

## HOUSE BILL No. 2717

By Committee on Taxation

2-10

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1 AN ACT concerning insurance; relating to health insurance and taxation;  
2 amending K.S.A. 2011 Supp. 79-32,117 and repealing the existing  
3 section.

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

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

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

23 Sec. 2. K.S.A. 2011 Supp. 79-32,117 is hereby amended to read as  
24 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual  
25 means such individual's federal adjusted gross income for the taxable year,  
26 with the modifications specified in this section.

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

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

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

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

12 (iii) The federal net operating loss deduction.

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

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

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

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

39 (viii) The amount of any costs incurred for improvements to a swine  
40 facility, claimed for deduction in determining federal adjusted gross  
41 income, to the extent the same is claimed as the basis for any credit  
42 allowed pursuant to K.S.A. 2011 Supp. 79-32,204, and amendments  
43 thereto.

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

7 (x) Amounts received as nonqualified withdrawals, as defined by  
8 K.S.A. 2011 Supp. 75-643, and amendments thereto, if, at the time of  
9 contribution to a family postsecondary education savings account, such  
10 amounts were subtracted from the federal adjusted gross income pursuant  
11 to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments  
12 thereto, or if such amounts are not already included in the federal adjusted  
13 gross income.

14 (xi) The amount of any contribution made to the same extent the  
15 same is claimed as the basis for the credit allowed pursuant to K.S.A. 2011  
16 Supp. 74-50,154, and amendments thereto.

17 (xii) For taxable years commencing after December 31, 2004,  
18 amounts received as withdrawals not in accordance with the provisions of  
19 K.S.A. 2011 Supp. 74-50,204, and amendments thereto, if, at the time of  
20 contribution to an individual development account, such amounts were  
21 subtracted from the federal adjusted gross income pursuant to paragraph  
22 (xiii) of subsection (c), or if such amounts are not already included in the  
23 federal adjusted gross income.

24 (xiii) The amount of any expenditures claimed for deduction in  
25 determining federal adjusted gross income, to the extent the same is  
26 claimed as the basis for any credit allowed pursuant to K.S.A. 2011 Supp.  
27 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

28 (xiv) The amount of any amortization deduction claimed in  
29 determining federal adjusted gross income to the extent the same is  
30 claimed for deduction pursuant to K.S.A. 2011 Supp. 79-32,221, and  
31 amendments thereto.

32 (xv) The amount of any expenditures claimed for deduction in  
33 determining federal adjusted gross income, to the extent the same is  
34 claimed as the basis for any credit allowed pursuant to K.S.A. 2011 Supp.  
35 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233  
36 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-  
37 32,248 or 79-32,251 through 79-32,254, and amendments thereto.

38 (xvi) The amount of any amortization deduction claimed in  
39 determining federal adjusted gross income to the extent the same is  
40 claimed for deduction pursuant to K.S.A. 2011 Supp. 79-32,227, 79-  
41 32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments  
42 thereto.

43 (xvii) The amount of any amortization deduction claimed in

1 determining federal adjusted gross income to the extent the same is  
2 claimed for deduction pursuant to K.S.A. 2011 Supp. 79-32,256, and  
3 amendments thereto.

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

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

15 (i) Interest or dividend income on obligations or securities of any  
16 authority, commission or instrumentality of the United States and its  
17 possessions less any related expenses directly incurred in the purchase of  
18 such obligations or securities, to the extent included in federal adjusted  
19 gross income but exempt from state income taxes under the laws of the  
20 United States.

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

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

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

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

43 (vi) Accumulation distributions received by a taxpayer as a

1 beneficiary of a trust to the extent that the same are included in federal  
2 adjusted gross income.

3 (vii) Amounts received as annuities under the federal civil service  
4 retirement system from the civil service retirement and disability fund and  
5 other amounts received as retirement benefits in whatever form which  
6 were earned for being employed by the federal government or for service  
7 in the armed forces of the United States.

8 (viii) Amounts received by retired railroad employees as a  
9 supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and  
10 228c (a)(1) et seq.

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

16 (x) For taxable years beginning after December 31, 1976, the amount  
17 of the federal tentative jobs tax credit disallowance under the provisions of  
18 26 U.S.C. § 280 C. For taxable years ending after December 31, 1978, the  
19 amount of the targeted jobs tax credit and work incentive credit  
20 disallowances under 26 U.S.C. § 280 C.

