,125; for the tax year 2009, an
5 amount not to exceed \$156,250; and for the tax years 2010, 2011 and
6 2012, an amount not to exceed \$208,233.33.

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 tax years 2010, 2011 and 2012, an amount not
12 to exceed \$15,000,000. Except as otherwise provided, the allocation of
13 such tax credits for each individual state educational institution shall be
14 determined by the state board of regents in consultation with the secre-
15 tary of revenue and the university foundation or endowment association
16 of each postsecondary educational institution, and such determination
17 shall be completed prior to the issuance of any tax credits pursuant to
18 this section. Not more than 40% of the total of credits allowed under this
19 section shall be allocated to any one postsecondary educational institution
20 unless all such postsecondary educational institutions approve an alloca-
21 tion to any one such postsecondary educational institution which exceeds
22 40% of the total of such credits allowed under this section.

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

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

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

37 (4) "technical college" means a technical college as designated pur-
38 suant to K.S.A. 72-4472, 72-4473, 72-4474, 72-4475 and 72-4477, and
39 amendments thereto.

40 (e) ~~Any taxpayer not subject to Kansas income, privilege or premiums~~
41 ~~tax who contributes to a community college, technical college or postse-~~
42 ~~condary educational institution, hereinafter designated the transferor,~~
43 ~~may sell, assign, convey or otherwise transfer tax credits allowed and~~

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

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

30 ~~(g)~~ (f) The secretary of revenue shall adopt rules and regulations nec-
31 essary to administer the provisions of this section.

32 Sec. 13. K.S.A. 39-7,132, 65-7107 and 79-32,200 and K.S.A. 2009
33 Supp. 74-5005, 74-50,201, 74-50,202, 74-50,203, 74-50,205, 74-50,208,
34 74-8133, 79-32,197a, 79-32,199a, 79-32,199b, 79-32,204, 79-32,207, 79-
35 32,211, 79-32,242 and 79-32,261 are hereby repealed.

36 Sec. 14. This act shall take effect and be in force from and after its
37 publication in the statute book.