

Journal of the Senate

THIRTY-NINTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, March 13, 2013, 2:30 p.m.

The Senate was called to order by President Susan Wagle.
The roll was called with forty senators present.

President Wagle introduced, as guest chaplain, The Reverend Jill Jarvis, Unitarian Fellowship of Lawrence who delivered the invocation:

In the spirit of love and compassion, let us pray.

Spirit of Love, Holy One, Source of all Life in which we live and move and have our being,

Let us know that each from our own tradition comes today to lift our spirit in unity.

We hold in loving memory Sally Bottorf, trusted staff member of the revisor of statutes and beloved friend, who died yesterday. Her loved ones are in our hearts in their time of grief, as we acknowledge the sadness of our own loss.

Be in our hearts and minds as we come together, seeking blessings on these men and women and on the tasks before them.

Source of all Creation, may your gift of reason help them engage in a responsible search for truth. May your gift of insight fill them with a sense of gratitude for the gifts that are theirs – knowledge, skills, hard won insights. May your gift of compassion inspire them to give back, to reach out, to those who are discouraged or disheartened -- the young, the dispossessed, the sick, the elderly.

We pray that the members of this body may be humble and able stewards of this work. That they may be open to one another's ideas and beliefs, and respectful of their differences. That they be a force for replacing fear with insight, and that working together they find a common ground, move forward with a shared purpose, banishing roadblocks of ego and fear, each of them working for the good of all.

Spirit of Life and Love, Bless their efforts with clear insight, their deliberations with wisdom, their decisions with impartiality. May they seek to represent fairly and well those who have given them this sacred task. May their personal faiths give each of them strength to act honestly and well in all matters before them, recognizing their responsibility to both the past and the future.

May wisdom, understanding, and compassion reside in the hearts and minds of all who undertake this work entrusted to them today.

In your name we renew these goals in our hearts. May it be so. Amen

The Pledge of Allegiance was led by President Susan Wagle.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 232, AN ACT concerning taxation; relating to earned income tax credit; homestead property tax refunds; amending K.S.A. 2012 Supp. 79-32,205, 79-4508 and 79-4509 and repealing the existing sections, by Committee on Assessment and Taxation.

SB 233, AN ACT concerning the uniform consumer credit code; amending K.S.A. 16a-1-301 and repealing the existing section, by Committee on Ways and Means.

SB 234, AN ACT concerning sales taxation; relating to exemptions; certain machinery and equipment used in surface mining activities; amending K.S.A. 2012 Supp. 79-3606 and repealing the existing section, by Committee on Assessment and Taxation.

SB 235, AN ACT concerning property taxation; relating to exemptions; certain new automobile manufacturing property, by Committee on Assessment and Taxation.

CHANGE OF REFERENCE

The President withdrew **SB 231** from the Committee on Commerce, and referred the bill to the Committee on Assessment and Taxation.

MESSAGE FROM THE GOVERNOR

March 1, 2013

To the Senate of the State of Kansas

Submitted herewith for confirmation by the Senate are appointments made by me as the Governor of the State of Kansas, pursuant to law.

Sam Brownback,
Governor

Member, Kansas Development Finance Authority, Patrice Petersen-Klein (R), Topeka, pursuant to the authority vested in me by the KSA 74-8903 effective upon the date of confirmation by the Senate, to serve a four year term, to expire January 15, 2017.

Member, Kansas Public Employees' Retirement System Board of Trustees, Lois Cox (D), Manhattan, pursuant to the authority vested in me by the KSA 74-4905 effective upon the date of confirmation by the Senate, to serve a four year term, to expire January 15, 2017.

Member, State Board of Indigent Defense Services, Kevin Smith, (R), Goddard, pursuant to the authority vested in me by KSA 22-4519 effective upon the date of confirmation by the Senate to serve a three year term, to expire January 15, 2016.

MESSAGE FROM THE HOUSE

Announcing passage of **HB 2182**.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

HB 2182 was thereupon introduced and read by title.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Longbine, Arpke, Hensley, Holland, Love, Lynn and Melcher introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. **1731**—

A RESOLUTION congratulating and commending the 2013 Kansas Master Teachers.

WHEREAS, Seven of the state's best teachers have been selected as Kansas Master Teachers for 2013. These seven outstanding educators will be honored on Wednesday, April 3, with a day of receptions, seminars and tours at the sponsoring institution, Emporia State University; and

WHEREAS, The 2013 Kansas Master Teachers are Juliann Bliese, a first-grade teacher at Ravenwood Elementary School in Olathe; Michelle Lynn Bogner, a first-grade teacher at Northwest Elementary School in Dodge City; Kathleen Bowen, a gifted education facilitator at Hillcrest and Sunset Hill Elementary Schools in Lawrence; Kacie Evans, an English/language arts teacher at Prairie Heights Middle School and technology coordinator for Prairie Heights Elementary and Middle Schools in Alta Vista; Kelley Norman, a math instructional coach at Chase and Robinson Middle Schools in Topeka; Michele Anne Palmgren, a family and consumer sciences teacher at Salina South High School in Salina; and Tara Walrod, a school counselor at Sunrise Point Elementary School in Overland Park; and

WHEREAS, Emporia State University established the Kansas Master Teacher Awards in 1954. The awards are presented annually to teachers who have served the profession long and well and who also exemplify the outstanding qualities of earnest and conscientious teachers; and

WHEREAS, Since 1980, Bank of America has pledged more than \$100,000 to permanently endow the Kansas Master Teacher Awards. In 1984, the Black family of Broken Bow, Oklahoma, established an endowed chair for Kansas Master Teachers. The fund provides a stipend to bring two Master Teachers to Emporia State University for part of a semester. During this time, the teachers present to classes of education students; and

WHEREAS, The members of the Kansas Senate recognize the invaluable contribution of great teachers such as those being honored here today. These 2013 Kansas Master Teachers serve as mentors and role models and lay the groundwork for the best educators of tomorrow. They go above and beyond what is expected and offer inspiration along with instruction. They teach with heart and soul. By giving the best of themselves, they encourage students to give their best in return; and

WHEREAS, Local teacher associations, educational organizations and school

faculties nominate candidates for the awards. A committee representing educational organizations from across Kansas selected the 2013 winners: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we offer our heartfelt thanks to these extraordinary educators – these teachers who face so many challenges in the classroom each day, yet persevere, choosing the satisfaction of doing their best and overcoming the frustrations inherent in their jobs; that we congratulate and commend the seven 2013 Kansas Master Teachers for demonstrating excellence in their profession and devotion to the children of Kansas and extend our best wishes for their continued success and happiness; and

Be it further resolved: That the Secretary of the Senate shall provide two enrolled copies of this resolution to Senator Longbine, one enrolled copy of this resolution to Senator Arpke, one enrolled copy of this resolution to Senator Hensley, one enrolled copy of this resolution to Senator Holland, one enrolled copy of this resolution to Senator Love, two enrolled copies of this resolution to Senator Lynn, and five enrolled copies of this resolution to Senator Melcher.

