

Journal of the Senate

SEVENTY-SECOND DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, May 27, 2015, 10:00 a.m.

The Senate was called to order by Vice President Jeff King.
The roll was called with 38 senators present.
Senators Arpke and Masterson were excused.
Invocation by Reverend Cecil T. Washington:

Heavenly Father,

We're closer now than when we started...closer than even a week ago. As the days of this session draw nigh, thank You for our progress. Through it all, Your overriding love, mercy and goodness have been with us. Let us not be like the lepers of old, in Luke, chapter 17. Ten were healed but only one returned to say thanks. Give us hearts of appreciation...of gratefulness for Your faithfulness throughout this session. Today, we're receiving afresh from Your gracious hand. Give us a renewed awareness of Your presence and a persistent gratitude for Your unwavering love. In 1972, You blessed us through Andre Crouch with a song entitled "My Tribute." And Lord, I believe those words even echo our hearts today. How can I say thanks for the things You have done for me? Things so undeserved, yet you gave to prove Your love for me. The voices of a million angels could not express my gratitude. All that I am, and ever hope to be, I owe it all to Thee." All the glory, honor and praise belongs to You, In Jesus name. Amen

The Pledge of Allegiance was led by Vice President Jeff King.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

SCR 1606— A CONCURRENT RESOLUTION urging Congress to protect patients and families by enacting reforms to the patient protection and affordable care act. By Senators Pilcher-Cook, Abrams, Arpke, Baumgardner, Bowers, Bruce, Denning, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeier, Petersen, Powell, Pyle, Smith, Tyson, Wagle and Wilborn.

MESSAGE FROM THE HOUSE

The House adopts the Conference Committee report on **HB 2003**.

The House adopts the Conference Committee report on **HB 2364**.

The House announced the appointment of Rep. Ballard to replace Rep. Henry as a confere on **S Sub HB 2135**.

On motion of Senator Bruce, the Senate recessed until 2:00 p.m.

The Senate met pursuant to recess with Vice President King in the chair.

COMMITTEE OF THE WHOLE

On motion of Senator Bruce, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator Smith in the chair.

On motion of Senator Smith the following report was adopted:

S Sub HB 2109 be amended by adoption of the committee amendments, be further amended by motion of Senator Donovan, on page 43, in line 32, by striking "79-3603" and inserting "79-3703"

Citing Rule 51 Senator Pyle moved to strike the enacting clause on **S Sub HB 2109**.

Upon the showing of five hands, a roll call was requested.

Upon the showing of five hands, a Call of the Senate was requested.

On roll call, the vote was: Yeas 13; Nays 25; Present and Passing 0; Absent or Not Voting 2.

Yeas: Baumgardner, Faust-Goudeau, Fitzgerald, Haley, Hawk, Hensley, Holland, Kelly, Knox, Melcher, Pettey, Pilcher-Cook, Pyle.

Nays: Abrams, Bowers, Bruce, Denning, Donovan, Francisco, Holmes, Kerschen, King, LaTurner, Longbine, Love, Lynn, McGinn, O'Donnell, Olson, Ostmeyer, Petersen, Powell, Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Absent or Not Voting: Arpke, Masterson.

The motion failed.

The Call of the Senate was lifted.

S Sub HB 2109 be further amended by motion of Senator Hensley, on page 38, in line 37, by striking "6.0%" and inserting "5.7%";

On page 40, in line 12, by striking "13.878%" and inserting "13.956%"; in line 14, by striking "6.0%" and inserting "5.7%"; in line 17, by striking "13.700%" and inserting "13.785%"; in line 19, by striking "6.0%" and inserting "5.7%"; in line 23, by striking "13.790%" and inserting "13.874%"; in line 24, by striking "6.0%" and inserting "5.7%";

On page 41, in line 39, by striking "6.0%" and inserting "5.7%";

On page 43, in line 20, by striking "13.878%" and inserting "13.956%"; in line 22, by striking "6.0%" and inserting "5.7%"; in line 25, by striking "13.700%" and inserting "13.785%"; in line 27, by striking "6.0%" and inserting "5.7%"; in line 31, by striking "13.790%" and inserting "13.874%"; in line 32, by striking "6.0%" and inserting "5.7%"

Upon the showing of five hands, a roll call vote was requested.

