

As Amended by House Committee

Session of 2010

HOUSE BILL No. 2682

By Committee on Taxation

2-9

10 AN ACT concerning insurance; relating to health insurance and taxation;
11 amending K.S.A. 2009 Supp. 40-2240 and 79-32,117 and repealing the
12 existing sections.
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 New Section 1. (a) A small employer who does not offer a group
16 health insurance plan may, through the establishment of a health reim-
17 bursement arrangement, contribute to the premium of an eligible em-
18 ployee's individually underwritten health benefit plan. The employee's
19 portion of the premium may be paid through a cafeteria plan as permitted
20 under 26 U.S.C. Section 125. The provisions of K.S.A. 40-2209b through
21 40-2209o, and amendments thereto, shall not apply to an employee who
22 retains such individually underwritten health insurance plan.

23 (b) As used in this section, "individualized health reimbursement ar-
24 rangement" means an arrangement by which a small employer contrib-
25 utes to the premium of an eligible employee's individually underwritten
26 health insurance plan.

27 New Sec. 2. An eligible employee may choose to retain their indi-
28 vidually underwritten health insurance plan at the time such eligible em-
29 ployee is entitled to enroll in a small employer health benefit plan. If the
30 eligible employee retains their individually underwritten health insurance
31 plan, a small employer who offers a group health benefit plan may,
32 through the establishment of a health reimbursement arrangement, con-
33 tribute to the premium of an eligible employee's individually underwrit-
34 ten health insurance plan. The employer shall pay to the employee the
35 same amount the employer would have contributed to such employer's
36 health benefit plan had the employee elected to participate in the small
37 employer health benefit plan. The employee's portion of the premium
38 may be paid through a cafeteria plan as permitted under 26 U.S.C. Sec-
39 tion 125. The provisions of K.S.A. 40-2209b through 40-2209o, and
40 amendments thereto, shall not apply to an employee who retains such
41 individually underwritten health insurance plan.

42 New Sec. 3. (a) Beginning with the open enrollment period for the
43 2010 plan year, the administering carrier shall offer to all eligible em-

1 ployees the option of receiving health care coverage through a high de-
2 ductible health plan and the establishment of a health savings account.
3 Such option may be offered through a cafeteria plan permitted under 26
4 U.S.C. Section 125.

5 (b) The administering carrier shall issue a request for proposals from
6 companies interested in offering a high deductible health plan in con-
7 nection with a health savings account.

8 (c) As used in this section, “carrier” means any insurance company,
9 nonprofit medical and hospital service corporation, nonprofit optometric,
10 dental and pharmacy service corporations, municipal group-funded pool,
11 fraternal benefit society or health maintenance organization, as these
12 terms are defined by the Kansas Statutes Annotated, and amendments
13 thereto, that offers health benefit plans covering eligible employees of
14 one or more small employers in this state.

15 New Sec. 4. Any insurer who offers small group health benefit plans
16 shall offer a high deductible health plan in conjunction with the estab-
17 lishment of a health savings account.

18 Sec. 5. K.S.A. 2009 Supp. 40-2240 is hereby amended to read as
19 follows: 40-2240. (a) Any small employer as defined in subsection (4) of
20 K.S.A. 40-2209d, and amendments thereto, may establish a small em-
21 ployer health benefit plan for the purpose of providing a health benefit
22 plan as described in subsection (u) of K.S.A. 40-2209d, and amendments
23 thereto, covering such employers’ eligible employees and such employ-
24 ees’ family members. If an association or trust is used for such purposes,
25 the association or trust may not condition eligibility or membership on
26 the health status of members or employees.

27 (b) The commissioner shall provide assistance to employers desiring
28 to organize and maintain any such benefit plan and may aid in the ac-
29 quisition of the health care insurance by the small employer health benefit
30 plan.

31 (c) *Any health benefit plan may:*

32 (1) *Be offered through a cafeteria plan authorized by 26 U.S.C. Sec-*
33 *tion 125.*

34 (2) *Offer to all eligible individuals the option of receiving health care*
35 *coverage through a high deductible plan and the establishment of a health*
36 *savings account.*

37 (d) *For the purposes of this section, the term:*

38 (1) *“Health savings account” shall have the meaning ascribed to it in*
39 *subsection (d) of 26 U.S.C. Section 223.*

40 (2) *“High deductible health plan” shall mean a policy or contract of*
41 *health insurance or health care plan that meets the criteria established in*
42 *subsection (c) of 26 U.S.C. Section 223 and any regulations promulgated*
43 *thereunder.*

1 Sec. 6. K.S.A. 2009 Supp. 79-32,117 is hereby amended to read as
2 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual
3 means such individual's federal adjusted gross income for the taxable year,
4 with the modifications specified in this section.

