

**As Amended by House Committee**

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*Session of 2013*

**HOUSE BILL No. 2369**

By Committee on Taxation

2-18

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1 AN ACT concerning health insurance; relating to employer contributions;  
2 providing modification to federal adjusted gross income for Kansas  
3 income tax purposes; amending K.S.A. 2012 Supp. 79-32,117 and  
4 repealing the existing section.  
5

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

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

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

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

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

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

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

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

14 (iii) The federal net operating loss deduction.

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

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

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

38 (vii) The amount of any charitable contribution made to the extent the  
39 same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-  
40 32,196, and amendments thereto.

41 (viii) The amount of any costs incurred for improvements to a swine  
42 facility, claimed for deduction in determining federal adjusted gross  
43 income, to the extent the same is claimed as the basis for any credit

1 allowed pursuant to K.S.A. 2012 Supp. 79-32,204, and amendments  
2 thereto.

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

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

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

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

26 (xiii) The amount of any expenditures claimed for deduction in  
27 determining federal adjusted gross income, to the extent the same is  
28 claimed as the basis for any credit allowed pursuant to K.S.A. 2012 Supp.  
29 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

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

34 (xv) The amount of any expenditures claimed for deduction in  
35 determining federal adjusted gross income, to the extent the same is  
36 claimed as the basis for any credit allowed pursuant to K.S.A. 2012 Supp.  
37 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233  
38 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-  
39 32,248 or 79-32,251 through 79-32,254, and amendments thereto.

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

1 thereto.

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

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

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

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

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

42 (xxii) For all taxable years beginning after December 31, 2012, the  
43 amount of any deduction for health insurance under section 162(l) of the

1 federal internal revenue code as in effect on January 1, 2012, and  
2 amendments thereto, in determining the federal adjusted gross income of  
3 an individual taxpayer.

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

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

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

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

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

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

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

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

41 (vii) Amounts received as annuities under the federal civil service  
42 retirement system from the civil service retirement and disability fund and  
43 other amounts received as retirement benefits in whatever form which

1 were earned for being employed by the federal government or for service  
2 in the armed forces of the United States.

3 (viii) Amounts received by retired railroad employees as a  
4 supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and  
5 228c (a)(1) et seq.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 *(xxi) For all taxable years beginning after December 31, 2012,*  
14 *amounts paid for health insurance premiums for any individually*  
15 *underwritten, privately purchased health insurance policy primarily*  
16 *providing health care coverage for the taxpayer, the taxpayer's spouse or*  
17 *the taxpayer's dependents to the extent that such amount has been*  
18 *included in the taxpayer's federal adjusted gross income **or has not been***  
19 **claimed as an itemized deduction by the taxpayer.**

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

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

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

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