

SENATE BILL No. 1

AN ACT concerning certain members of military service; relating to the adjutant general; providing for reimbursement for certain life insurance premiums coverage; creating the national guard life insurance premium reimbursement fund; exemptions from taxation of motor vehicles; making and concerning appropriations for the fiscal year ending June 30, 2006, for the adjutant general; amending K.S.A. 75-3713b, as amended by section 3 of 2005 Senate Substitute for House Bill No. 2518, and K.S.A. 2004 Supp. 79-32,117, as amended by section 21 of 2005 House Bill No. 2537, and 79-5107, as amended by section 1 of 2005 House Bill No. 2187, and repealing the existing sections; also repealing section 1 of 2005 Senate Substitute for House Bill No. 2518.

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

New Section 1. (a) There is hereby created in the state treasury the national guard life insurance premium reimbursement fund which shall be administered by the adjutant general. All moneys credited to such fund shall be used only to reimburse eligible members of the Kansas army and air national guard for premiums paid for any period on or after September 1, 2005, under the servicemembers' group life insurance program pursuant to 38 U.S.C. §1965 et seq., as amended, and not otherwise reimbursed by the federal government, for death benefit coverage of the member on federal active duty in a combat area.

(b) All expenditures from the national guard life insurance premium reimbursement fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved in the manner prescribed by law.

(c) The adjutant general is hereby authorized to receive moneys from any grants, gifts, contributions or bequests made for the purposes of this section and to expend such moneys for the purpose for which received.

(d) For the purpose of carrying out the provisions of this section, and subject to the availability of appropriations therefor, the adjutant general shall develop and implement a plan (1) to determine eligibility for reimbursement from the national guard life insurance premium reimbursement fund for premiums paid under the servicemembers' group life insurance program pursuant to 38 U.S.C. §1965 et seq., as amended, and not otherwise reimbursed by the federal government, for death benefit coverage of the member on federal active duty in a combat area, and (2) to provide for such other aspects of the plan as the adjutant general deems necessary.

(e) Nothing in this section is intended to alter, amend or change the eligibility or applicability of the servicemembers' group life insurance program pursuant to 38 U.S.C. §1965 et seq., as amended, or any rights, responsibilities or benefits thereunder.

(f) On and after the effective date of this act, and notwithstanding the provisions of section 1 or section 2 of 2005 Senate Substitute for House Bill No. 2518, and amendments thereto, section 2 of this act, and amendments thereto, or any other provision of law to the contrary, no member of the Kansas army or air national guard shall be eligible for the death benefit prescribed in section 1 of 2005 Senate Substitute for House Bill No. 2518, and amendments thereto, or in section 2 of this act, and amendments thereto, if such member is enrolled in the servicemember's group life insurance program pursuant to 38 U.S.C. §1965 et seq., as amended, after August 31, 2005. No amount shall be paid from the national guard life insurance premium reimbursement fund with respect to any case of any member of the Kansas army or air national guard for whom any death benefit has been paid pursuant to section 1 or section 2 of 2005 Senate Substitute for House Bill No. 2518, and amendments thereto, or pursuant to section 2 of this act, and amendments thereto.

New Sec. 2. (a) Subject to the provisions of section 1, and amendments thereto, in addition to any other benefits provided to members of the Kansas army or air national guard, the state of Kansas shall provide an aggregate death benefit in the amount of \$250,000 to the beneficiary or beneficiaries of each member of the Kansas national guard who, on or after the effective date of this act and prior to September 1, 2005, dies as a result of federal active duty in a combat area in the line of duty and for whom a death benefit is not payable pursuant to section 1 of 2005 Senate Substitute for House Bill No. 2518, and amendments thereto. The death benefit provided by this section shall not be payable in any such case if such member dies as a result of committing suicide.

(b) The death benefit provided by this section shall be paid from

amounts allocated therefor from the state emergency fund in accordance with K.S.A. 75-3713b, and amendments thereto.

(c) If such member has not designated one or more beneficiaries in accordance with the policies and procedures or rules and regulations adopted by the adjutant general for such death benefit, then a death benefit payable for such member's death pursuant to this section shall be paid into such member's estate and shall be disbursed or otherwise distributed as provided by law as part of such estate.

(d) For the purpose of carrying out the provisions of this section, the adjutant general shall adopt policies and procedures for the designation of a beneficiary or beneficiaries and for payment of the death benefit provided by this section and may adopt rules and regulations to carry out the provisions of this section.

