

## SENATE BILL No. 162

By Committee on Public Health and Welfare

2-8

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1 AN ACT concerning health insurance; relating to small employer  
2 contributions to health reimbursement arrangements; providing a tax  
3 deduction therefor; amending K.S.A. 2012 Supp. 79-32,117 and  
4 repealing the existing section.  
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6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) If a small employer, through the establishment of  
8 a health reimbursement arrangement, contributes to the premium of an  
9 employee's individually underwritten health insurance policy, whether or  
10 not the employee's portion of the premium is paid through a cafeteria plan  
11 as permitted under 26 U.S.C. § 125, the provisions of K.S.A. 40-2209b  
12 through 40-2209o, and amendments thereto, shall not apply to such  
13 employee's individually underwritten health insurance policy. Such  
14 amount the employer contributes toward such employee's premium shall  
15 be the same percentage of premium or up to the same dollar amount  
16 toward the premium that the employer contributes toward the health  
17 insurance premium of the other employees of the same classification as  
18 such employee. Such employee may choose to retain an individually  
19 underwritten health insurance policy at such time as such employee is  
20 entitled to enroll in a small employer health benefit plan.

21 (b) As used in this section, "health reimbursement arrangement"  
22 means an employer funded, tax sheltered account to reimburse allowable  
23 medical expenses, including insurance premiums.

24 Sec. 2. K.S.A. 2012 Supp. 79-32,117 is hereby amended to read as  
25 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual  
26 means such individual's federal adjusted gross income for the taxable year,  
27 with the modifications specified in this section.

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

29 (i) Interest income less any related expenses directly incurred in the  
30 purchase of state or political subdivision obligations, to the extent that the  
31 same is not included in federal adjusted gross income, on obligations of  
32 any state or political subdivision thereof, but to the extent that interest  
33 income on obligations of this state or a political subdivision thereof issued  
34 prior to January 1, 1988, is specifically exempt from income tax under the  
35 laws of this state authorizing the issuance of such obligations, it shall be  
36 excluded from computation of Kansas adjusted gross income whether or

1 not included in federal adjusted gross income. Interest income on  
2 obligations of this state or a political subdivision thereof issued after  
3 December 31, 1987, shall be excluded from computation of Kansas  
4 adjusted gross income whether or not included in federal adjusted gross  
5 income.

6 (ii) Taxes on or measured by income or fees or payments in lieu of  
7 income taxes imposed by this state or any other taxing jurisdiction to the  
8 extent deductible in determining federal adjusted gross income and not  
9 credited against federal income tax. This paragraph shall not apply to taxes  
10 imposed under the provisions of K.S.A. 79-1107 or 79-1108, and  
11 amendments thereto, for privilege tax year 1995, and all such years  
12 thereafter.

13 (iii) The federal net operating loss deduction.

14 (iv) Federal income tax refunds received by the taxpayer if the  
15 deduction of the taxes being refunded resulted in a tax benefit for Kansas  
16 income tax purposes during a prior taxable year. Such refunds shall be  
17 included in income in the year actually received regardless of the method  
18 of accounting used by the taxpayer. For purposes hereof, a tax benefit shall  
19 be deemed to have resulted if the amount of the tax had been deducted in  
20 determining income subject to a Kansas income tax for a prior year  
21 regardless of the rate of taxation applied in such prior year to the Kansas  
22 taxable income, but only that portion of the refund shall be included as  
23 bears the same proportion to the total refund received as the federal taxes  
24 deducted in the year to which such refund is attributable bears to the total  
25 federal income taxes paid for such year. For purposes of the foregoing  
26 sentence, federal taxes shall be considered to have been deducted only to  
27 the extent such deduction does not reduce Kansas taxable income below  
28 zero.

29 (v) The amount of any depreciation deduction or business expense  
30 deduction claimed on the taxpayer's federal income tax return for any  
31 capital expenditure in making any building or facility accessible to the  
32 handicapped, for which expenditure the taxpayer claimed the credit  
33 allowed by K.S.A. 79-32,177, and amendments thereto.

34 (vi) Any amount of designated employee contributions picked up by  
35 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,  
36 and amendments thereto.

37 (vii) The amount of any charitable contribution made to the extent the  
38 same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-  
39 32,196, and amendments thereto.

40 (viii) The amount of any costs incurred for improvements to a swine  
41 facility, claimed for deduction in determining federal adjusted gross  
42 income, to the extent the same is claimed as the basis for any credit  
43 allowed pursuant to K.S.A. 2012 Supp. 79-32,204, and amendments

1 thereto.

