

Kansas Department of Revenue  
Office of Policy and Research  
109 SW 9<sup>th</sup> St.  
Topeka, KS 66601-3506



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Mark Burghart, Secretary

Laura Kelly, Governor

## Notice of Hearing on Proposed Administrative Regulations

A public hearing will be conducted by the Department of Revenue on Tuesday, September 12, 2023, at 8:30 a.m., in the Secretary's Conference Room on the fourth floor of the Mills Building, 109 SW 9<sup>th</sup> St., Topeka, KS 66612, regarding the proposed amendment of K.A.R. 92-12-140 and the proposed revocation of K.A.R. 92-12-141, 92-12-143, 92-12-144, and 92-12-145.

K.A.R. 92-12-140 through 92-12-145 are regulations implementing K.S.A. 79-32,261. K.S.A. 79-32,261 contains two income or privilege tax credits for qualifying contributions to educational institutions. K.S.A. 79-32,261(a)(1) provides a credit for tax years 2008 through 2012 ("the unavailable credit"). K.S.A. 79-32,261(a)(2) provides a credit for tax years 2022 through 2026 ("the current credit").

**K.A.R. 92-12-140. Scope; definitions.** The Department proposes amending this regulation to update definitions to match the current credit.

**K.A.R. 92-12-141. Tax credit agreement. | 92-12-143. Quarterly reports. | 92-12-144. Reallocation of credits.** The Department proposes revoking these regulations because they support a system allocating credits between schools that was required for the unavailable credit but is not required for the current credit.

**K.A.R. 92-12-145. Transfer of tax credits.** The Department proposes revoking this regulation because the current credit is not transferrable.

The Department of Revenue does not anticipate any significant economic or environmental impact on governmental agencies or units or the general public because of the changes to these regulations. Copies of the proposed amendment and proposed revocations and their Economic Impact Statements may be found online at <https://www.ksrevenue.gov/prproposedregulations.html>, or by contacting Taylor Murray at [taylor.murray@ks.gov](mailto:taylor.murray@ks.gov).

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written comments from the public on the proposed regulations. All interested parties may submit written public comments prior to the hearing to Taylor Murray, Office of Policy and Research, Mills Building, 109 SW 9<sup>th</sup> St., Topeka, Kansas 66601-3506 or via e-mail at [taylor.murray@ks.gov](mailto:taylor.murray@ks.gov). Additionally, interested parties wanting to participate remotely may contact Taylor Murray at [taylor.murray@ks.gov](mailto:taylor.murray@ks.gov) to obtain remote access information.

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All interested parties will be given a reasonable opportunity to present their views, either orally or in writing or both, concerning the proposed regulations. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Taylor Murray at (785) 296-6093 or via email at [taylor.murray@ks.gov](mailto:taylor.murray@ks.gov). Individuals with hearing and/or speech disabilities may contact the Kansas Relay Center at 1-800-766-3777 for communication accommodations. Disabled parking is located on the north side of the Mills Building on either side of 9<sup>th</sup> Street. The north entrance to the Mills Building is accessible.

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**92-12-140. Scope; definitions.** (a) This regulation and K.A.R. 92-12-142 shall apply to the community college and technical college contribution tax credit program described in K.S.A. 79-32,261(a)(2) and amendments thereto.

(b) For the purposes of this regulation and K.A.R. 92-12-142, each of the following terms has the meaning specified in this regulation:

(1) "Contribution" shall include the donation of cash, stocks and bonds, personal property, or real estate.

~~(1)(A)~~ Stocks and bonds shall be valued at the stock market price on the date of the transfer.

~~(2)(B)~~ Personal property shall be valued at the lesser of its fair market value or cost to the donor. The value may be inclusive of costs incurred in making the contribution but shall not include sales tax. If the donor received the personal property as a gift or inheritance and the item is considered a rare and valuable antique or work of art, an independent appraisal may be necessary in determining fair market value.

~~(3)(C)~~ Contributions of real estate shall be allowable for credit if title to the real estate is in fee simple absolute and is clear of any encumbrances. The amount of credit allowable for contributions of real estate shall be based upon the lesser of two current independent appraisals conducted by state licensed appraisers.

~~(4) Contributions of stocks and bonds shall be converted into cash and deposited within 14 days of receipt of the donation into the capital outlay fund of a community college, the deferred maintenance fund or a technology and equipment fund of a technical college, or the deferred maintenance support fund of a postsecondary educational institution.~~

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~~(5) Contributions of personal property shall be converted into cash and deposited within six months of the donation into the capital outlay fund of a community college, the deferred maintenance fund or a technology and equipment fund of a technical college, or the deferred maintenance support fund of a postsecondary educational institution.~~

~~(6) Contributions of real property shall be converted into cash and deposited within 18 months of the donation into the capital outlay fund of a community college, the deferred maintenance fund or a technology and equipment fund of a technical college, or the deferred maintenance support fund of a postsecondary educational institution.~~

~~(b)(2) "Contributor" shall mean means an individual, business entity, or not-for-profit entity that makes a contribution to an educational institution or the educational institution's endowment association or foundation.~~

~~(e)(3) "Educational institution" shall mean any means either of the following:~~

~~(1)(A) A community college as defined in K.S.A. 79-32,261(d)(1) and amendments thereto; or~~

~~(2)(B) a technical college as defined in K.S.A. 79-32,261(d)(4) and amendments thereto; or~~

~~(3) a state educational institution as defined in K.S.A. 76-711 and amendments thereto; or~~

~~(4) Washburn university of Topeka.~~

~~(d)(4) "Endowment association" and or "foundation" shall mean either of the following:~~

~~(1) An entity designated as the investing agent for a state educational institution pursuant to K.S.A. 76-156a and amendments thereto; or~~

~~(2) means an entity dedicated to securing financial support for Washburn university of Topeka, any community college as defined in K.S.A. 79-32,261(d)(1) and amendments thereto;~~

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or any technical college as defined in K.S.A. 79-32,261(d)(4) and amendments thereto any  
educational institution.