On emergency motion of Senator Longbine **SR 1731** was adopted unanimously. The Senators acknowledged the teachers with a standing ovation.

Senators Hawk and Bowers introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. **1732**—

A RESOLUTION designating March 11-17, 2013,
as "Multiple Sclerosis Awareness Week."

WHEREAS, Multiple Sclerosis interrupts the flow of information between the brain and the body and stops people from moving. It is an unpredictable, often disabling disease of the central nervous system, and every hour in the United States someone is newly diagnosed; and

WHEREAS, The Mid America Chapter of the National Multiple Sclerosis (MS) Society reports that MS affects an estimated 2.5 million people worldwide, 400,000 nationwide and over 4,400 Kansans; and

WHEREAS, Often first diagnosed in individuals aged 20-50, attacking them in the prime of their lives, MS is the most common neurological disease leading to disability in young adults; and

WHEREAS, The symptoms of MS range from numbness and tingling to blindness and paralysis. The progress, severity and specific symptoms of MS in any one person cannot yet be predicted, but advances in research and treatment are moving us closer to a world free of MS; and

WHEREAS, The Mid America Chapter of the National MS Society has been committed to mobilize people throughout Kansas who want to assist those afflicted with MS; and

WHEREAS, "Walk MS" events are scheduled this spring in Emporia, Garden City, Kansas City, Hays, Hiawatha, Hutchinson, Lawrence, Manhattan, Neodesha, Salina, Topeka and Wichita; and

WHEREAS, The mission of the National Multiple Sclerosis Society is to mobilize people and resources to drive research for a cure and to address the challenges of everyone affected by MS: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we declare March 11-17, 2013, as "Multiple Sclerosis Awareness Week." We recognize the importance of moving closer to a world free of multiple sclerosis and express appreciation to the Mid America Chapter of the National MS Society for its work; and

Be it further resolved: That the Secretary of the Senate provide two enrolled copies of this resolution to Senator Hawk.

On emergency motion of Senator Hawk **SR 1732** was adopted unanimously.

FINAL ACTION ON CONSENT CALENDAR

HB 2006 and **HB 2013** having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

HB 2006, AN ACT concerning the Kansas rules and regulations filing act; amending K.S.A. 2012 Supp. 77-415 and repealing the existing section.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

The bill passed.

HB 2013, AN ACT concerning crimes and punishment; relating to perjury; amending K.S.A. 2012 Supp. 21-5903 and repealing the existing section.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

The bill passed.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

SB 45, AN ACT concerning the use of state appropriated moneys, was considered on final action.

On roll call, the vote was: Yeas 32; Nays 8; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Fitzgerald, Haley, Hensley, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle.

Nays: Emler, Faust-Goudeau, Francisco, Hawk, Holland, Pettey, V. Schmidt, Wolf.

The bill passed, as amended.

HB 2019, AN ACT concerning the court of appeals; relating to appointment of judges by the governor; amending K.S.A. 20-3006 and 20-3010 and K.S.A. 2012 Supp.

20-3002 and repealing the existing sections; also repealing K.S.A. 20-3004, 20-3005, 20-3007, 20-3008 and 20-3009, was considered on final action.

On roll call, the vote was: Yeas 28; Nays 12; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle.

Nays: Emler, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, McGinn, Pettey, V. Schmidt, Wolf.

The bill passed.

HB 2066, AN ACT concerning physical therapists; evaluation and treatment of patients; amending K.S.A. 2012 Supp. 65-2921 and repealing the existing section, was considered on final action.

On roll call, the vote was: Yeas 39; Nays 1; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

Nays: Apple.

The bill passed.

EXPLANATION OF VOTE

Madame President : I Vote “NO” on **HB 2019**. As the Ranking Minority Member of our Senate Judiciary Committee for over a dozen years now, I can say, most assuredly, that THIS House Bill (though similar in its mechanics to the failed SCR 1601 attempting to adopt the federal model for Kansas Supreme Court Justices by direct gubernatorial designation), is not the same as THAT measure. With such a quantum leap in the appointment of Appellate Judges, the Senate Judiciary Committee should have at least afforded a hearing. It is difficult to understand what we are accomplishing here with this change to a time honored system of merit selection to what may regrettably become a system of appointment by ideology by some governor’s social or fiscal philosophy. Why change; really? It would have been consistent to have heard the proponents and the opponents to this sweeping change before the Senate Judiciary Committee. Since I for one, after all of these years in the Senate, still respect the committee process to reach clear understanding and consensus, it would appear suspicious (and therefor untenable) for me to support the measure. Madame President; again, I Vote “ NO “ on **HB 2019**. —DAVID HALEY

REPORT ON ENGROSSED BILLS

SB 45 reported correctly engrossed March 13, 2013.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **SB 226** be passed.

Also, **HB 2193** be passed and, because the committee is of the opinion that the bill is

of a noncontroversial nature, be placed on the consent calendar.

SB 203, be amended by adoption of the amendments recommended by the Senate Committee on Federal and State Affairs as reported in the Journal of the Senate on February 27, 2013, and the bill, as printed with amendments by Senate Committee, be further amended:

On page 1, following line 5, by inserting:

"Section 1. K.S.A. 2012 Supp. 41-104 is hereby amended to read as follows: 41-104. No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish or possess any alcoholic liquor for beverage purposes, except as specifically provided in this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto, except that nothing contained in this act shall prevent:

(a) The possession and transportation of alcoholic liquor for the personal use of the possessor, the possessor's family and guests except that the provisions of K.S.A. 41-407, and amendments thereto, shall be applicable to all persons;

(b) the making of wine, cider or beer by a person from fruits, vegetables or grains, or the product thereof, by simple fermentation and without distillation, if it is made solely for the use of the maker and the maker's family;

(c) any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of the medical or dental profession;

(d) any hospital or other institution caring for sick and diseased persons, from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or institution;

(e) any drugstore employing a licensed pharmacist from possessing and using alcoholic liquor in the compounding of prescriptions of duly licensed physicians;

(f) the possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church; or

(g) the sale of wine to a consumer in this state by a person which holds a valid license authorizing the manufacture of wine in this or another state and the shipment of such wine directly to such consumer, subject to the following: (1) The consumer must be at least 21 years of age; (2) the consumer must purchase the wine while physically present on the premises of the wine manufacturer; (3) the wine must be for the consumer's personal consumption and not for resale; and (4) the consumer shall comply with the provisions of K.S.A. 41-407, and amendments thereto, by payment of all applicable taxes within such time after purchase of the wine as prescribed by rules and regulations adopted by the secretary.