2 (ix) The amount of any ad valorem taxes and assessments paid and  
3 the amount of any costs incurred for habitat management or construction  
4 and maintenance of improvements on real property, claimed for deduction  
5 in determining federal adjusted gross income, to the extent the same is  
6 claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203,  
7 and amendments thereto.

8 (x) Amounts received as nonqualified withdrawals, as defined by  
9 K.S.A. 2012 Supp. 75-643, and amendments thereto, if, at the time of  
10 contribution to a family postsecondary education savings account, such  
11 amounts were subtracted from the federal adjusted gross income pursuant  
12 to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments  
13 thereto, or if such amounts are not already included in the federal adjusted  
14 gross income.

15 (xi) The amount of any contribution made to the same extent the  
16 same is claimed as the basis for the credit allowed pursuant to K.S.A. 2012  
17 Supp. 74-50,154, and amendments thereto.

18 (xii) For taxable years commencing after December 31, 2004,  
19 amounts received as withdrawals not in accordance with the provisions of  
20 K.S.A. 2012 Supp. 74-50,204, and amendments thereto, if, at the time of  
21 contribution to an individual development account, such amounts were  
22 subtracted from the federal adjusted gross income pursuant to paragraph  
23 (xiii) of subsection (c), or if such amounts are not already included in the  
24 federal adjusted gross income.

25 (xiii) The amount of any expenditures claimed for deduction in  
26 determining federal adjusted gross income, to the extent the same is  
27 claimed as the basis for any credit allowed pursuant to K.S.A. 2012 Supp.  
28 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

29 (xiv) The amount of any amortization deduction claimed in  
30 determining federal adjusted gross income to the extent the same is  
31 claimed for deduction pursuant to K.S.A. 2012 Supp. 79-32,221, and  
32 amendments thereto.

33 (xv) The amount of any expenditures claimed for deduction in  
34 determining federal adjusted gross income, to the extent the same is  
35 claimed as the basis for any credit allowed pursuant to K.S.A. 2012 Supp.  
36 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233  
37 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-  
38 32,248 or 79-32,251 through 79-32,254, and amendments thereto.

39 (xvi) The amount of any amortization deduction claimed in  
40 determining federal adjusted gross income to the extent the same is  
41 claimed for deduction pursuant to K.S.A. 2012 Supp. 79-32,227, 79-  
42 32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments  
43 thereto.

1 (xvii) The amount of any amortization deduction claimed in  
2 determining federal adjusted gross income to the extent the same is  
3 claimed for deduction pursuant to K.S.A. 2012 Supp. 79-32,256, and  
4 amendments thereto.

5 (xviii) For taxable years commencing after December 31, 2006, the  
6 amount of any ad valorem or property taxes and assessments paid to a state  
7 other than Kansas or local government located in a state other than Kansas  
8 by a taxpayer who resides in a state other than Kansas, when the law of  
9 such state does not allow a resident of Kansas who earns income in such  
10 other state to claim a deduction for ad valorem or property taxes or  
11 assessments paid to a political subdivision of the state of Kansas in  
12 determining taxable income for income tax purposes in such other state, to  
13 the extent that such taxes and assessments are claimed as an itemized  
14 deduction for federal income tax purposes.

15 (xix) For all taxable years beginning after December 31, 2012, the  
16 amount of any: (1) Loss from business as determined under the federal  
17 internal revenue code and reported from schedule C and on line 12 of the  
18 taxpayer's form 1040 federal individual income tax return; (2) loss from  
19 rental real estate, royalties, partnerships, S corporations, estates, trusts,  
20 residual interest in real estate mortgage investment conduits and net farm  
21 rental as determined under the federal internal revenue code and reported  
22 from schedule E and on line 17 of the taxpayer's form 1040 federal  
23 individual income tax return; and (3) farm loss as determined under the  
24 federal internal revenue code and reported from schedule F and on line 18  
25 of the taxpayer's form 1040 federal income tax return; all to the extent  
26 deducted or subtracted in determining the taxpayer's federal adjusted gross  
27 income. For purposes of this subsection, references to the federal form  
28 1040 and federal schedule C, schedule E, and schedule F, shall be to such  
29 form and schedules as they existed for tax year 2011, and as revised  
30 thereafter by the internal revenue service.

31 (xx) For all taxable years beginning after December 31, 2012, the  
32 amount of any deduction for self-employment taxes under section 164(f)  
33 of the federal internal revenue code as in effect on January 1, 2012, and  
34 amendments thereto, in determining the federal adjusted gross income of  
35 an individual taxpayer.