(b)(5) "Secretary" ~~shall mean~~ means the secretary of revenue or the secretary's designee.

(Authorized by and implementing K.S.A. 2007-2022 Supp. 79-32,261; effective June 20, 2008;  
amended P-\_\_\_\_\_.)

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# Proposed

**92-12-141.** (Authorized by and implementing K.S.A. 2007 Supp. 79-32,261; effective  
June 20, 2008; revoked P-\_\_\_\_\_.)

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**92-12-143 and 92-12-144.** (Authorized by and implementing K.S.A. 2007 Supp. 79-32,261; effective June 20, 2008; revoked P-\_\_\_\_\_.)

**92-12-145.** (Authorized by K.S.A. 79-32,113 and K.S.A. 2008 Supp. 79-32,261; implementing K.S.A. 2008 Supp. 79-32,261; effective June 20, 2008; amended May 22, 2009; revoked P-\_\_\_\_\_.)

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## Kansas Administrative Regulations Economic Impact Statement (EIS)

Kansas Department of Revenue  
Agency

Taylor Murray  
Agency Contact

785-296-6093  
Contact Phone Number

92-12-140, 92-12-141, 92-12-143, 92-12-144, and 92-12-145  
K.A.R. Number(s)

☒ Permanent    ☐ Temporary

Is/Are the proposed rule(s) and regulation(s) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program?

- ☐ Yes    If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.
- ☒ No    If no, do the total annual implementation and compliance costs for the proposed rule(s) and regulation(s), calculated from the effective date of the rule(s) and regulation(s), exceed \$1.0 million over any two-year period through June 30, 2024, or exceed \$3.0 million over any two-year period on or after July 1, 2024 (as calculated in Section III, F)?
- ☐ Yes    If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration, the Attorney General, AND the Division of the Budget. The regulation(s) and the EIS will require Budget approval.
- ☒ No    If no, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.

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## Section I

Brief description of the proposed rule(s) and regulation(s).

2007 HB 2237, enacted as K.S.A. 79-32,261, created a tax credit for contributions to qualifying educational institutions for tax years 2008 through 2012. 2022 HB 2239 amended K.S.A. 79-32,261 to create a similar credit for tax years 2022 through 2026. K.A.R. 92-12-140 contains definitions for the regulations supporting K.S.A. 79-32,261. K.A.R. 92-12-141, 92-12-143, 92-12-144, and 92-12-145 contain regulations that do not apply to the new version of the K.S.A. 79-32,261 credit. This proposal amends the definitions in K.A.R. 92-12-140 and revokes K.A.R. 92-12-141, 92-12-143, 92-12-144, and 92-12-145.

## Section II

Statement by the agency if the rule(s) and regulation(s) exceed the requirements of applicable federal law, and a statement if the approach chosen to address the policy issue(s) is different from that utilized by agencies of contiguous states or the federal government. *(If the approach is different or exceeds federal law, then include a statement of why the proposed Kansas rule and regulation is different.)*

These regulations are not mandated by federal law.

## Section III

Agency analysis specifically addressing the following:

- A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;  
No effect on business activities and growth based on this revocation.
- B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule(s) and regulation(s) and on the state economy as a whole;  
No economic effect based on this revocation.
- C. Businesses that would be directly affected by the proposed rule(s) and regulation(s);  
None.
- D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;  
N/A
- E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;  
N/A

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- F. An estimate of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governments, or members of the public.  
*Note: Do not account for any actual or estimated cost savings that may be realized.*

Costs to Affected Businesses – \$0.00

Costs to Local Governmental Units – \$0.00

Costs to Members of the Public – \$0.00

**Total Annual Costs – \$0.00**

(sum of above amounts)

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

These changes merely remove unnecessary regulations and amend the definitions in K.A.R. 92-12-140 (which are used in K.A.R. 92-12-142) to match the amended statute.

- ☐ Yes      If the total implementation and compliance costs exceed \$1.0 million over any two-year period through June 30, 2024, or exceed \$3.0 million over any two-year period on or after July 1, 2024, and prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.
- ☐ No
- ☒ Not Applicable

N/A

Provide an estimate to any changes in aggregate state revenues and expenditures for the implementation of the proposed rule(s) and regulation(s), for both the current fiscal year and next fiscal year.

N/A

Provide an estimate of any immediate or long-range economic impact of the proposed rule(s) and regulation(s) on any individual(s), small employers, and the general public. If no dollar estimate can be given for any individual(s), small employers, and the general public, give specific reasons why no estimate is possible.

\$0.00

- G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

N/A

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- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

N/A

#### Section IV

Does the Economic Impact Statement involve any environmental rule(s) and regulation(s)?

- ☐ Yes If yes, complete the remainder of Section IV.  
☒ No If no, skip the remainder of Section IV.

- A. Describe the capital and annual costs of compliance with the proposed rule(s) and regulation(s), and the persons who would bear the costs.

N/A

- B. Describe the initial and annual costs of implementing and enforcing the proposed rule(s) and regulation(s), including the estimated amount of paperwork, and the state agencies, other governmental agencies, or other persons who would bear the costs.

N/A

- C. Describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons who would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

N/A

- D. Provide a detailed statement of the data and methodology used in estimating the costs used.

N/A

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