(h) The serving of complimentary alcoholic liquor or cereal malt beverages at fund raising activities of charitable organizations as defined by K.S.A. 17-1760, and amendments thereto, and as qualified pursuant to 26 U.S.C.A. § 501(c) and by committees formed pursuant to K.S.A. 25-4142 et seq., and amendments thereto. The serving of such alcoholic liquor at such fund raising activities shall not constitute a sale pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto. Any such fund raising activity shall not be required to obtain a license or a temporary permit pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto.

(i) The serving of complimentary alcoholic liquor or cereal malt beverage on the unlicensed premises of a business by the business owner or owner's agent at an event sponsored by a nonprofit organization promoting the arts and which has been approved by ordinance or resolution of the governing body of the city, county or township wherein the event will take place and whereby the director of the alcoholic beverage control has been notified thereof no less than 10 days in advance.";

And by redesignating sections accordingly;

On page 2, in line 14, after "ounces;" by inserting "or"; in line 17, by striking "; or"; by striking all in lines 18 through 23; in line 24, by striking all before the period; in line 25, after "(d)" by inserting:

"A public venue club, drinking establishment, caterer or holder of a temporary permit may, upon the approval of the director, offer customer self-service of alcoholic liquor or cereal malt beverage from automated devices on the licensed premises provided that the licensee monitors and has the ability to control the consumption of such alcoholic liquor and cereal malt beverage from automated devices.

Criteria that the director shall require for approval of such automated devices include, but are not limited to, having video surveillance, operation of such devices by a smart card system capable of limiting or ceasing service, and limiting operation of the devices during business hours when the licensee's management is present at the licensed premises and maintains constant visual contact with the automated devices.

(e) ";

And by redesignating subsections accordingly;

On page 4, in line 3, after "Supp." by inserting "41-104 and"; also in line 3, by striking "is" and inserting "are";

On page 1, in the title, in line 2, after "Supp." by inserting "41-104 and"; in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Natural Resources** recommends **HB 2138**, as amended by House Committee, be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Also, **HB 2305** be amended on page 1, in line 31, by striking the first comma and inserting ". Such system"; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **HB 2078**, as amended by House Committee, be amended on page 3, in line 43, by striking "if such applicant satisfies the";

On page 4, in line 1, by striking all before the period; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2147** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Also, **HB 2176** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

HB 2177, as amended by House Committee of the Whole, be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

HB 2202, as amended by House Committee, be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

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 Emler in the chair.

On motion of Senator Emler the following report was adopted:

Recommended: **SB 42; HB 2252** be passed.

HB 2081 be amended by the adoption of the committee amendments, and the bill be passed as amended.

HB 2059 be amended by the adoption of the committee amendments and further amended by motion of Senator Apple on page 22, in line 42, by striking the first "and" and inserting a comma;

On page 23, in line 1, before "to" by inserting "and the amount of wagering losses claimed as in itemized deduction in section 165 (d) of the federal internal revenue code, and amendments thereto,"

On page 1, in the title, in line 1, after "rates" by inserting a comma

In accordance with Senate Rule 27, Senator Pyle requested the question on **HB 2059**, as amended by Senate Committee, be divided into six parts.

The first part containing the provisions of the bill which make clarifying and technical adjustments to a number of income and severance tax provisions enacted in 2012 contained in sections 1 through 3 and section 5.

The second part containing the provisions of the bill which relate to the income tax add back to federal adjusted gross income for Subchapter S corporations with subsidiaries otherwise subject to the privilege tax contained in section 6.

The third part containing the provisions of the bill which relate to individual Kansas income tax rate reductions contained in section 7.

The fourth part containing the provisions of the bill which relate to the Kansas income tax itemized deduction for qualified residential interest contained in section 8.

The fifth part containing the provisions of the bill which relate to the Kansas retailers' sales tax and compensating use tax contained in section 4 and sections 9 through 11.

The sixth part containing the provisions of the bill which relate to individual income tax rate reductions attributable to state general fund receipts growth beyond 4% contained in section 12.

The voice vote to retain the first part prevailed.

The voice vote to retain the second part prevailed.

The vote to retain the third part prevailed.

Upon the showing of five hands a roll call was requested:

On roll call, the vote was: Yeas 28; Nays 8; Present and Passing 4; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle.

Nays: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Pettey.

Present and Passing: Emler, McGinn, V. Schmidt, Wolf.

The vote to retain the fourth part prevailed.

Upon the showing of five hands a roll call was requested:

On roll call, the vote was: Yeas 30; Nays 10; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, V. Schmidt, Smith, Tyson, Wagle, Wolf.

Nays: Emler, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Pettey, Pyle.

The vote to retain the fifth part prevailed.

Upon the showing of five hands a roll call was requested:

On roll call, the vote was: Yeas 24; Nays 10; Present and Passing 6; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Pilcher-Cook, Powell, Smith, Tyson, Wagle.

Nays: Emler, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Pettey, Pyle.

Present and Passing: McGinn, Olson, Ostmeyer, Petersen, V. Schmidt, Wolf.

EXPLANATION OF VOTE

Mr. Chairman: I vote "no" on this fifth provision as it has been explained by the Senator from Brown, this provision allows the onerous, but then necessary, sales tax increase (passed in 2010) to expire this year (2013) just as we were assured it would when it was first passed.

I promised my constituents when running for re-election to this seat that i would always vote to lessen the tax and fee burden that government imposes on us all.

Today is the first chance I have gotten to keep my word. and I am. Right here. Right now. To do otherwise is precisely what gives "politicians" a bad name.

You know, Mr. chairman, my County retailers, Wyandotte County Retailers, of all sizes from mom-and-pop small businesses (like Anna's BLD and Roger's and Carpetcorner) to big boxes (like Nebraska Furniture Mart and Walmart and Cabela's) often lose sales to our neighboring state (Missouri).

This is the first of what may be several opportunities to reduce the tax burden on all Kansans. and no matter what games or prestidigitational procedural maneuvers that "tax and spend *republicans*" employ, I intend to keep voting to ease the tax burden on my constituency ... and on all hard-working Kansans. this is the most regressive of all taxes. – DAVID HALEY

The vote to retain the sixth part prevailed by voice vote.

The entire bill **HB 2059** was considered.