On roll call, the vote was: Yeas 27; Nays 10; Present and Passing 0; Absent or Not Voting 3.

Yeas: Baumgardner, Bowers, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, LaTurner, Longbine, Love, Lynn, McGinn, O'Donnell, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Schmidt, Smith, Tyson, Wilborn, Wolf.

Nays: Abrams, Bruce, Denning, Donovan, Kerschen, King, Knox, Melcher, Ostmeyer, Wagle.

Absent or Not Voting: Arpke, Masterson, Powell.

S Sub HB 2109 be further amended by motion of Senator Pettey, on page 44, by striking all in lines 40 through 43;

By striking all on pages 45 and 46;

On page 47, by striking all in lines 1 through 3; in line 8, by striking the comma and inserting "and"; also in line 8, by striking "and 79-5105";

And by renumbering sections accordingly;

On page 1, in the title, in line 5, by striking "personal property"; by striking all in line 6; in line 7, by striking all before "amending"; in line 11, by striking the third comma and inserting "and"; also in line 11, by striking "and 79-5105"

Upon the showing of five hands, a roll call vote was requested.

On roll call, the vote was: Yeas 27; Nays 5; Present and Passing 6; Absent or Not Voting 2.

Yeas: Abrams, Baumgardner, Denning, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Kerschen, King, Knox, LaTurner, Love, McGinn, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pyle, Schmidt, Tyson, Wilborn, Wolf.

Nays: Bruce, Donovan, Melcher, Powell, Smith.

Present and Passing: Bowers, Holmes, Longbine, Lynn, Pilcher-Cook, Wagle.

Absent or Not Voting: Arpke, Masterson.

S Sub HB 2109 be further amended by motion of Senator Hensley, on page 40, in line 12, by striking "13.878%" and inserting "16.375%"; in line 17, following "2016," by inserting "and thereafter,"; also in line 17, by striking "13.700%" and inserting "16.315%"; by striking all in lines 22 through 26;

On page 43, in line 20, by striking "13.878%" and inserting "16.375%"; in line 25, following "2016," by inserting "and thereafter,"; also in line 25, by striking "13.700%" and inserting "16.315%"; by striking all in lines 30 through 34

S Sub HB 2109 be further amended by motion of Senator Francisco, on page 3, in line 22, after "thereto" by inserting ", for persons who are employed in Kansas"; in line 24, after "thereto" by inserting ", for persons who are employed in Kansas"

S Sub HB 2109 be further amended by motion of Senator Abrams, on page 16, in line 33, by striking "\$1.29" and inserting "\$.97"; in line 34, by striking "\$1.61" and inserting "\$1.21";

On page 17, in line 4, by striking "\$.50" and inserting "\$.18"; in line 5, by striking "\$.62" and inserting "\$.22"; in line 6, by striking "\$.50 or \$.62" and inserting "\$.18 or \$.22"; in line 41, by striking "0.55%" and inserting "0.65%";

On page 19, in line 12, by striking "0.55%" and inserting "0.65%"; in line 19, by striking "0.55%" and inserting "0.65%";

On page 47, following line 3, by inserting:

"New Sec. 23. There is hereby established in the state treasury the tobacco cessation fund which shall be administered by the university of Kansas medical center. All expenditures from the tobacco cessation fund shall be for promoting the cessation of tobacco usage. All expenditures from the tobacco cessation fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the vice-chancellor of the university of Kansas medical center or the designee of the vice-chancellor.

All moneys received by K.S.A. 79-3387(c), and amendments thereto, shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the tobacco cessation fund.

Sec. 24. K.S.A. 2014 Supp. 79-3387 is hereby amended to read as follows: 79-3387. (a) Except as otherwise provided, all revenue collected or received by the director from taxes imposed by this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(b) All moneys received from license fees imposed by this act shall be collected by the director and shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the cigarette and tobacco products regulation fund created by K.S.A. 79-3391, and amendments thereto.

