KANSAS
DEPARTMENT OF REVENUE

Kathleen Sebelius, Governor
Joan Wagnon, Secretary

www.ksrevenue.org

November 21, 2008

To: Dr. Barbara Langner
Kansas Health Policy Authority

From: Richard Cram
Director of Policy & Research

Re: Study for Joint Oversight Committee on Health Policy

As part of a comprehensive study of health care benefits-related topics, the Department of Revenue was asked to compile a summary of information on state tax incentives or credits to encourage expansion of affordable commercial health insurance coverage, including the design and level of participation in those programs. The Department solicited information responsive to this request from other state revenue departments through the Federal Tax Administrators listserve. The information below summarizes the responses received from the participating states, as well as research of state tax laws for those states not responding.

Kansas

The small employer health insurance credit, K.S.A. 2006 Supp. 40-2246, provides a tax credit to small employers that have established health benefit plans or health savings accounts for employees. As a condition to participation as a member of any small employer health benefit plan, an employer shall not have contributed within the preceding two years to any health insurance premium or health savings account on behalf of an employee who is to be covered by the employer's contribution. The credit is the lesser of $70 per month or the actual amount paid per eligible covered employee for the first 12 months of participation, the lesser of $50 per month or the actual amount paid per eligible covered employee for the next 12 months of participation, and the lesser of $35 per month or the actual amount paid per eligible covered employee for the next 12 months of participation.

Tax Year 2006 data and historical data is as follows:

Tax Year	Number of Filers	Tax Expenditure
2006	446	$446,739
2005	159	$212,651
2004	107	$120,751
2003	89	$131,587
2002	71	$115,704

OFFICE OF POLICY AND RESEARCH
DOCKING STATE OFFICE BUILDING, 915 SW HARRISON ST., TOPEKA, KS 66612-1588
Voice 785-296-3081 Fax 785-296-7928 http://www.ksrevenue.org/

Under K.S.A. 79-32, 213, an employer of any member of the Kansas National Guard is allowed a non-refundable income tax credit for amounts paid for health insurance for such member and family during any period of state active duty in excess of 30 days if the employer is not otherwise required to pay for such insurance. Any unused credit can be carried forward until used. Due to confidentiality restrictions (5 or fewer claimants), data on credit usage is not available.

Alabama

Effective January 1, 2009, Alabama has enacted a small business health insurance deduction. Businesses with less than 25 employees will receive a tax deduction on their Alabama income tax return for 150% of the premiums paid for certain employees' health insurance. The increased deduction is for premiums paid on behalf of employees that earn less than $50,000 in wages and whose Alabama Adjusted Gross Income for the year is $75,000 or less ($150,000 MFJ) for the applicable year. Those employees, viz., "Qualified Employees," will also be allowed to deduct 150% of their share of the insurance premiums. Given the fact that 100% of their premiums are currently excluded from taxable wages, Qualified Employees will only deduct an additional 50% on their Alabama individual income tax returns.

Since this benefit becomes effective in 2009, no data is available on usage.

Arizona

The Health Insurance Premium Tax Credit was established September 21, 2006 as a tax credit against the premium tax liability incurred by a health care insurer for insuring individuals and small businesses who were not previously covered by health insurance. Health care insurers that enroll an individual or small business certified as eligible by the Department of Revenue (DOR) pass the tax credit savings along by deducting the amount of the tax credit from the premium charged to the individual or small business for which the credit is taken. The total amount of the Health Insurance Premium Tax Credit is capped at $5 million per year.

For coverage issued to an individual, the amount of the credit is based on the lesser of $1,000 on a single person, $3,000 for family coverage or $500 for a dependent child or 50% of the annual premium.

For a small business, the amount of the credit is based on the lesser of $1,000 for a single employee or $3,000 for an employee electing family coverage or 50% of the annual premium.

The individual or small business must obtain health insurance within 90 days from the Certificate issued date or the Certificate expires. An individual or small business can participate in the program for three years as long as they continue to meet the eligibility requirements. In addition to not having health insurance for the last six months, an individual cannot earn more than 250% of the federal poverty level and a small business that has been in existence for one year must have at least 2 employees but not more than 25. See § 20-224.05 (for the Department of Insurance) and § 43-210, 41-1525 (for the Department of Revenue).

From September 21, 2006 through October 7, 2008, the DOR has issued 1,195 Certificates of Eligibility (166 for individuals and 1,029 for small businesses). Of the 1,195 Certificates, 502 (42%) have expired without notification of enrollment and 77 will not renew their Certificate in year two or year three leaving 616 active Certificates.