HB 2059 be further amended by motion of Senator Masterson, on page 22, in line 27, by striking "For taxable years commencing prior to January 1, 2013,,"; by striking all in lines 38 through 43;

On page 23, by striking all in lines 1 through 6 and inserting:

"secretary of revenue shall annually establish a ratio for each tax year to determine the maximum total amount of deductions from federal adjusted gross income that can

be claimed by an individual under this section by dividing the current highest marginal income tax rate for the applicable tax year found in K.S.A. 79-32,110, and amendments thereto, by the baseline highest marginal income tax rate of 6.45%, except that in any tax year in which there is no change in the highest marginal income tax rate from the previous year and there is a change in the lowest marginal income tax rate, the secretary shall establish such ratio by dividing such lowest marginal income tax rate by the baseline lowest marginal income tax rate of 3.5%. In any year in which both the lowest and highest marginal income tax rates change, the secretary shall use the greater ratio established pursuant to this subsection in determining the maximum total amount of deductions. The resulting number, rounded up to the nearest two decimal points, shall be the ratio for each tax year to be established annually by the secretary of revenue. The ratio established by the secretary of revenue under this subsection shall not exceed a maximum of 1.00.

(d) In determining the maximum total amount of deductions from federal adjusted gross income that can be claimed by an individual under this section, an individual shall multiply the total amount of deductions from federal adjusted gross income allowed under this section by the ratio established by the secretary of revenue in subsection (c). The resulting number shall be the maximum total amount of deductions from federal adjusted gross income that can be claimed on the individual's state income tax return in lieu of the standard deduction.";

On page 1, in the title, in line 1, after "rates" by inserting a comma

HB 2059 be further amended by motion of Senator Apple on page 23, after line 6, by inserting the following:

"(e) The provisions of this section that provide for a reduction in the total amount of deductions from federal adjusted gross income shall not apply to contributions that qualify as charitable contributions allowable as deductions in section 170 of the federal internal revenue code, and amendments thereto."

HB 2059 be further amended by motion of Senator Apple on page 23, after line 6, by inserting:

"(f) Notwithstanding any provision of this section to the contrary, for taxable years commencing after January 1, 2013, the total amount of deductions from federal adjusted gross income shall be reduced by the total amount of wagering losses claimed as an itemized deduction in section 165(d) of the federal internal revenue code, and amendments thereto."

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

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, V. Schmidt, Smith, Tyson, Wagle, Wolf.

The amendment was adopted.

HB 2059 be further amended by motion of Senator Pettey, on page 31, following line 43, by inserting:

"New Sec. 13. (a) Commencing in tax year 2013, and all tax years thereafter, and in addition to the credit provided in subsection (b), there shall be allowed as a credit

against the tax liability of a resident individual imposed under the Kansas income tax act an amount equal to: (1) 25% of the amount of the credit allowed against such taxpayer's federal income tax liability pursuant to section 23 of the federal internal revenue code determined without regard to subsection (c) of such section; (2) in addition to subsection (a)(1), 25% of the amount of such federal income tax credit, if the child adopted by the taxpayer was a resident of Kansas prior to such lawful adoption; and (3) and in addition to subsections (a)(1) and (a)(2), 25% of the amount of such federal income tax credit, if the child adopted by the taxpayer is a child with special needs, as defined in section 23 of the federal internal revenue code, and the child was a resident of Kansas prior to such lawful adoption, for the taxable year in which such credit was claimed against the taxpayer's federal income tax liability.

(b) Commencing in tax year 2013, and all tax years thereafter, there shall be allowed as a credit against the tax liability of a resident individual imposed under the Kansas income tax act an amount equal to \$1,500 for the taxable year in which occurs the lawful adoption of a child in the custody of the secretary for children and families or a child with special needs, whether or not such individual is reimbursed for all or part of qualified adoption expenses or has received a public or private grant therefor. As used in this subsection, terms and phrases shall have the meanings ascribed thereto by the provisions of section 23 of the federal internal revenue code.

(c) The credit allowed by subsections (a) and (b) shall not exceed the amount of the tax imposed by K.S.A. 79-32,110, and amendments thereto, reduced by the sum of any other credits allowable pursuant to law. If the amount of such tax credit exceeds the taxpayer's income tax liability for such taxable year, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credits has been deducted from tax liability.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "rates" by inserting a comma; also in line 1, by striking "and" and inserting a comma; in line 2, after "modifications" by inserting "and credits" on **HB 2059** be passed as further amended.

A motion by Senator V. Schmidt to amend **HB 2059** failed and the following amendment was rejected: on page 22, in line 42, by striking the first "and" and inserting a comma;

On page 23, in line 1, before "to" by inserting "and by the amount of wagering losses claimed as an itemized deduction in section 165(d) of the federal internal revenue code, and amendments thereto,";

On page 31, after line 43, by inserting:

"New Sec. 13. (a) Commencing in tax year 2013, and all tax years thereafter, there shall be allowed as a credit against the tax liability of a resident individual imposed under the Kansas income tax act an amount equal to 17% of the amount of the credit allowed against such taxpayer's federal income tax liability pursuant to section 21 of the federal internal revenue code for expenses for household and dependent care services necessary for gainful employment for the taxable year in which such credit was claimed against the taxpayer's federal income tax liability.

(b) The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by K.S.A. 79-32,110, and amendments thereto, reduced by the sum of any other credits allowable pursuant to law.

(c) No credit provided under this section shall be allowed any individual who fails to provide a valid social security number issued by the social security administration, to such individual, the individual's spouse and every dependent of the individual.

New Sec. 14. (a) Any resident individual taxpayer who makes expenditures for the purpose of making all or any portion of an existing facility accessible to individuals with a disability, which facility is used as, or in connection with, such taxpayer's principal dwelling or the principal dwelling of a lineal ascendant or descendant, including construction of a small barrier-free living unit attached to such principal dwelling, shall be entitled to claim a tax credit in an amount equal to the applicable percentage of such expenditures or \$9,000, whichever is less, against the income tax liability imposed against such taxpayer pursuant to article 32 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto. Nothing in this subsection shall be deemed to prevent any such taxpayer from claiming such credit: (1) For each principal dwelling in which the taxpayer or lineal ascendant or descendant may reside, or facility used in connection therewith; or (2) more than once, but not more often than once every four-year period of time. The applicable percentage of such expenditures eligible for credit shall be as set forth in the following schedule:

Taxpayers Kansas Adjusted Gross Income	% of expenditures eligible for credit
\$0 to \$25,000	100%
Over \$25,000 but not over \$30,00	90%
Over \$30,000 but not over \$35,000	80%
Over \$35,000 but not over \$40,000	70%
Over \$40,000 but not over \$45,000	60%
Over \$45,000 but not over \$55,000	50%
Over \$55,000	0

Such tax credit shall be deducted from the taxpayer's income tax liability for the taxable year in which the expenditures are made by the taxpayer. If the amount of such tax credit exceeds the taxpayer's income tax liability for such taxable year, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried over for deduction after the fourth taxable year succeeding the taxable year in which the expenditures are made.