5 (b) There shall be added to federal adjusted gross income:

6 (i) Interest income less any related expenses directly incurred in the
7 purchase of state or political subdivision obligations, to the extent that
8 the same is not included in federal adjusted gross income, on obligations
9 of any state or political subdivision thereof, but to the extent that interest
10 income on obligations of this state or a political subdivision thereof issued
11 prior to January 1, 1988, is specifically exempt from income tax under the
12 laws of this state authorizing the issuance of such obligations, it shall be
13 excluded from computation of Kansas adjusted gross income whether or
14 not included in federal adjusted gross income. Interest income on obli-
15 gations of this state or a political subdivision thereof issued after Decem-
16 ber 31, 1987, shall be excluded from computation of Kansas adjusted
17 gross income whether or not included in federal adjusted gross income.

18 (ii) Taxes on or measured by income or fees or payments in lieu of
19 income taxes imposed by this state or any other taxing jurisdiction to the
20 extent deductible in determining federal adjusted gross income and not
21 credited against federal income tax. This paragraph shall not apply to taxes
22 imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amend-
23 ments thereto, for privilege tax year 1995, and all such years thereafter.

24 (iii) The federal net operating loss deduction.

25 (iv) Federal income tax refunds received by the taxpayer if the de-
26 duction of the taxes being refunded resulted in a tax benefit for Kansas
27 income tax purposes during a prior taxable year. Such refunds shall be
28 included in income in the year actually received regardless of the method
29 of accounting used by the taxpayer. For purposes hereof, a tax benefit
30 shall be deemed to have resulted if the amount of the tax had been de-
31 ducted in determining income subject to a Kansas income tax for a prior
32 year regardless of the rate of taxation applied in such prior year to the
33 Kansas taxable income, but only that portion of the refund shall be in-
34 cluded as bears the same proportion to the total refund received as the
35 federal taxes deducted in the year to which such refund is attributable
36 bears to the total federal income taxes paid for such year. For purposes
37 of the foregoing sentence, federal taxes shall be considered to have been
38 deducted only to the extent such deduction does not reduce Kansas tax-
39 able income below zero.

40 (v) The amount of any depreciation deduction or business expense
41 deduction claimed on the taxpayer's federal income tax return for any
42 capital expenditure in making any building or facility accessible to the
43 handicapped, for which expenditure the taxpayer claimed the credit al-

- 1 lowed by K.S.A. 79-32,177, and amendments thereto.
- 2 (vi) Any amount of designated employee contributions picked up by
3 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,
4 and amendments to such sections.
- 5 (vii) The amount of any charitable contribution made to the extent
6 the same is claimed as the basis for the credit allowed pursuant to K.S.A.
7 79-32,196, and amendments thereto.
- 8 (viii) The amount of any costs incurred for improvements to a swine
9 facility, claimed for deduction in determining federal adjusted gross in-
10 come, to the extent the same is claimed as the basis for any credit allowed
11 pursuant to K.S.A. 2009 Supp. 79-32,204 and amendments thereto.
- 12 (ix) The amount of any ad valorem taxes and assessments paid and
13 the amount of any costs incurred for habitat management or construction
14 and maintenance of improvements on real property, claimed for deduc-
15 tion in determining federal adjusted gross income, to the extent the same
16 is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203
17 and amendments thereto.
- 18 (x) Amounts received as nonqualified withdrawals, as defined by
19 K.S.A. 2009 Supp. 75-643, and amendments thereto, if, at the time of
20 contribution to a family postsecondary education savings account, such
21 amounts were subtracted from the federal adjusted gross income pur-
22 suant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amend-
23 ments thereto, or if such amounts are not already included in the federal
24 adjusted gross income.
- 25 (xi) The amount of any contribution made to the same extent the
26 same is claimed as the basis for the credit allowed pursuant to K.S.A.
27 2009 Supp. 74-50,154, and amendments thereto.
- 28 (xii) For taxable years commencing after December 31, 2004,
29 amounts received as withdrawals not in accordance with the provisions
30 of K.S.A. 2009 Supp. 74-50,204, and amendments thereto, if, at the time
31 of contribution to an individual development account, such amounts were
32 subtracted from the federal adjusted gross income pursuant to paragraph
33 (xiii) of subsection (c), or if such amounts are not already included in the
34 federal adjusted gross income.
- 35 (xiii) The amount of any expenditures claimed for deduction in de-
36 termining federal adjusted gross income, to the extent the same is claimed
37 as the basis for any credit allowed pursuant to K.S.A. 2009 Supp. 79-
38 32,217 through 79-32,220 or 79-32,222, and amendments thereto.
- 39 (xiv) The amount of any amortization deduction claimed in deter-
40 mining federal adjusted gross income to the extent the same is claimed
41 for deduction pursuant to K.S.A. 2009 Supp. 79-32,221, and amendments
42 thereto.
- 43 (xv) The amount of any expenditures claimed for deduction in deter-

1 mining federal adjusted gross income, to the extent the same is claimed
2 as the basis for any credit allowed pursuant to K.S.A. 2009 Supp. 79-
3 32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233
4 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-
5 32,248 or 79-32,251 through 79-32,254, and amendments thereto.