The total reserved for Certificates of Eligibility is the lesser of $5,000,000 or 50% of the annual health insurance premium. The statutory credit allowance is based on 1,739 applying for single coverage, 1,085 applying for family coverage, and 12 applying for dependent coverage. The total amount reserved includes $1,075,000 for 125 Certificates that are pending notification of renewal for year two or three and $850,000 for 108 new Certificates that are pending notification of enrollment. There are currently 26 applicants on the waiting list. To date, the DOR has issued credit certificates to eleven health insurance carriers of $341,881.84 for 2006, $3,532,654.93 for 2007, and $3,026,172.73 for 2008.

Colorado

Under Sec. 39-30-105, Colorado provides a tax credit for new business facility employees. One of the conditions for claiming the credit is that for any new business facility employee, the employer must provide a health insurance program and contribute at least 50% or more of the total cost of the insurance. No usage data is available to show the effect, if any, of this requirement.

Georgia

Under 110-9-1-.03(3), one of the conditions for a business enterprise to qualify for any job tax credits is that it must make available to all employees filling the new or additional new full-time jobs. However, there is no requirement for the business to pay for all or part of such health insurance coverage. No usage data is available to show the effect, if any, of this requirement.

Idaho

Under Section 35.01.01.746.01, an employer is eligible for an income tax credit of up to $1,000 per new employee, if the wages and benefits for the new employee meet certain criteria, including eligibility for the new employee to receive employer-provided coverage under an accident and health plan meeting certain conditions. No usage data is available to show the effect, if any, of this requirement.

Indiana

Under IC 6-3.1-31-8, effective January 1, 2007, an eligible taxpayer who makes health insurance available to the eligible taxpayer's employees and their dependents through at least one health benefit plan is entitled to a credit against the taxpayer's adjusted gross income tax, financial institutions tax, or insurance premiums tax liability for the first two taxable years in which the taxpayer makes the health benefit plan available. To be eligible for the credit, (1) the employee's participation in the health benefit plan must be at the employee's election and, (2) if an employee chooses to participate in the plan, the employee should be able to pay the employee's share of the cost of the plan using a wage assignment authorized under IC 22-2-6-2. A taxpayer claiming the credit must continue to make health insurance available to the taxpayer's employees through a health benefit plan for at least 24 consecutive months beginning on the day after the last day of the

taxable year in which the taxpayer first offers the health benefit plan. If the taxpayer terminates the health benefit plan before the expiration of the 24-month period, the taxpayer must repay the Department the amount of the credit received. The credit allowed in each of the first two taxable years equals the lesser of $2,500 or $50 multiplied by the number of employees enrolled in the health benefit plan during the taxable year. If the credit amount in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer can carryover the excess to the following taxable years. The amount of the credit carryover from a taxable year must be reduced to the extent that the carryover is used by the taxpayer to obtain an identical credit for any subsequent taxable year. Taxpayers are not entitled to a carryback or a refund of any unused credit. No usage data was provided.

Iowa

Iowa has a special "above the line" deduction for health insurance and dental insurance premiums. Following is a description of this deduction from Iowa's online instructions.

Line 18 IA1040. HEALTH AND DENTAL INSURANCE DEDUCTION.

Enter 100% of the amount paid for health and dental insurance premiums. This includes all supplemental health insurance, such as Medicare B supplemental medical insurance and Medicare D voluntary prescription drug insurance program (not "Medicare tax withheld" on your W-2). 100% of health insurance premiums for long-term nursing home coverage qualifies for the health insurance deduction and is not subject to Schedule A limitations. It is typically to your advantage to take the deduction on line 18 instead of Schedule A, due to the Schedule A reduction of medical and dental expenses by 7.5% of Federal AGI. Schedule A may not contain any health or dental insurance premiums which were used as a deduction on line 18.

Do not deduct pretax premiums

This deduction is not available to individuals who have paid health or dental insurance premiums on a pretax basis. Pretax occurs when an employer subtracts the amount of the health or dental insurance premium from an employee's gross wages before withholding Federal and state income taxes. See your payroll department if you do not know whether or not your health or dental insurance was paid on a pretax basis.

Married Separate Filers:

If one spouse is employed and has health or dental insurance premiums paid through his/her wages, that spouse will claim the entire deduction. If both spouses pay health or dental insurance premiums through their wages, each spouse will claim what that individual paid.

If both spouses have self-employment income, the deduction for self-employed health or dental insurance must be allocated between the spouses in the ratio of each spouse's self-employment income to the total self-employment income of both spouses. If health or dental insurance premiums are paid directly by one spouse, that spouse will claim the

entire deduction. If both spouses paid through a joint checking account, the deduction would be allocated between the spouses in the ratio of each spouse's net income to the total net income of both spouses. For this net income calculation, do not include line 18, the health or dental insurance deduction.