(b) Notwithstanding the provisions of subsection (a), if the amount of the taxpayer's tax liability is less than \$2,250 in the first year in which the credit is claimed under this section, an amount equal to the amount by which $\frac{1}{4}$ of the credit allowable under this section exceeds such tax liability shall be refunded to the taxpayer and the amount by which such credit exceeds such tax liability less the amount of such refund may be carried over for the next three succeeding taxable years. If the amount of the taxpayer's tax liability is less than \$2,250 in the second year in which the credit is claimed under this section, an amount equal to the amount by which $\frac{1}{3}$ of the amount of the credit carried over from the first taxable year exceeds such tax liability shall be refunded to

the taxpayer and the amount by which the amount of the credit carried over from the first taxable year exceeds such tax liability less the amount of such refund may be carried over for the next two succeeding taxable years. If the amount of the taxpayer's tax liability is less than \$2,250 in the third year in which the credit is claimed under this section, an amount equal to the amount by which $\frac{1}{2}$ of the amount carried over from the second taxable year exceeds such tax liability shall be refunded to the taxpayer and the amount by which the amount of the credit carried over from the second taxable year exceeds such tax liability less the amount of such refund may be carried over to the next succeeding taxable year. If the amount of the credit carried over from the third taxable year exceeds the taxpayer's income tax liability for such year, the amount thereof which exceeds such tax liability shall be refunded to the taxpayer.

(c) The provisions of this section are applicable to tax year 2013, and all tax years thereafter.

Sec. 15. K.S.A. 2012 Supp. 79-32,177 is hereby amended to read as follows: 79-32,177. ~~(a)~~ Any taxpayer who makes expenditures for the purpose of making all or any portion of an existing facility accessible to individuals with a disability, or who makes expenditures for the purpose of making all or any portion of a facility or of equipment usable for the employment of individuals with a disability, which facility or equipment is on real property located in this state and used in a trade or business or held for the production of income, shall be entitled to claim an income tax credit in an amount equal to 50% of such expenditures or, the amount of \$10,000, whichever is less, against the income tax liability imposed against such taxpayer pursuant to article 32 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto. Such tax credit shall be deducted from the taxpayer's income tax liability for the taxable year in which the expenditures are made by the taxpayer. If the amount of such tax credit exceeds the taxpayer's income tax liability for such taxable year, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried over for deduction after the fourth taxable year succeeding the taxable year in which the expenditures are made.

~~(b) For tax year 2013 and all tax years thereafter, the income tax credit provided by this section shall only be available to taxpayers subject to the income tax on corporations imposed pursuant to subsection (c) of K.S.A. 79-32,110, and amendments thereto, and shall be applied only against such taxpayer's corporate income tax liability.~~;

And by renumbering sections accordingly;

On page 32, in line 2, after "79-32,118," by inserting "79-32,177,";

On page 1, in the title, in line 1, after "rates" by inserting a comma; also in line 1, by striking "and" and inserting a comma; in line 2, after "modifications" by inserting "and credits"; in line 5, after "79-32,120," by inserting "79-32,177,"

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

On roll call, the vote was: Yeas 14; Nays 26; Present and Passing 0; Absent or Not Voting 0.

Yeas: Bowers, Emler, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, Longbine, McGinn, Pettey, V. Schmidt, Wolf.

Nays: Abrams, Apple, Arpke, Bruce, Denning, Donovan, Fitzgerald, Holmes,

Kerschen, King, Knox, LaTurner, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle.

The motion failed and the amendment was rejected.

A motion by Senator McGinn to amend **HB 2059** failed and the following amendment was rejected; on page 5, in line 37, before the period, by inserting ", as well as such revenue collected and received at the rate of 6.3%, after June 30, 2013"; in line 39, by striking "16.67%" and inserting "18.421%"; in line 41, by striking "6.3%" and inserting "5.7%";

On page 23, by striking all in lines 7 through 43; by striking all on pages 24 through 30, on page 31, by striking all in lines 1 through 16;

And by renumbering sections accordingly;

On page 32, in line 4, after "79-32,110" by striking the comma and inserting "and"; also in line 4 by striking the last comma; in line 5 by striking "79-3603, 79-3703 and 79-3710";

On page 1, in the title, in line 2, by striking all after "tax;"; in line 3, by striking "revenue;"; in line 5, by striking "79-3603,"; also in line 5, by striking ", 79-3703, 79-3710"

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

On roll call, the vote was: Yeas 17; Nays 23; Present and Passing 0; Absent or Not Voting 0.

Yeas: Bowers, Emler, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, McGinn, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Pyle, V. Schmidt, Wolf.

Nays: Abrams, Apple, Arpke, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, O'Donnell, Olson, Powell, Smith, Tyson, Wagle.

The motion failed and the amendment was rejected.

EXPLANATION OF VOTE

Mr. Chairman: I voted to repeal the sales tax when I was in the House in 2011. That was the promise I made when I ran for the House. When I ran for the Senate it was not an issue. It never came up. Not once. People in my district are concerned about an unfair school finance formula that picks winners and losers. They are worried about a tax plan that picks winners and losers. We are on our way to a zero income tax state. I appreciate the work of the tax chair and tax committee. Ultimately I would like to see our tax policy go to the Fair Tax, which is in the House in the form of **HB 2355**. It didn't get a hearing and we, in the Senate, did not give it Legislative scrutiny. That is disappointing. Repealing this tax would cause harm to schools. I vote "no." – GREG SMITH

Senator Fitzgerald requests the record to show he concurs with the "Explanation of Vote" on **HB 2059** offered by Senator Smith.

Mr. Chairman: I vote "aye" on the amendment which keeps the promise I made to my constituents to insure the one time sales tax increase to expire (or "sunset") after three (3) years.

While some here may be eager to explore other, potentially reckless tax configurations, that may or may not balance our three-legged revenue stool and in this

economy where every extra penny on the dollar does count (whether the constituent/consumer actually notices or not), it is disingenuous for us to not keep our word on this most regressive of all taxes which disaffects all working Kansans. keeping our word to the constituents who vote in our districts should be easy.

