

HOUSE BILL No. 2208

By Committee on Taxation

Requested by Kimberly Gencur Svaty on behalf of the Kansas Association of
Community Foundations

2-3

1 AN ACT concerning taxation; relating to income and privilege tax credits;
2 enacting the endow Kansas tax credit act; establishing a tax credit for
3 endowment gifts to certain endowment funds held by qualified
4 community foundations.
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6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. (a) This section shall be known and may be cited as the
8 endow Kansas tax credit act.

9 (b) (1) For all taxable years commencing after December 31, 2025, a
10 credit shall be allowed against the income or privilege tax liability
11 imposed upon a taxpayer pursuant to the Kansas income tax act or the
12 privilege tax imposed upon any national banking association, state bank,
13 trust company or savings and loan association pursuant to article 11 of
14 chapter 79 of the Kansas Statutes Annotated, and amendments thereto, in
15 an amount equal to 70% of the amount of an endowment gift by a taxpayer
16 during the taxable year to an unrestricted permanent endowment fund or
17 field of interest permanent endowment fund held by a qualified
18 community foundation.

19 (2) A minimum endowment gift of \$500 by a taxpayer shall be
20 required for such taxpayer to qualify for an award of a credit pursuant to
21 this section.

22 (c) (1) The total aggregate amount of credits allowed pursuant to this
23 section for each taxable year shall not exceed \$3,000,000 for tax year
24 2026, \$4,000,000 for tax year 2027 and \$5,000,000 for tax year 2028, and
25 each tax year thereafter.

26 (2) In no event shall the total amount of credits allowed under this
27 section for endowment gifts to a single qualified community foundation,
28 excluding affiliates, or to a single affiliate of a qualified community
29 foundation exceed 10% of the total aggregate amount of credits per tax
30 year.

31 (3) The amount of such credit awarded to a taxpayer for a taxable
32 year pursuant to this section shall not exceed:

33 (A) \$100,000 for an individual or fiduciary taxpayer subject to the
34 income tax imposed pursuant to K.S.A. 79-32,110(a), (b) or (d), and

1 amendments thereto;

2 (B) \$200,000 for married taxpayers filing a joint return subject to the
3 income tax on individuals imposed pursuant to K.S.A. 79-32,110(a) or (b),
4 and amendments thereto; or

5 (C) \$200,000 for any taxpayer subject to the income tax on
6 corporations imposed pursuant to K.S.A. 79-32,110(c), and amendments
7 thereto, or the privilege tax on financial institutions pursuant to article 11
8 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto.

9 (4) If the amount of the credit exceeds the taxpayer's tax liability, the
10 excess portion of the credit may be carried forward in the succeeding
11 taxable years until the total amount of the credit is used, except that no
12 credit may be claimed after five taxable years next succeeding the taxable
13 year that such credit was issued, and any remaining credit shall be
14 forfeited. The credit shall not be transferable.

15 (d) (1) (A) In order to participate under this section, a qualified
16 community foundation shall apply to the department of revenue for a
17 certification that the qualified community foundation satisfies all the
18 criteria to be considered a qualified community foundation under this
19 section. Applications shall be submitted upon forms furnished by the
20 department accompanied by any additional documentation required by the
21 department. If the department determines that an applicant foundation
22 satisfies the requirements of this section, the department shall issue a
23 written certificate to the qualified community foundation. The department
24 shall compile and make available to the public a list of certified qualified
25 community foundations.

26 (B) A qualified community foundation with a certificate shall notify
27 the department of any changes that may affect eligibility under this
28 section. The department may periodically review eligibility or request
29 recertification through new applications from such foundations. A
30 qualified community foundation must be in good standing with the
31 department having complied with the requirements of this section and all
32 reporting and data privacy requirements of the department in order to
33 continue to participate.

34 (2) (A) Prior to claiming any credit on a return, a taxpayer shall apply
35 for credits with the department on forms furnished by the department. In
36 the application, the taxpayer shall certify the dollar amount of the
37 endowment gift made or to be made during the taxable year, the name of
38 the certified qualified community foundation and any other information
39 that may be required by the department to determine whether the taxpayer
40 qualifies for such credit.