36 (xxi) For all taxable years beginning after December 31, 2012, the  
37 amount of any deduction for pension, profit sharing, and annuity plans of  
38 self-employed individuals under section 62(a)(6) of the federal internal  
39 revenue code as in effect on January 1, 2012, and amendments thereto, in  
40 determining the federal adjusted gross income of an individual taxpayer.

41 (xxii) For all taxable years beginning after December 31, 2012, the  
42 amount of any deduction for health insurance under section 162(l) of the  
43 federal internal revenue code as in effect on January 1, 2012, and

1 amendments thereto, in determining the federal adjusted gross income of  
2 an individual taxpayer.

3 (xxiii) For all taxable years beginning after December 31, 2012, the  
4 amount of any deduction for domestic production activities under section  
5 199 of the federal internal revenue code as in effect on January 1, 2012,  
6 and amendments thereto, in determining the federal adjusted gross income  
7 of an individual taxpayer.

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

9 (i) Interest or dividend income on obligations or securities of any  
10 authority, commission or instrumentality of the United States and its  
11 possessions less any related expenses directly incurred in the purchase of  
12 such obligations or securities, to the extent included in federal adjusted  
13 gross income but exempt from state income taxes under the laws of the  
14 United States.

15 (ii) Any amounts received which are included in federal adjusted  
16 gross income but which are specifically exempt from Kansas income  
17 taxation under the laws of the state of Kansas.

18 (iii) The portion of any gain or loss from the sale or other disposition  
19 of property having a higher adjusted basis for Kansas income tax purposes  
20 than for federal income tax purposes on the date such property was sold or  
21 disposed of in a transaction in which gain or loss was recognized for  
22 purposes of federal income tax that does not exceed such difference in  
23 basis, but if a gain is considered a long-term capital gain for federal  
24 income tax purposes, the modification shall be limited to that portion of  
25 such gain which is included in federal adjusted gross income.

26 (iv) The amount necessary to prevent the taxation under this act of  
27 any annuity or other amount of income or gain which was properly  
28 included in income or gain and was taxed under the laws of this state for a  
29 taxable year prior to the effective date of this act, as amended, to the  
30 taxpayer, or to a decedent by reason of whose death the taxpayer acquired  
31 the right to receive the income or gain, or to a trust or estate from which  
32 the taxpayer received the income or gain.

33 (v) The amount of any refund or credit for overpayment of taxes on  
34 or measured by income or fees or payments in lieu of income taxes  
35 imposed by this state, or any taxing jurisdiction, to the extent included in  
36 gross income for federal income tax purposes.

37 (vi) Accumulation distributions received by a taxpayer as a  
38 beneficiary of a trust to the extent that the same are included in federal  
39 adjusted gross income.

40 (vii) Amounts received as annuities under the federal civil service  
41 retirement system from the civil service retirement and disability fund and  
42 other amounts received as retirement benefits in whatever form which  
43 were earned for being employed by the federal government or for service

1 in the armed forces of the United States.

2 (viii) Amounts received by retired railroad employees as a  
3 supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and  
4 228c (a)(1) et seq.

5 (ix) Amounts received by retired employees of a city and by retired  
6 employees of any board of such city as retirement allowances pursuant to  
7 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter  
8 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and  
9 amendments thereto.

10 (x) For taxable years beginning after December 31, 1976, the amount  
11 of the federal tentative jobs tax credit disallowance under the provisions of  
12 26 U.S.C. § 280 C. For taxable years ending after December 31, 1978, the  
13 amount of the targeted jobs tax credit and work incentive credit  
14 disallowances under 26 U.S.C. § 280 C.

15 (xi) For taxable years beginning after December 31, 1986, dividend  
16 income on stock issued by Kansas Venture Capital, Inc.

17 (xii) For taxable years beginning after December 31, 1989, amounts  
18 received by retired employees of a board of public utilities as pension and  
19 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249,  
20 and amendments thereto.

21 (xiii) For taxable years beginning after December 31, 2004, amounts  
22 contributed to and the amount of income earned on contributions deposited  
23 to an individual development account under K.S.A. 2012 Supp. 74-50,201  
24 et seq., and amendments thereto.

25 (xiv) For all taxable years commencing after December 31, 1996, that  
26 portion of any income of a bank organized under the laws of this state or  
27 any other state, a national banking association organized under the laws of  
28 the United States, an association organized under the savings and loan  
29 code of this state or any other state, or a federal savings association  
30 organized under the laws of the United States, for which an election as an  
31 S corporation under subchapter S of the federal internal revenue code is in  
32 effect, which accrues to the taxpayer who is a stockholder of such  
33 corporation and which is not distributed to the stockholders as dividends of  
34 the corporation. For all taxable years beginning after December 31, 2012,  
35 the amount of modification under this subsection shall exclude the portion  
36 of income or loss reported on schedule E and included on line 17 of the  
37 taxpayer's form 1040 federal individual income tax return.