Removing tax burdens ... seen or unseen ... painful or painless ... should be the right thing reflected by all of our votes. to me, to do otherwise only makes an oxymoron of the words "integrity" and "politician." – DAVID HALEY

Senator Francisco requests the record to show she concurs with the "Explanation of Vote" on **HB 2059** offered by Senator Haley.

A motion by Senator Faust-Goudeau to amend **HB 2059** failed and the following amendment was rejected: on page 4, in line 35, before the period, by inserting "including refunds authorized under the provisions of the food sales tax refund act, and amendments thereto";

On page 31, following line 43, by inserting:

"New Sec. 13. The provisions of sections 13 through 20, K.S.A. 79-3632 and 79-3639a, and amendments thereto, shall be known and may be cited as the food sales tax refund act.

New Sec. 14. As used in the food sales tax refund act unless the context clearly indicates otherwise:

(a) "Income" means adjusted gross income determined under the Kansas income tax act without regard to the modifications specified by subsections (c)(i), (ii) regarding Kansas public employee retirement system retirement benefits, (vii), (ix) and (xii) of K.S.A. 79-32,117, and amendments thereto.

(b) "Household" means a claimant and all other persons for whom a personal exemption is claimed who together occupy a common residence.

(c) "Claimant" means a person who has filed a claim for a refund or credit under the provisions of this act and was, during the entire calendar year preceding the year in which the claim was filed for relief under this act, domiciled in this state, was a member of a household, had income of not more than \$36,700 in the calendar year for which a claim is filed and was: (1) A person having a disability; (2) a person other than a person included under clause (1), who has attained 55 years of age in the calendar year for which a claim is filed; or (3) a person other than a person included under clause (1) or (2) having one or more dependent children under 18 years of age residing at the person's homestead during the calendar year for which a claim is filed.

(d) "Head of household" means the person filing a claim under the provisions of this act.

(e) "Disability" means: (1) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, and an individual shall be determined to be under a disability only if the physical or mental impairment or impairments are of such severity that the individual is not only unable to do the individual's previous work but cannot, considering age, education and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which the individual lives or whether a specific job vacancy exists for the individual, or whether the individual would be hired if

application was made for work. For purposes of the preceding sentence, with respect to any individual, "work which exists in the national economy" means work which exists in significant numbers either in the region where the individual lives or in several regions of the country; for purposes of this subsection, a "physical or mental impairment" is an impairment that results from anatomical, physiological or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques; or

(2) blindness and inability by reason of blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which the individual has previously engaged with some regularity and over a substantial period of time.

(f) "Blindness" means central visual acuity of $^{20}/_{200}$ or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purpose of this paragraph as having a central visual acuity of $^{20}/_{200}$ or less.

New Sec. 15. The right to file a claim for a refund under the food sales tax refund act shall be personal to the claimant and shall not survive such claimant's death, but such right may be exercised on behalf of a claimant by such claimant's legal guardian, conservator or attorney-in-fact. When a claimant dies after having filed a timely claim, the amount of such claim shall be disbursed to another member of the household as determined by the director of taxation. If the claimant was the only member of such claimant's household, the claim may be paid to such claimant's executor or administrator, but if neither is appointed and qualified, the amount of the claim may be paid upon a claim duly made to any heir at law. In the absence of any such claim within two years of the filing of the claim, the amount of the claim shall escheat to the state.

New Sec. 16. (a) (1) A claimant shall be entitled to a refund of retailers' sales taxes paid upon food during the calendar year 2013 and each year thereafter in the amount hereinafter provided. There shall be allowed for each member of a household of a claimant having income of \$18,350 or less, an amount equal to \$94. There shall be allowed for each member of a household of a claimant having income of more than \$18,350 but not more than \$36,700, an amount equal to \$47. There shall be allowed for a claimant who qualifies for an additional personal exemption amount pursuant to K.S.A. 79-32,121, and amendments thereto, an additional amount of \$47 or \$94, as the case requires. All such claims shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director of taxation or by a person or persons designated by the director.

(2) As an alternative to the procedure described by subsection (a)(1), for all taxable years commencing after December 31, 2012, there shall be allowed as a credit against the tax liability of a resident individual imposed under the Kansas income tax act an amount equal to \$47 or \$94, as the case requires, for each member of a household. There shall be allowed for a claimant who qualifies for an additional personal exemption amount pursuant to K.S.A. 79-32,121, and amendments thereto, an additional amount of \$47 or \$94, as the case requires. If the amount of such tax credit exceeds the claimant's income tax liability for such taxable year, such excess amount shall be refunded to the claimant.

(b) A head of household shall make application for refunds for all members of the

same household upon a common form provided for the making of joint claims. All claims paid to members of the same household shall be paid as a joint claim by means of a single warrant.

(c) No claim for a refund of taxes under the provisions of the food sales tax refund act shall be paid or allowed unless such claim is actually filed with and in the possession of the department of revenue on or before April 15 of the year next succeeding the year in which such taxes were paid. The director of taxation may: (1) Extend the time for filing any claim under the provisions of this act when good cause exists therefor; or (2) accept a claim filed after the deadline for filing in the case of sickness, absence or disability of the claimant if such claim has been filed within four years of such deadline.

(d) In the case of all tax years commencing after December 31, 2012, the threshold income amounts prescribed in this section and section 14, and amendments thereto, and the amounts of refund of taxes and the amounts of the tax credit, both as prescribed in this section, shall be increased by an amount equal to such threshold amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) of the federal internal revenue code for the calendar year in which the taxable year commences.

New Sec. 17. (a) In administering the food sales tax refund act, the division of taxation shall make available suitable forms with instructions for claimants. Copies of such forms shall also be made available to all county clerks and county treasurers in sufficient numbers to supply claimants residing in their respective counties. It shall be the duty of the county clerk to assist any claimant seeking assistance in the filing of a claim under the provisions of this act. The county treasurer of each county shall mail to each taxpayer with the property tax statement of such taxpayer information on the claiming of a refund of retailers' sales taxes paid upon food, which shall be provided by the secretary of revenue.

(b) The secretary of revenue is hereby authorized to adopt such rules and regulations as may be necessary for the administration of the provisions of this act.

New Sec. 18. Every claimant for the refund of taxes under the provisions of the food sales tax refund act shall supply to the division, in support of a claim, a valid social security number issued by the social security administration for each claimant, every household member and every dependent child, a clear statement as to whether such claimant qualifies for a refund under the provisions of section 14, and amendments thereto, reasonable proof of age or disability, and household income. A claim alleging disability shall be supported by a report of the examining physician of the claimant with a statement or certificate that the applicant has a disability within the meaning of section 14, and amendments thereto.