Sec. 3. On September 1, 2005, K.S.A. 75-3713b, as amended by section 3 of 2005 Senate Substitute for House Bill No. 2518, is hereby amended to read as follows: 75-3713b. (a) By unanimous vote of all of its members, the state finance council is hereby authorized and empowered to make allocations to, and authorize expenditures by, the adjutant general from the state emergency fund for the following purposes, subject to the limitations hereinafter imposed directly or by reference:

(1) The payment of claims for entitlements under K.S.A. 48-265, 48-266, 48-267 or 48-269, and amendments thereto, which accrue to members of the Kansas national guard or the Kansas state guard in accordance with and subject to the provisions of K.S.A. 48-261 to 48-271, inclusive, and amendments thereto;

(2) the payment of any expenses or other amounts required to be paid which arise under the national guard mutual assistance compact in accordance with and subject to the provisions of said compact and K.S.A. 48-1701 to 48-1703, inclusive, and amendments thereto; and

(3) the payment of death benefits pursuant to ~~section 1~~ *section 2 of this act*, and amendments thereto.

(b) The exercise of functions specified in subsection (a) are hereby declared to be matters characterized as legislative delegations. Such functions may be exercised by the state finance council only when the legislature is not in session and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and amendments thereto.

Sec. 4. On September 1, 2005, K.S.A. 2004 Supp. 79-32,117, as amended by section 21 of 2005 House Bill No. 2537, is hereby amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

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

(i) Interest income less any related expenses directly incurred in the purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof issued prior to January 1, 1988, is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income. Interest income on obligations of this state or a political subdivision thereof issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

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

(iii) The federal net operating loss deduction.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit shall be deemed to have resulted if the amount of the tax had been de-

ducted in determining income subject to a Kansas income tax for a prior year regardless of the rate of taxation applied in such prior year to the Kansas taxable income, but only that portion of the refund shall be included as bears the same proportion to the total refund received as the federal taxes deducted in the year to which such refund is attributable bears to the total federal income taxes paid for such year. For purposes of the foregoing sentence, federal taxes shall be considered to have been deducted only to the extent such deduction does not reduce Kansas taxable income below zero.

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

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

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

(viii) The amount of any costs incurred for improvements to a swine facility, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2004 Supp. 79-32,204 and amendments thereto.

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

(x) Amounts received as nonqualified withdrawals, as defined by K.S.A. 2004 Supp. 75-643, and amendments thereto, if, at the time of contribution to a family postsecondary education savings account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments thereto, or if such amounts are not already included in the federal adjusted gross income.

(xi) The amount of any contribution made to the same extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 2004 Supp. 74-50,154, and amendments thereto.

(xii) For taxable years commencing after December 31, 2004, amounts received as withdrawals not in accordance with the provisions of section 4 of 2005 House Bill No. 2222, and amendments thereto, if, at the time of contribution to an individual development account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xiii) of subsection (c), or if such amounts are not already included in the federal adjusted gross income.

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

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

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

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

(iv) The amount necessary to prevent the taxation under this act of any annuity or other amount of income or gain which was properly included in income or gain and was taxed under the laws of this state for a taxable

year prior to the effective date of this act, as amended, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain.

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

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

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

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

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

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

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

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

(xiii) For taxable years beginning after December 31, 2004, amounts contributed to and the amount of income earned on contributions deposited to an individual development account under section 1, et seq., of 2005 House Bill No. 2222, and amendments thereto.

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

(xv) For all taxable years beginning after December 31, 1999, amounts not exceeding \$2,000, or \$4,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program for the purpose of paying the qualified higher education expenses of a designated beneficiary at an institution of postsecondary education. For all taxable years beginning after December 31, 2004, amounts not exceeding \$3,000, or \$6,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program for the purpose of paying the qualified higher education expenses of a designated beneficiary at an institution of postsecondary education. The terms and phrases used in this paragraph shall have the meaning respectively ascribed thereto by the provisions of K.S.A. 2004 Supp. 75-643, and amendments thereto, and the provisions of such section are hereby incorporated by reference for all purposes thereof.

(xvi) For the tax year beginning after December 31, 2004, an amount not exceeding \$500; for the tax year beginning after December 31, 2005, an amount not exceeding \$600; for the tax year beginning after December

31, 2006, an amount not exceeding \$700; for the tax year beginning after December 31, 2007, an amount not exceeding \$800; for the tax year beginning December 31, 2008, an amount not exceeding \$900; and for all taxable years commencing after December 31, 2009, an amount not exceeding \$1,000 of the premium costs for qualified long-term care insurance contracts, as defined by subsection (b) of section 7702B of public law 104-191.