6 (xvi) The amount of any amortization deduction claimed in deter-
7 mining federal adjusted gross income to the extent the same is claimed
8 for deduction pursuant to K.S.A. 2009 Supp. 79-32,227, 79-32,232, 79-
9 32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments thereto.

10 (xvii) The amount of any amortization deduction claimed in deter-
11 mining federal adjusted gross income to the extent the same is claimed
12 for deduction pursuant to K.S.A. 2009 Supp. 79-32,256, and amendments
13 thereto.

14 (xviii) For taxable years commencing after December 31, 2006, the
15 amount of any ad valorem or property taxes and assessments paid to a
16 state other than Kansas or local government located in a state other than
17 Kansas by a taxpayer who resides in a state other than Kansas, when the
18 law of such state does not allow a resident of Kansas who earns income
19 in such other state to claim a deduction for ad valorem or property taxes
20 or assessments paid to a political subdivision of the state of Kansas in
21 determining taxable income for income tax purposes in such other state,
22 to the extent that such taxes and assessments are claimed as an itemized
23 deduction for federal income tax purposes.

24 (c) There shall be subtracted from federal adjusted gross income:

25 (i) Interest or dividend income on obligations or securities of any
26 authority, commission or instrumentality of the United States and its pos-
27 sessions less any related expenses directly incurred in the purchase of
28 such obligations or securities, to the extent included in federal adjusted
29 gross income but exempt from state income taxes under the laws of the
30 United States.

31 (ii) Any amounts received which are included in federal adjusted
32 gross income but which are specifically exempt from Kansas income tax-
33 ation under the laws of the state of Kansas.

34 (iii) The portion of any gain or loss from the sale or other disposition
35 of property having a higher adjusted basis for Kansas income tax purposes
36 than for federal income tax purposes on the date such property was sold
37 or disposed of in a transaction in which gain or loss was recognized for
38 purposes of federal income tax that does not exceed such difference in
39 basis, but if a gain is considered a long-term capital gain for federal in-
40 come tax purposes, the modification shall be limited to that portion of
41 such gain which is included in federal adjusted gross income.

42 (iv) The amount necessary to prevent the taxation under this act of
43 any annuity or other amount of income or gain which was properly in-

- 1 cluded in income or gain and was taxed under the laws of this state for a
2 taxable year prior to the effective date of this act, as amended, to the
3 taxpayer, or to a decedent by reason of whose death the taxpayer acquired
4 the right to receive the income or gain, or to a trust or estate from which
5 the taxpayer received the income or gain.
- 6 (v) The amount of any refund or credit for overpayment of taxes on
7 or measured by income or fees or payments in lieu of income taxes im-
8 posed by this state, or any taxing jurisdiction, to the extent included in
9 gross income for federal income tax purposes.
- 10 (vi) Accumulation distributions received by a taxpayer as a beneficiary
11 of a trust to the extent that the same are included in federal adjusted
12 gross income.
- 13 (vii) Amounts received as annuities under the federal civil service
14 retirement system from the civil service retirement and disability fund
15 and other amounts received as retirement benefits in whatever form
16 which were earned for being employed by the federal government or for
17 service in the armed forces of the United States.
- 18 (viii) Amounts received by retired railroad employees as a supple-
19 mental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1)
20 et seq.
- 21 (ix) Amounts received by retired employees of a city and by retired
22 employees of any board of such city as retirement allowances pursuant to
23 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
24 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
25 amendments thereto.
- 26 (x) For taxable years beginning after December 31, 1976, the amount
27 of the federal tentative jobs tax credit disallowance under the provisions
28 of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978,
29 the amount of the targeted jobs tax credit and work incentive credit dis-
30 allowances under 26 U.S.C. 280 C.
- 31 (xi) For taxable years beginning after December 31, 1986, dividend
32 income on stock issued by Kansas Venture Capital, Inc.
- 33 (xii) For taxable years beginning after December 31, 1989, amounts
34 received by retired employees of a board of public utilities as pension and
35 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249
36 and amendments thereto.
- 37 (xiii) For taxable years beginning after December 31, 2004, amounts
38 contributed to and the amount of income earned on contributions de-
39 posited to an individual development account under K.S.A. 2009 Supp.
40 74-50,201, et seq., and amendments thereto.
- 41 (xiv) For all taxable years commencing after December 31, 1996, that
42 portion of any income of a bank organized under the laws of this state or
43 any other state, a national banking association organized under the laws

1 of the United States, an association organized under the savings and loan
2 code of this state or any other state, or a federal savings association or-
3 ganized under the laws of the United States, for which an election as an
4 S corporation under subchapter S of the federal internal revenue code is
5 in effect, which accrues to the taxpayer who is a stockholder of such
6 corporation and which is not distributed to the stockholders as dividends
7 of the corporation.