New Sec. 19. In any case in which it is determined that a claim was filed with fraudulent intent, the claim shall be disallowed, and, if the claim has been paid, the amount paid may be recovered by assessment as income taxes are assessed, and such assessment shall bear interest from the date of payment of the claim, until recovered, at the rate prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto. The claimant in such case, and any person who assisted in the preparation or filing of such claim, or supplied information upon which such claim was prepared, with fraudulent intent, shall be guilty of a class B misdemeanor.

New Sec. 20. The director of taxation shall examine all claims for refund under the food sales tax refund act, and shall issue final determinations of such claims in the

manner prescribed by K.S.A. 79-3226, and amendments thereto, relating to income taxes.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "rates" by inserting a comma; in line 3, after "revenue;" by inserting "providing food sales tax refunds;"

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

On roll call, the vote was: Yeas 17; Nays 22; Present and Passing 1; Absent or Not Voting 0.

Yeas: Bowers, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, LaTurner, Longbine, McGinn, O'Donnell, Petersen, Pettey, Pyle, V. Schmidt, Wolf.

Nays: Abrams, Apple, Arpke, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, Love, Lynn, Masterson, Melcher, Olson, Ostmeyer, Pilcher-Cook, Powell, Smith, Tyson, Wagle.

Present and Passing: Emler.

The motion failed and the amendment was rejected.

A motion by Senator V. Schmidt to amend **HB 2059** failed and the following amendment was rejected: on page 23, after line 6, by inserting:

"(d) Notwithstanding any provision of this section to the contrary, for taxable years commencing after January 1, 2013, the total amount of deductions from federal adjusted gross income shall be reduced by the total amount of wagering losses claimed as an itemized deduction in section 165(d) of the federal internal revenue code, and amendments thereto.";

On page 31, after line 43, by inserting:

"New Sec. 13. (a) Commencing in tax year 2013, and all tax years thereafter, there shall be allowed as a credit against the tax liability of a resident individual imposed under the Kansas income tax act an amount equal to 17% of the amount of the credit allowed against such taxpayer's federal income tax liability pursuant to section 21 of the federal internal revenue code for expenses for household and dependent care services necessary for gainful employment for the taxable year in which such credit was claimed against the taxpayer's federal income tax liability.

(b) The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by K.S.A. 79-32,110, and amendments thereto, reduced by the sum of any other credits allowable pursuant to law.

(c) No credit provided under this section shall be allowed any individual who fails to provide a valid social security number issued by the social security administration, to such individual, the individual's spouse and every dependent of the individual.

New Sec. 14. (a) Any resident individual taxpayer who makes expenditures for the purpose of making all or any portion of an existing facility accessible to individuals with a disability, which facility is used as, or in connection with, such taxpayer's principal dwelling or the principal dwelling of a lineal ascendant or descendant, including construction of a small barrier-free living unit attached to such principal dwelling, shall be entitled to claim a tax credit in an amount equal to the applicable percentage of such expenditures or \$9,000, whichever is less, against the income tax liability imposed against such taxpayer pursuant to article 32 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto. Nothing in this subsection shall be deemed to prevent any such taxpayer from claiming such credit: (1) For each principal dwelling in which the taxpayer or lineal ascendant or descendant may reside, or facility

used in connection therewith; or (2) more than once, but not more often than once every four-year period of time. The applicable percentage of such expenditures eligible for credit shall be as set forth in the following schedule:

Taxpayers Kansas Adjusted Gross Income	% of expenditures eligible for credit
\$0 to \$25,000	100%
Over \$25,000 but not over \$30,000	90%
Over \$30,000 but not over \$35,000	80%
Over \$35,000 but not over \$40,000	70%
Over \$40,000 but not over \$45,000	60%
Over \$45,000 but not over \$55,000	50%
Over \$55,000	0

Such tax credit shall be deducted from the taxpayer's income tax liability for the taxable year in which the expenditures are made by the taxpayer. If the amount of such tax credit exceeds the taxpayer's income tax liability for such taxable year, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried over for deduction after the fourth taxable year succeeding the taxable year in which the expenditures are made.

(b) Notwithstanding the provisions of subsection (a), if the amount of the taxpayer's tax liability is less than \$2,250 in the first year in which the credit is claimed under this section, an amount equal to the amount by which $\frac{1}{4}$ of the credit allowable under this section exceeds such tax liability shall be refunded to the taxpayer and the amount by which such credit exceeds such tax liability less the amount of such refund may be carried over for the next three succeeding taxable years. If the amount of the taxpayer's tax liability is less than \$2,250 in the second year in which the credit is claimed under this section, an amount equal to the amount by which $\frac{1}{3}$ of the amount of the credit carried over from the first taxable year exceeds such tax liability shall be refunded to the taxpayer and the amount by which the amount of the credit carried over from the first taxable year exceeds such tax liability less the amount of such refund may be carried over for the next two succeeding taxable years. If the amount of the taxpayer's tax liability is less than \$2,250 in the third year in which the credit is claimed under this section, an amount equal to the amount by which $\frac{1}{2}$ of the amount carried over from the second taxable year exceeds such tax liability shall be refunded to the taxpayer and the amount by which the amount of the credit carried over from the second taxable year exceeds such tax liability less the amount of such refund may be carried over to the next succeeding taxable year. If the amount of the credit carried over from the third taxable year exceeds the taxpayer's income tax liability for such year, the amount thereof which exceeds such tax liability shall be refunded to the taxpayer.

(c) The provisions of this section are applicable to tax year 2013, and all tax years thereafter.

Sec. 15. K.S.A. 2012 Supp. 79-32,177 is hereby amended to read as follows: 79-

32,177. (a) Any taxpayer who makes expenditures for the purpose of making all or any portion of an existing facility accessible to individuals with a disability, or who makes expenditures for the purpose of making all or any portion of a facility or of equipment usable for the employment of individuals with a disability, which facility or equipment is on real property located in this state and used in a trade or business or held for the production of income, shall be entitled to claim an income tax credit in an amount equal to 50% of such expenditures or, the amount of \$10,000, whichever is less, against the income tax liability imposed against such taxpayer pursuant to article 32 of chapter 79 of the Kansas Statutes Annotated, ~~and amendments thereto~~. Such tax credit shall be deducted from the taxpayer's income tax liability for the taxable year in which the expenditures are made by the taxpayer. If the amount of such tax credit exceeds the taxpayer's income tax liability for such taxable year, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried over for deduction after the fourth taxable year succeeding the taxable year in which the expenditures are made.