41 (B) Within 30 days after the receipt of an application from a taxpayer
42 that the department determines may qualify for a credit under this section,
43 the department shall allocate credits in accordance with this section. If the

1 department cannot allocate the full amount of credits to an applicant due to
2 the limit on the total aggregate amount of credits that may be awarded
3 under this section per tax year or the limit on the total amount of credits
4 allowed for endowment gifts to a single qualified community foundation
5 or a single affiliate per tax year, the department shall notify the applicant
6 within 30 days with the amount of credits, if any, that may be allocated to
7 the applicant or that credits are no longer available for such tax year. Once
8 the department has allocated credits to a taxpayer, if the endowment gift
9 for which a credit is allocated has not been made as of the date of the
10 allocation, then the endowment gift must be made not later than 30 days
11 from the date of the allocation and also not later than the end of the tax
12 year for which the credits are allocated. If the endowment gift is not made
13 within such time period, the allocation shall be cancelled and returned to
14 the department for reallocation. All endowment gifts shall be made by the
15 end of the tax year for which the credits are allocated. A valid written
16 notice of the amount of credits allocated to a taxpayer from the department
17 is required in order for a taxpayer to claim the credit on a return.

18 (e) The secretary of revenue may adopt rules and regulations as
19 necessary to implement and administer the provisions of this act.

20 (f) As used in this section:

21 (1) "Department" means department of revenue.

22 (2) "Endowment gift" means an irrevocable contribution to an
23 endowed fund held by a qualified community foundation.

24 (3) "Field of interest endowment fund" means an endowed fund held
25 by a community foundation that is used for a specific charitable purpose,
26 such as education, health or other areas of community need or geographic
27 location such as a city or county.

28 (4) "Permanent endowment fund" means a fund held by a qualified
29 community foundation, the principal of which is permanently restricted
30 and the growth is used to provide charitable assistance exclusively to
31 support nonprofit organizations and programs that benefit residents of the
32 state of Kansas and is intended to exist in perpetuity.

33 (5) "Qualified community foundation" means a nonprofit
34 organization that is:

35 (A) Organized under the laws of this state to serve the state of
36 Kansas, or one or more Kansas counties or municipalities, or a
37 combination thereof;

38 (B) exempt from federal income taxation under section 501(c)(3) of
39 the federal internal revenue code;

40 (C) an organization that supports broad-based charitable interests that
41 benefit the residents of a defined geographic area not larger than the state
42 of Kansas; and

43 (D) (i) Accredited with community foundations national standards

1 administered by the community foundations national standards board, or is
2 affiliated with such an accredited community foundation; or

3 (ii) recognized by the department as satisfying all of the following
4 requirements:

5 (a) The organization is comprised of permanent, component funds
6 established by multiple separate donors;

7 (b) the organization is directed by a board of directors comprised of
8 community representatives and such board is independent in that it is not
9 subject to the control of another entity;

10 (c) the organization actively engages in charitable activities,
11 including, but not limited to, supporting two or more unaffiliated tax
12 exempt organizations through grants or other professionally accepted
13 means of charitable support and serving in leadership roles on important
14 community issues;

15 (d) the organization has an annual audit, or a financial review when
16 its assets total less than \$5,000,000, performed by an independent public
17 accountant; and

18 (e) the organization complies with the guidelines of the Kansas
19 association of community foundations, or its successor entity, for
20 membership by a community foundation.

21 A qualified community foundation includes its affiliate funds
22 benefitting a defined geographic area not larger than the state of Kansas
23 that are legally a part of, and subject to, the policies and operations of the
24 qualified community foundation.

25 (6) "Unrestricted endowment fund" means an endowed fund held by a
26 community foundation that allows the community foundation to determine
27 how grant dollars will be used.

28 Sec. 2. This act shall take effect and be in force from and after its
29 publication in the statute book.