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

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

27 (xiii) For taxable years beginning after December 31, 2004, amounts  
28 contributed to and the amount of income earned on contributions deposited  
29 to an individual development account under K.S.A. 2011 Supp. 74-50,201,  
30 et seq., and amendments thereto.

31 (xiv) For all taxable years commencing after December 31, 1996, that  
32 portion of any income of a bank organized under the laws of this state or  
33 any other state, a national banking association organized under the laws of  
34 the United States, an association organized under the savings and loan  
35 code of this state or any other state, or a federal savings association  
36 organized under the laws of the United States, for which an election as an  
37 S corporation under subchapter S of the federal internal revenue code is in  
38 effect, which accrues to the taxpayer who is a stockholder of such  
39 corporation and which is not distributed to the stockholders as dividends of  
40 the corporation.

41 (xv) For all taxable years beginning after December 31, 2006,  
42 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a  
43 joint return, for each designated beneficiary which are contributed to a

1 family postsecondary education savings account established under the  
2 Kansas postsecondary education savings program or a qualified tuition  
3 program established and maintained by another state or agency or  
4 instrumentality thereof pursuant to section 529 of the internal revenue  
5 code of 1986, as amended, for the purpose of paying the qualified higher  
6 education expenses of a designated beneficiary at an institution of  
7 postsecondary education. The terms and phrases used in this paragraph  
8 shall have the meaning respectively ascribed thereto by the provisions of  
9 K.S.A. 2011 Supp. 75-643, and amendments thereto, and the provisions of  
10 such section are hereby incorporated by reference for all purposes thereof.

11 (xvi) For the tax year beginning after December 31, 2004, an amount  
12 not exceeding \$500; for the tax year beginning after December 31, 2005,  
13 an amount not exceeding \$600; for the tax year beginning after December  
14 31, 2006, an amount not exceeding \$700; for the tax year beginning after  
15 December 31, 2007, an amount not exceeding \$800; for the tax year  
16 beginning December 31, 2008, an amount not exceeding \$900; and for all  
17 taxable years commencing after December 31, 2009, an amount not  
18 exceeding \$1,000 of the premium costs for qualified long-term care  
19 insurance contracts, as defined by subsection (b) of section 7702B of  
20 public law 104-191.

21 (xvii) For all taxable years beginning after December 31, 2004,  
22 amounts received by taxpayers who are or were members of the armed  
23 forces of the United States, including service in the Kansas army and air  
24 national guard, as a recruitment, sign up or retention bonus received by  
25 such taxpayer as an incentive to join, enlist or remain in the armed services  
26 of the United States, including service in the Kansas army and air national  
27 guard, and amounts received for repayment of educational or student loans  
28 incurred by or obligated to such taxpayer and received by such taxpayer as  
29 a result of such taxpayer's service in the armed forces of the United States,  
30 including service in the Kansas army and air national guard.

31 (xviii) For all taxable years beginning after December 31, 2004,  
32 amounts received by taxpayers who are eligible members of the Kansas  
33 army and air national guard as a reimbursement pursuant to K.S.A. 48-  
34 281, and amendments thereto, and amounts received for death benefits  
35 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section  
36 1 or section 2 of chapter 207 of the 2005 session laws of Kansas, and  
37 amendments thereto, to the extent that such death benefits are included in  
38 federal adjusted gross income of the taxpayer.

39 (xix) For the taxable year beginning after December 31, 2006,  
40 amounts received as benefits under the federal social security act which  
41 are included in federal adjusted gross income of a taxpayer with federal  
42 adjusted gross income of \$50,000 or less, whether such taxpayer's filing  
43 status is single, head of household, married filing separate or married filing

1 jointly; and for all taxable years beginning after December 31, 2007,  
2 amounts received as benefits under the federal social security act which  
3 are included in federal adjusted gross income of a taxpayer with federal  
4 adjusted gross income of \$75,000 or less, whether such taxpayer's filing  
5 status is single, head of household, married filing separate or married filing  
6 jointly.

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

9 (xxi) *For all taxable years beginning after December 31, 2011,*  
10 *amounts paid for health insurance premiums for any individually*  
11 *underwritten, privately purchased health insurance policy primarily*  
12 *providing health care coverage for the taxpayer, the taxpayer's spouse or*  
13 *the taxpayer's dependents to the extent that such amount has been*  
14 *included in the taxpayer's federal adjusted gross income.*

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

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

24 Sec. 3. K.S.A. 2011 Supp. 79-32,117 is hereby repealed.

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