(c) On July 1, 2015, and thereafter, all revenue collected or received from taxes imposed by K.S.A. 79-3310, and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit and credit the first \$10,000,000 to the tobacco cessation fund. Of the balance which remains after deduction of the amount in this subsection, the state treasurer shall deposit and credit the remainder in the state treasury to the credit of the state general fund.;

Also on page 47, in line 5, after "79-3312," by inserting "79-3387,";

And by renumbering sections accordingly;

On page 1, in the title, in line 7, after "levy;" by inserting "creating the tobacco cessation fund;"; in line 9, after "79-3312," by inserting "79-3387,"

The motion to recommend **S Sub HB 2109** as amended, favorably for passage failed.

Upon the showing of five hands, a roll call vote was requested.

On roll call, the vote was: Yeas 1; Nays 30; Present and Passing 7; Absent or Not Voting 2.

Yeas: Donovan.

Nays: Abrams, Baumgardner, Bowers, Bruce, Denning, Fitzgerald, Holland, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Present and Passing: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Kelly, Pettey.

Absent or Not Voting: Arpke, Masterson.

Having voted on the prevailing side, Senator Pyle moved to reconsider the previous action. The motion failed.

S Sub HB 2109 retains a place on the calendar.

A motion by Senator Hensley to amend **S Sub HB 2109** failed and the following amendment was rejected, on page 33, in line 38, by striking "6.5%" and inserting "5.7%";

On page 38, in line 32, before "(w)" by inserting "and"; in line 35, by striking all after "section"; by striking all in line 36; in line 37, by striking all before the second period;

On page 40, in line 12, by striking "13.878%" and inserting "13.902%"; in line 14, by striking "rates of 6.5% and 6.0%" and inserting "rate of 5.7%"; in line 17, by striking "13.700%" and inserting "13.480%"; in line 19, by striking "rates of 6.50% and 6.0%" and inserting "rate of 5.7%"; in line 23, by striking "13.790%" and inserting "13.376%";

in line 24, by striking "rates of 6.5% and 6.0%" and inserting "rate of 5.7%";

On page 41, in line 38, by striking all after "of"; by striking all in line 39; in line 40, by striking all before the period and inserting "5.7%";

On page 43, in line 20, by striking "13.878%" and inserting "13.902%"; in line 22, by striking "rates of 6.5% and 6.0%" and inserting "rate of 5.7%"; in line 25, by striking "13.700%" and inserting "13.480%"; in line 27, by striking "rates of 6.5% and 6.0%" and inserting "rate of 5.7%"; in line 31, by striking "13.790%" and inserting "13.376%"; in line 32, by striking "rates of 6.5% and 6.0%" and inserting "rate of 5.7%";

On page 1, in the title, in line 3, by striking ", food"

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 16; Nays 20; Present and Passing 2; Absent or Not Voting 2.

Yeas: Baumgardner, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Kelly, LaTurner, O'Donnell, Petersen, Pettey, Pyle, Tyson, Wolf.

Nays: Abrams, Bowers, Bruce, Denning, Donovan, Holmes, Kerschen, King, Knox, Longbine, Love, Lynn, Melcher, Olson, Ostmeier, Pilcher-Cook, Powell, Smith, Wagle, Wilborn.

Present and Passing: McGinn, Schmidt.

Absent or Not Voting: Arpke, Masterson.

A motion by Senator O'Donnell to amend **S Sub HB 2109** failed and the following amendment was rejected, on page 4, in line 25, after the second comma by inserting "and section 23, and amendments thereto,";

On page 5, in line 4, by striking "year" and inserting "years"; also in line 4, by striking "and all tax years thereafter" and inserting "2016 and 2017";

Also on page 5, following line 23, by inserting:

"(E) For tax year 2018:

If the taxable income is:	The tax is:
Not over \$30,000.....	2.4% of Kansas taxable income
Over \$30,000.....	\$720 plus 4.6% of excess over \$30,000

(F) For tax year 2019:

If the taxable income is:	The tax is:
Not over \$30,000.....	2.3% of Kansas taxable income
Over \$30,000.....	\$.690 plus 4.6% of excess over \$30,000

(G) For tax year 2020, and all tax years thereafter:

If the taxable income is:	The tax is:
Not over \$30,000.....	2.3% of Kansas taxable income
Over \$30,000.....	\$.690 plus 3.9% of excess over \$30,000";

Also on page 5, in line 42, by striking "year" and inserting "years"; also in line 42, by striking "and all tax years thereafter" and inserting "2016 and 2017";