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

*(xviii) For all taxable years beginning after December 31, 2004, amounts received by taxpayers who are eligible members of the Kansas army and air national guard as a reimbursement pursuant to section 1 of this act, and amendments thereto, and amounts received for death benefits pursuant to section 2 of this act, and amendments thereto, or pursuant to section 1 or section 2 of 2005 Senate Substitute for House Bill No. 2518, and amendments thereto, to the extent that such death benefits are included in federal adjusted gross income of the taxpayer.*

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

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

Sec. 5. K.S.A. 2004 Supp. 79-5107, as amended by section 1 of 2005 House Bill No. 2187, is hereby amended to read as follows: 79-5107. (a) Except as provided in subsection (e), the tax imposed by this act upon any motor vehicle, other than a motor vehicle which replaces a motor vehicle previously registered and taxed in this state and to which registration plates are transferred, which has been acquired, or brought into the state, or for any other reason becomes subject to registration after the owner's regular annual motor vehicle registration date, shall become due and payable at the time such motor vehicle becomes subject to registration under the laws of this state and the amount of tax to be paid by the owner for the remainder of the tax year shall be an amount which is equal to  $\frac{1}{12}$  of the tax which would have been due upon such motor vehicle for the full registration year, multiplied by the number of full calendar months remaining in the registration year of the owner of such vehicle. Such tax shall be paid at the time of the registration of such motor vehicle.

(b) Except as provided in subsection (e), the tax upon a motor vehicle, which replaces a motor vehicle previously registered and taxed in this state and to which registration plates are transferred, which is registered at any time other than the annual registration date prescribed by law for the registration of such motor vehicle, shall be in an amount equal to the amount by which: (1) One-twelfth of the tax which would have been due upon such replacement motor vehicle for the full registration year multiplied by the number of full calendar months remaining in the registration year for such motor vehicle, exceeds (2) one-twelfth of the tax which would have been due for the full registration year upon the motor vehicle replaced multiplied by the number of full calendar months remaining in such registration year. Such tax shall be paid at the time of registration of such replacement vehicle.

(c) Whenever the tax imposed under this act has been paid upon any motor vehicle and title to such vehicle is transferred and no replacement vehicle is substituted therefor such taxpayer shall be entitled to a refund in an amount equal to  $\frac{1}{12}$  of the tax due upon such motor vehicle for the

full registration year, multiplied by the number of full calendar months remaining in such registration year. Whenever the tax imposed under this act upon any replacement motor vehicle for the remainder of the registration year is less than the tax paid on the motor vehicle replaced for the remainder of such registration year, the taxpayer shall be entitled to a refund in the amount by which the tax paid upon the vehicle replaced exceeds the tax due upon the replacement vehicle. All refunds shall be paid by the county treasurer from the moneys received from taxes upon motor vehicles imposed by this act which have not been distributed. No refund shall be made under the authority of this subsection for a sum less than \$5.

(d) Whenever the tax imposed under this act has been paid upon any motor vehicle and the owner thereof has established residence in another state during such vehicle's registration year, such owner shall be entitled to a refund of such taxes in an amount equal to 1/12 of the tax paid upon such motor vehicle for the full registration year, multiplied by the number of full calendar months remaining in such registration year after the month of establishing residence in another state. No such refund shall be allowed unless and until the owner submits to the county treasurer evidence of a valid driver's license and motor vehicle registration in another state, and surrenders the Kansas license plate. All refunds shall be paid by the county treasurer from the moneys received from taxes upon motor vehicles which have not been distributed. No refund shall be made for a sum less than \$5.

(e) (1) No tax shall be levied under the provisions of this act upon not more than two motor vehicles which are owned by a resident individual:

(1) (A) Who is in the full-time military service of the United States, is absent from this state solely by reason of military orders on the date of such individual's application for registration and such motor vehicles are maintained by such individual outside of this state; or

(2) (B) who is a member of the military service of the United States and is mobilized or deployed on the date of such individual's application for registration.

(2) *The owner of a motor vehicle not subject to tax pursuant to the provisions of subsection (e)(1) who has paid the tax levied under the provisions of K.S.A. 79-5101, and amendments thereto, may apply for a refund with the county treasurer not later than one year from the effective date of this act. The county treasurer shall refund any such taxes previously paid by such owner of a motor vehicle.*

The provisions of this subsection shall be applicable on and after December 31, ~~2004~~ 2003.

Sec. 6. K.S.A. 2004 Supp. 79-5107, as amended by section 1 of 2005 House Bill No. 2187 is hereby repealed.

Sec. 7.

ADJUTANT GENERAL

(a) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2006, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

National guard life insurance premium reimbursement fund ..... \$390,000

(b) On the effective date of this act, or as soon thereafter as moneys are available therefor, the director of accounts and reports shall transfer \$390,000 from the state general fund to the national guard life insurance premium reimbursement fund of the adjutant general.

Sec. 8. On September 1, 2005, K.S.A. 75-3713b, as amended by section 3 of 2005 Senate Substitute for House Bill No. 2518, K.S.A. 2004 Supp. 79-32,117, as amended by section 21 of 2005 House Bill No. 2537, and section 1 of 2005 Senate Substitute for House Bill No. 2518 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body

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\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*