Iowa did not provide any usage data.

Kentucky
Kentucky (KRS 141.010(10)(k)) provides an exclusion from taxable income of health insurance premiums of the taxpayer, taxpayer's spouse or dependents, if not otherwise (i.e., under federal income tax law) already excluded from taxable income. No usage data was provided.

Louisiana
Under L.R.S. 47:287.759.A, Louisiana provides to a contractor or subcontractor for construction of a public works project an income tax credit of 5% on 40% of the contract amount received in a tax year if 85% of the full-time employees of each contractor are offered health insurance coverage and each contractor pays 75% of the total premium for the health insurance coverage for each full-time employee who chooses to participate and pays not less than 50% of the total premium for health insurance coverage for each dependent of the full-time employee electing for such coverage. The credit is statutorily capped at $3 million per year. No usage data was provided.

Maine
Under Sec. 5219-O, A taxpayer constituting an employing unit that employs fewer than 5 employees is allowed an income tax credit for the lesser of 20% of dependent health benefits paid with respect to the taxpayer's low-income employees under a health benefit plan during the taxable year for which the credit is allowed or $125 per low-income employee with dependent health benefits coverage. The taxpayer must pay at least 80% of the health insurance costs of the low-income employee and at least 60% of the cost of dependent health benefits for children under 19 years of age who are covered under the health benefit plan and who are dependents of a low-income employee. The amount of the credit that may be used by a taxpayer for a taxable year may not exceed 50% of the state income tax otherwise due under for that year. The unused portion of any credit may be carried over to the following year or years for a period not to exceed 2 years. No usage data was provided.

Montana
Under M.C.A. 33-22-2006, a refundable credit against Montana corporation license tax is available to small businesses (between 2 and 9 employees, with salaries for each not exceeding $75,000) to assist in paying for group health insurance. An eligible employer that does not receive premium assistance payments or premium incentive payments through the small business health insurance pool may claim the credit. The credit is equal to $100 each month for each employee and $100 each month for each employee's spouse (if the employer covers the spouse), if the average age of the group is 45 years of age or older; and not more than $40 each month for each covered dependent, not to exceed two

dependents of an employee in addition to the employee's spouse. An employer may not claim a credit in excess of 50% of the total premiums paid by the employer for the qualifying small group, for premiums paid from a medical care savings account, or for premiums for which a deduction is claimed in computing corporation license or personal income tax. No usage data was provided.

Nevada
Under N.R.S. 360.750, the Commission on Economic Development is given the authority to partially abate taxes applicable to new or expanding businesses meeting certain criteria, including providing a health insurance plan for all employees that includes an option for health insurance coverage for dependents. No usage data was provided.

North Carolina
Under Sec. 105-129.16E, G.S., effective for the 2007 through 2009 taxable years, small businesses with fewer than 26 employees are eligible to claim a small business health insurance income or franchise tax credit if they pay at least 50% of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee, for all eligible employees, or if its employees have qualifying existing coverage. The credit is $250 per employee or the cost of coverage, whichever is less. The credit only applies for employees whose annual salary does not exceed $40,000. No usage data is available.

Oklahoma
Under the Oklahoma Quality Jobs Program, the Oklahoma Department of Commerce can award quarterly cash payments to qualifying companies. One of the qualification conditions includes offering basic health insurance coverage to all employees whose pay is included in new payroll figures. Employees must not pay more than 50% of the premium. No usage data was provided to show the effect, if any, of this requirement.

Pennsylvania
Pennsylvania provides a personal income tax exemption for contributions made to Health Savings Accounts and Archer Medical Accounts, consistent with the federal treatment of such accounts. (Unlike Kansas, Pennsylvania taxable income base is not based on Federal Adjusted Gross Income. This is one of the few deductions against income that Pennsylvania allows.)

The latest estimate of usage is 56,000 individuals claiming the exemption with about $6 million in lost revenue. No actual data is available yet. Pennsylvania will be publishing actual figures from TY2006, and the figures are expected be lower than the estimate.

Texas
INSURANCE TAX--Beginning in 2003, Texas allowed the formation of health group cooperatives for the purchase of employer health benefits. Texas has a two-year tax exemption from premium and retaliatory tax for an insurer that provides coverage to a health group cooperative for premiums received for employees or their dependents who were previously uninsured. The exemption applies to a cooperative employer member

that did not have insurance coverage for the 63 days immediately preceding the effective date of insurance coverage purchased through the cooperative. Texas Insurance Code, Chapter 1501.