On page 6, following line 18, by inserting:

"(E) For tax year 2018:

If the taxable income is:	The tax is:
Not over \$15,000.....	2.4% of Kansas taxable income
Over \$15,000.....	\$.360 plus 4.6% of excess over

\$15,000

(F) For tax year 2019:

If the taxable income is:	The tax is:
Not over \$15,000.....	2.3% of Kansas taxable income
Over \$15,000.....	\$345 plus 4.6% of excess over \$15,000

(G) For tax year 2020, and all tax years thereafter:

If the taxable income is:	The tax is:
Not over \$15,000.....	2.3% of Kansas taxable income
Over \$15,000.....	\$345 plus 3.9% of excess over \$15,000";

- On page 9, in line 30, by striking "2016" and inserting "2017";
- On page 10, in line 5, by striking "2016" and inserting "2017"; in line 13, by striking "2016" and inserting "2017"; in line 20, by striking "2016" and inserting "2017"; in line 26, by striking "2016" and inserting "2017";
- On page 12, in line 36, by striking "2016" and inserting "2017";
- On page 13, in line 43, by striking "2016" and inserting "2017";
- On page 14, in line 33, by striking "2016" and inserting "2017";
- On page 47, following line 3, by inserting:

"New Sec. 23. (a) As used in this section:

(1) "Business entity" means a limited liability company, S corporation, partnership, association, sole proprietorship, joint venture or other similar form of business organization. The term "business entity" shall not include any business organization subject to the income tax on corporations under K.S.A. 79-32,110(c), and amendments thereto, the privilege tax as measured by net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, or the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto;

(2) "qualified income" means:

(A) Net profit from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return;

(B) net income from rental real estate, royalties, partnerships, S corporations, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and

(C) net farm profit as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; and

(3) "qualified loss" means:

(A) Net loss from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return;

(B) net loss from rental real estate, royalties, partnerships, S corporations, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and

(C) net farm loss as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return.

(b) For tax years 2015, 2016 and 2017, any individual who has an ownership interest in a business entity shall be eligible for the lowest marginal individual income tax rate applicable under K.S.A. 79-32,110, and amendments thereto, with respect to qualified income received from such business. Any qualified income of the individual received from a business entity shall be taxed at the lowest rate for resident individuals pursuant to, and computed in accordance with, the tax schedules listed in K.S.A. 79-32,110, and amendments thereto. Remaining income of the individual shall be taxed pursuant to, and computed in accordance with, the tax schedules listed in K.S.A. 79-32,110, and amendments thereto, without regard to the provisions of this section.

(c) The director of taxation shall not assess any penalties or interest arising from the underpayment of taxes under this section which occurs before April 15, 2016.

(d) The secretary of revenue shall adopt all necessary rules and regulations to implement and administer the provisions of this section.

Sec. 24. K.S.A. 2014 Supp. 79-32,269 is hereby amended to read as follows: 79-32,269. (a) (1) Except as provided in subsection (a)(2), commencing with fiscal year ~~2018~~ 2020, in any fiscal year in which the amount of selected actual state general fund receipts from such fiscal year exceeds the selected actual state general fund receipts for the immediately preceding fiscal year by more than 2%, the director of legislative research shall certify such excess amount to the secretary of revenue and the director of the budget. Upon receipt of such certified amount, the secretary shall compute the excess percentage increase in selected actual state general fund receipts above 2%. Based on such excess percentage of calculated receipt growth, the secretary shall compute the income tax rate reductions to go into effect for the next tax year that would reduce by such certified amount the tax rates during the fiscal year after the next fiscal year according to the provisions of this section, as follows: (A) Rate reductions for individual income tax rates shall be applied to reduce the highest marginal income tax rate applicable to the current tax year, by such excess percentage minus 0.5%, and the lowest marginal income tax rate applicable to the current tax year by such excess percentage plus 0.5%, except that in no case shall such excess percentage plus 0.5% result in an income tax rate increase. In any such computation by the secretary pursuant to this subsection: (i) The resulting income tax rate shall be rounded down to the nearest 0.1%; and (ii) in any case in which the income tax rate for any individual marginal income tax rate is below 0.4%, such rate shall be 0%. Based on all such determinations, the secretary shall reduce individual income tax rates prescribed by K.S.A. 79-32,110, and amendments thereto, as required by this section;