8 (xv) For all taxable years beginning after December 31, 2006,
9 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a
10 joint return, for each designated beneficiary which are contributed to a
11 family postsecondary education savings account established under the
12 Kansas postsecondary education savings program or a qualified tuition
13 program established and maintained by another state or agency or instru-
14 mentality thereof pursuant to section 529 of the internal revenue code of
15 1986, as amended, for the purpose of paying the qualified higher edu-
16 cation expenses of a designated beneficiary at an institution of postsecon-
17 dary education. The terms and phrases used in this paragraph shall have
18 the meaning respectively ascribed thereto by the provisions of K.S.A.
19 2009 Supp. 75-643, and amendments thereto, and the provisions of such
20 section are hereby incorporated by reference for all purposes thereof.

21 (xvi) For the tax year beginning after December 31, 2004, an amount
22 not exceeding \$500; for the tax year beginning after December 31, 2005,
23 an amount not exceeding \$600; for the tax year beginning after December
24 31, 2006, an amount not exceeding \$700; for the tax year beginning after
25 December 31, 2007, an amount not exceeding \$800; for the tax year
26 beginning December 31, 2008, an amount not exceeding \$900; and for
27 all taxable years commencing after December 31, 2009, an amount not
28 exceeding \$1,000 of the premium costs for qualified long-term care in-
29 surance contracts, as defined by subsection (b) of section 7702B of public
30 law 104-191.

31 (xvii) For all taxable years beginning after December 31, 2004,
32 amounts received by taxpayers who are or were members of the armed
33 forces of the United States, including service in the Kansas army and air
34 national guard, as a recruitment, sign up or retention bonus received by
35 such taxpayer as an incentive to join, enlist or remain in the armed services
36 of the United States, including service in the Kansas army and air national
37 guard, and amounts received for repayment of educational or student
38 loans incurred by or obligated to such taxpayer and received by such
39 taxpayer as a result of such taxpayer's service in the armed forces of the
40 United States, including service in the Kansas army and air national guard.

41 (xviii) For all taxable years beginning after December 31, 2004,
42 amounts received by taxpayers who are eligible members of the Kansas
43 army and air national guard as a reimbursement pursuant to K.S.A. 48-

1 281, and amendments thereto, and amounts received for death benefits
2 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to sec-
3 tion 1 or section 2 of chapter 207 of the 2005 session laws of Kansas, and
4 amendments thereto, to the extent that such death benefits are included
5 in federal adjusted gross income of the taxpayer.

6 (xix) For the taxable year beginning after December 31, 2006,
7 amounts received as benefits under the federal social security act which
8 are included in federal adjusted gross income of a taxpayer with federal
9 adjusted gross income of \$50,000 or less, whether such taxpayer's filing
10 status is single, head of household, married filing separate or married
11 filing jointly; and for all taxable years beginning after December 31, 2007,
12 amounts received as benefits under the federal social security act which
13 are included in federal adjusted gross income of a taxpayer with federal
14 adjusted gross income of \$75,000 or less, whether such taxpayer's filing
15 status is single, head of household, married filing separate or married
16 filing jointly.

17 (xx) Amounts received by retired employees of Washburn university
18 as retirement and pension benefits under the university's retirement plan.

19 (xxi) *For all taxable years beginning after December 31, 2009,*
20 *amounts paid for health insurance premiums for any ~~individual~~ individ-*
21 **ually underwritten, privately purchased health** *insurance policy pri-*
22 *marily providing health care coverage for the taxpayer, the taxpayer's*
23 *spouse or the taxpayer's dependents.*

24 (d) There shall be added to or subtracted from federal adjusted gross
25 income the taxpayer's share, as beneficiary of an estate or trust, of the
26 Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and
27 amendments thereto.

28 (e) The amount of modifications required to be made under this sec-
29 tion by a partner which relates to items of income, gain, loss, deduction
30 or credit of a partnership shall be determined under K.S.A. 79-32,131,
31 and amendments thereto, to the extent that such items affect federal
32 adjusted gross income of the partner.

33 Sec. 7. K.S.A. 2009 Supp. 40-2240 and 79-32,117 are hereby
34 repealed.

35 Sec. 8. This act shall take effect and be in force from and after its
36 publication in the statute book.