FRANCHISE TAX--Small employers that have not provided health care benefits to any of its employees in the preceding year and who elect to subtract compensation to calculate margin for purposes of the Texas franchise tax, may subtract an additional amount equal to:

- 50% of the cost of health care benefits provided to its employees for the first twelve-month period on which margin is based in which the entity provides the health care benefits and

- 25% of the cost of health care benefits provided to its employees for the second twelve-month period on which margin is based in which the entity provides the health care benefits. Texas Tax Code, Chapter 171.

PROPERTY TAX--As of 2001, school districts may attract development by offering a tax credit and an eight-year limitation on appraised property value for the maintenance and operations portion of the school district property tax. The school district may approve qualified property in an area designated as a reinvestment zone or an enterprise zone provided that all of the qualified property is located within the designated zone.

To grant a value limitation for property in a reinvestment zone, the designation must be "reasonably likely" to:
- increase primary employment in the zone or
- attract major investment in the zone that would benefit property values and contribute to regional economic development.

In exchange for the appraised value limitation and tax credit, the property owner must agree to create a specific number of jobs and build or install specific type of real and personal property of a certain value. At lease 80% of the jobs created must be covered by a group health plan.

The property must be devoted to manufacturing, research, and development; a clean coal project as defined in the Water Code; an advanced clean energy project as defined in the Health and Safety Code; renewal energy electric generation; electric power generation using integrated gasification combined cycle technology; or nuclear electric power generation. Texas Tax Code, Chapter 313.

Texas did not provide any usage data for the above programs.

Utah

The Utah code reference is Section 59-10-1023 for a non-refundable income tax credit toward health insurance costs, if those are not claimed as a credit or deduction on the federal return or not excluded from federal income. Roughly the credit can be $300,

$600, or $900 depending on the family structure. This is a new credit and no usage data is available. (Utah replaced a deduction with a credit.) The latest cost estimate is between $8 and $9 million, based on a previous deduction with 67,000 claims and total deductions of $142 million (2006 data).

West Virginia

The Economic Opportunity Tax Credit statute was amended (W.Va. Code 11-13Q-22) in 2008 to permit businesses engaged in certain selected activities* that create jobs, but not at the levels** required for other parts of the statute, to claim credit equal to $3,000 per year per new job for a period of five years. The requirements for the new job to qualify are as follows:

1. Pays at least $32,000 annually,
2. Provides health insurance and may offer benefits including child care, retirement, or other benefits, and
3. Is a full-time, permanent position.

The amendment is effective January 1, 2009, so no usage information on how many businesses will claim the credit is available.

*The Economic Opportunity Tax Credit is only available (W. Va. Code 11-13Q-19) to taxpayers engaged in:

Manufacturing,
Information processing,
Warehousing,
Goods distribution,
Destination-oriented recreation and tourism, and
Research and development

**The minimum jobs creation requirements by credit type:

Regular and High Technology Manufacturer	20
Headquarters relocation	15
Small business	10

Wisconsin

Wisconsin does not offer tax credits to employers for medical care insurance coverage; however, it provides an individual income tax deduction for all or a portion of the medical care insurance premiums paid by self-employed, unemployed, employees whose employer provides no medical care insurance and employees whose employers pay a portion of employees' medical care insurance. Specifically, deductions are allowed for:

1. 100% of medical care insurance premiums paid by self-employed individuals (not to exceed net earnings from a trade or business).
2. 100% of medical care insurance premiums paid by an individual who is the employee of another person if the individual's employer pays no amount of money toward the individual's medical care insurance (not to exceed the individual's wages, salaries, tips and other employee compensation).

3. Tax Year 2007: 33.3% of the medical care insurance premiums paid by an individual with no employer and no self-employment income. This increases to 66.7% in tax year 2008 and 1009 in tax year 2009.
4. Tax Year 2008: 10% of the medical care insurance premiums paid by an individual who is the employee of another person if the employer pays a portion of the individual's medical insurance. This increases to 25% in tax year 2009, 45% in tax year 2010 and 100% in tax year 2011.

Wisconsin provided data for tax years 2005 and 2006. The medical insurance deductions are lumped together on the income tax form, so they do not have separate data.

In tax year 2005, approximately 35,000 claimed medical insurance deductions in the amount of $76.5 million. The deduction was for self employed health insurance (to the extent not already deducted from federal income) and 50% of health insurance of employees whose employers don't contribute to health insurance.

In tax year 2006, approximately 42,000 claimed deductions in the amount of $107.1 million. The deduction was for self employed health insurance (to the extent not already deducted from federal income) and 100% of health insurance of employees whose employers don't contribute to health insurance.

Please let me know if you have additional questions or need further information.