(B) upon all individual marginal income tax rates being reduced to 0% pursuant to the provisions of subsection (a)(1)(A), rate reduction next shall be applied for the surtax on corporations applicable to the current tax year by such excess percentage. In any such computation by the secretary pursuant to this subsection in which the surtax is below 0.4%, such surtax rate shall be 0%. Based on such determination, the secretary shall reduce the surtax on corporations prescribed by K.S.A. 79-32,110, and amendments thereto, as required by this section; and

(C) upon the surtax on corporations being reduced to a rate which when combined with the normal tax rate on corporations is equal to or below the combined surtax and

normal tax imposed on national banking associations and state banks or is equal to or below the combined surtax and normal tax imposed on trust companies and savings and loan associations, rate reductions shall be proportionately applied for the tax on corporations, the tax on national banking associations and state banks, and the tax on trust companies and savings and loan associations. Such rate reductions shall be first applied to the surtax until reduced to 0% and then applied to the normal tax for each such tax. In any such computation by the secretary pursuant to this subsection in which any such tax is below 0.4%, such tax rate shall be 0%. Based on such determination, the secretary shall reduce the surtax and the normal tax on corporations prescribed by K.S.A. 79-32,110, and amendments thereto, the surtax and normal tax on national banking associations and state banks prescribed by K.S.A. 79-1107, and amendments thereto, and the surtax and normal tax on trust companies and savings and loan associations prescribed by K.S.A. 79-1108, and amendments thereto, as required by this section.

(2) In any fiscal year in which the amount of selected actual state general fund receipts for such fiscal year are 102% or less than the selected actual state general fund receipts from the immediately preceding fiscal year, the director of legislative research shall certify such amount and fact to the secretary of revenue and the director of the budget. Upon receipt of such amount and fact, the secretary of revenue shall not make any adjustment to the income tax rates for that tax year.

(b) The secretary of revenue shall report any reduction in income tax rates prescribed by this section to the chairperson of the assessment and taxation committee of the senate, the chairperson of the taxation committee of the house of representatives and the governor, and shall cause notice of any such reduction to be published in the Kansas register prior to September 15 of the calendar year immediately preceding the tax year in which such reduction takes effect.

(c) As used in this section, "selected actual state general fund receipts" means receipts from the following taxes and fees: Individual and corporation income taxes imposed under K.S.A. 79-32,110, and amendments thereto, financial institutions privilege taxes imposed under article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, retail sales taxes imposed under K.S.A. 79-3601 et seq., and amendments thereto, compensating use taxes imposed under K.S.A. 79-3701 et seq., and amendments thereto, cigarette and tobacco product taxes imposed under K.S.A. 79-3301 et seq., and amendments thereto, cereal malt beverage and liquor gallonage taxes imposed under K.S.A. 41-501 et seq., and amendments thereto, liquor enforcement taxes imposed under K.S.A. 79-4101 et seq., and amendments thereto, liquor drink taxes imposed under K.S.A. 79-41a01 et seq., and amendments thereto, corporation franchise taxes imposed under K.S.A. 79-5401, and amendments thereto, annual franchise fees charged pursuant to law and mineral severance taxes imposed under K.S.A. 79-4216 et seq., and amendments thereto.";

Also on page 47, in line 5, after "79-32,120," by inserting "79-32,269,";

And by renumbering sections accordingly;

On page 1, in the title, in line 8, after "79-32,120," by inserting "79-32,269,"

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 0; Nays 32; Present and Passing 6; Absent or Not Voting 2.

Nays: Abrams, Baumgardner, Bowers, Bruce, Denning, Donovan, Faust-Goudeau,

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Fitzgerald, Holland, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Present and Passing: Francisco, Haley, Hawk, Hensley, Kelly, Pettey.

Absent or Not Voting: Arpke, Masterson.

Motions by Senators Pettey and Schmidt to amend **S Sub HB 2109** were withdrawn.

On motion of Senator Bruce, the Senate adjourned until 10:00 a.m., Thursday, May 28, 2015.

ROSE MARIE GLATT, CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks*.

COREY CARNAHAN, *Secretary of the Senate*.