38 (xv) For all taxable years beginning after December 31, 2006,  
39 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a  
40 joint return, for each designated beneficiary which are contributed to a  
41 family postsecondary education savings account established under the  
42 Kansas postsecondary education savings program or a qualified tuition  
43 program established and maintained by another state or agency or

1 instrumentality thereof pursuant to section 529 of the internal revenue  
2 code of 1986, as amended, for the purpose of paying the qualified higher  
3 education expenses of a designated beneficiary at an institution of  
4 postsecondary education. The terms and phrases used in this paragraph  
5 shall have the meaning respectively ascribed thereto by the provisions of  
6 K.S.A. 2012 Supp. 75-643, and amendments thereto, and the provisions of  
7 such section are hereby incorporated by reference for all purposes thereof.

8 (xvi) For all taxable years beginning after December 31, 2004,  
9 amounts received by taxpayers who are or were members of the armed  
10 forces of the United States, including service in the Kansas army and air  
11 national guard, as a recruitment, sign up or retention bonus received by  
12 such taxpayer as an incentive to join, enlist or remain in the armed services  
13 of the United States, including service in the Kansas army and air national  
14 guard, and amounts received for repayment of educational or student loans  
15 incurred by or obligated to such taxpayer and received by such taxpayer as  
16 a result of such taxpayer's service in the armed forces of the United States,  
17 including service in the Kansas army and air national guard.

18 (xvii) For all taxable years beginning after December 31, 2004,  
19 amounts received by taxpayers who are eligible members of the Kansas  
20 army and air national guard as a reimbursement pursuant to K.S.A. 48-  
21 281, and amendments thereto, and amounts received for death benefits  
22 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section  
23 1 or section 2 of chapter 207 of the 2005 Session Laws of Kansas, and  
24 amendments thereto, to the extent that such death benefits are included in  
25 federal adjusted gross income of the taxpayer.

26 (xviii) For the taxable year beginning after December 31, 2006,  
27 amounts received as benefits under the federal social security act which  
28 are included in federal adjusted gross income of a taxpayer with federal  
29 adjusted gross income of \$50,000 or less, whether such taxpayer's filing  
30 status is single, head of household, married filing separate or married filing  
31 jointly; and for all taxable years beginning after December 31, 2007,  
32 amounts received as benefits under the federal social security act which  
33 are included in federal adjusted gross income of a taxpayer with federal  
34 adjusted gross income of \$75,000 or less, whether such taxpayer's filing  
35 status is single, head of household, married filing separate or married filing  
36 jointly.

37 (xix) Amounts received by retired employees of Washburn university  
38 as retirement and pension benefits under the university's retirement plan.

39 (xx) For all taxable years beginning after December 31, 2012, the  
40 amount of any: (1) Net profit from business as determined under the  
41 federal internal revenue code and reported from schedule C and on line 12  
42 of the taxpayer's form 1040 federal individual income tax return; (2) net  
43 income from rental real estate, royalties, partnerships, S corporations,

1 estates, trusts, residual interest in real estate mortgage investment conduits  
2 and net farm rental as determined under the federal internal revenue code  
3 and reported from schedule E and on line 17 of the taxpayer's form 1040  
4 federal individual income tax return; and (3) net farm profit as determined  
5 under the federal internal revenue code and reported from schedule F and  
6 on line 18 of the taxpayer's form 1040 federal income tax return; all to the  
7 extent included in the taxpayer's federal adjusted gross income. For  
8 purposes of this subsection, references to the federal form 1040 and  
9 federal schedule C, schedule E, and schedule F, shall be to such form and  
10 schedules as they existed for tax year 2011 and as revised thereafter by the  
11 internal revenue service.

12 *(xxi) For all taxable years beginning after December 31, 2012,*  
13 *amounts paid for health insurance premiums for any individually*  
14 *underwritten, privately purchased health insurance policy primarily*  
15 *providing health care coverage for the taxpayer, the taxpayer's spouse or*  
16 *the taxpayer's dependents to the extent that such amount has been*  
17 *included in the taxpayer's federal adjusted gross income.*

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

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

27 Sec. 3. K.S.A. 2012 Supp. 79-32,117 is hereby repealed.

28 Sec. 4. This act shall take effect and be in force from and after its  
29 publication in the statute book.