~~(b) For tax year 2013 and all tax years thereafter, the income tax credit provided by this section shall only be available to taxpayers subject to the income tax on corporations imposed pursuant to subsection (c) of K.S.A. 79-32,110, and amendments thereto, and shall be applied only against such taxpayer's corporate income tax liability.":~~

And by renumbering sections accordingly;

On page 32, in line 2, after "79-32,118," by inserting "79-32,177,";

On page 1, in the title, in line 1, after "rates" by inserting a comma; also in line 1, by striking "and" and inserting a comma; in line 2, after "modifications" by inserting "and credits"; in line 5, after "79-32,120," by inserting "79-32,177,"

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

On roll call, the vote was: Yeas 17; Nays 22; Present and Passing 1; Absent or Not Voting 0.

Yeas: Bowers, Emler, Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, LaTurner, Longbine, McGinn, Petersen, Pettey, Pyle, V. Schmidt, Wolf.

Nays: Abrams, Apple, Arpke, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, Love, Lynn, Masterson, Melcher, Olson, Ostmeyer, Pilcher-Cook, Powell, Smith, Tyson, Wagle.

Present and Passing: O'Donnell.

The motion failed and the amendment was rejected.

A motion by Senator Francisco to amend **HB 2059** failed and the following amendment was rejected on page 31, following line 43, by inserting:

"Sec. 13. K.S.A. 2012 Supp. 79-4501 is hereby amended to read as follows: 79-4501. The title of this act shall be the homestead property tax refund act. The purpose of this act shall be to provide ad valorem tax refunds to: (a) Certain persons who are of qualifying age who own or rent their homestead; (b) certain persons who have a disability, who own or rent their homestead; and (c) certain persons other than persons included under the provisions of (a) or (b) who have low incomes and dependent children and own or rent their homestead.

Sec. 14. K.S.A. 2012 Supp. 79-4502 is hereby amended to read as follows: 79-

4502. As used in this act, unless the context clearly indicates otherwise:

(a) "Income" means the sum of adjusted gross income under the Kansas income tax act, maintenance, support money, cash public assistance and relief, not including any refund granted under this act, the gross amount of any pension or annuity, including all monetary retirement benefits from whatever source derived, including, but not limited to, all payments received under the railroad retirement act, except disability payments, payments received under the federal social security act, except that for determination of what constitutes income such amount shall not exceed 50% of any such social security payments and shall not include any social security payments to a claimant who prior to attaining full retirement age had been receiving disability payments under the federal social security act in an amount not to exceed the amount of such disability payments or 50% of any such social security payments, whichever is greater, all dividends and interest from whatever source derived not included in adjusted gross income, workers compensation and the gross amount of "loss of time" insurance. Income does not include gifts from nongovernmental sources or surplus food or other relief in kind supplied by a governmental agency, nor shall net operating losses and net capital losses be considered in the determination of income. Income does not include veterans disability pensions. Income does not include disability payments received under the federal social security act.

(b) "Household" means a claimant, a claimant and spouse who occupy the homestead or a claimant and one or more individuals not related as husband and wife who together occupy a homestead.

(c) "Household income" means all income received by all persons of a household in a calendar year while members of such household.

(d) "Homestead" means the dwelling, or any part thereof, whether owned and or rented, which is occupied as a residence by the household and so much of the land surrounding it, as defined as a home site for ad valorem tax purposes, and may consist of a part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built or a manufactured home or mobile home and the land upon which it is situated. "Owned" includes a vendee in possession under a land contract, a life tenant, a beneficiary under a trust and one or more joint tenants or tenants in common.

(e) "Claimant" means a person who has filed a claim under the provisions of this act and was, during the entire calendar year preceding the year in which such claim was filed for refund under this act, except as provided in K.S.A. 79-4503, and amendments thereto, both domiciled in this state and was: (1) A person having a disability; (2) a person who is 55 years of age or older; (3) a disabled veteran; (4) the surviving spouse of active duty military personnel who died in the line of duty; or (5) a person other than a person included under (1), (2), (3) or (4) having one or more dependent children under 18 years of age residing at the person's homestead during the calendar year immediately preceding the year in which a claim is filed under this act. The surviving spouse of a disabled veteran who was receiving benefits pursuant to subsection (e)(3) of this section at the time of the veterans' death, shall be eligible to continue to receive benefits until such time the surviving spouse remarries.

When a homestead is occupied by two or more individuals and more than one of the individuals is able to qualify as a claimant, the individuals may determine between them as to whom the claimant will be. If they are unable to agree, the matter shall be referred to the secretary of revenue whose decision shall be final.

(f) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest and charges for service, levied on a claimant's homestead in 1979 or any calendar year thereafter by the state of Kansas and the political and taxing subdivisions of the state. When a homestead is owned by two or more persons or entities as joint tenants or tenants in common and one or more of the persons or entities is not a member of claimant's household, "property taxes accrued" is that part of property taxes levied on the homestead that reflects the ownership percentage of the claimant's household. For purposes of this act, property taxes are "levied" when the tax roll is delivered to the local treasurer with the treasurer's warrant for collection. When a claimant and household own their homestead part of a calendar year, "property taxes accrued" means only taxes levied on the homestead when both owned and occupied as a homestead by the claimant's household at the time of the levy, multiplied by the percentage of 12 months that the property was owned and occupied by the household as its homestead in the year. When a household owns and occupies two or more different homesteads in the same calendar year, property taxes accrued shall be the sum of the taxes allocable to those several properties while occupied by the household as its homestead during the year. Whenever a homestead is an integral part of a larger unit such as a multi-purpose or multi-dwelling building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the homestead is of the total value. For the purpose of this act, the word "unit" refers to that parcel of property covered by a single tax statement of which the homestead is a part.

(g) "Disability" means:

(1) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, and an individual shall be determined to be under a disability only if the physical or mental impairment or impairments are of such severity that the individual is not only unable to do the individual's previous work but cannot, considering age, education and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which the individual lives or whether a specific job vacancy exists for the individual, or whether the individual would be hired if application was made for work. With respect to any individual, for purposes of the preceding sentence ~~(with respect to any individual)~~, "work which exists in the national economy" means work which exists in significant numbers either in the region where the individual lives or in several regions of the country; for purposes of this subsection, a "physical or mental impairment" is an impairment that results from anatomical, physiological or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques; or

(2) blindness and inability by reason of blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which the individual has previously engaged with some regularity and over a substantial period of time.

(h) "Blindness" means central visual acuity of $20/200$ or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purpose of this paragraph as having a central

visual acuity of ²⁰/₂₀₀ or less.

(i) "Disabled veteran" means a person who is a resident of Kansas and has been honorably discharged from active service in any branch of the armed forces of the United States or Kansas national guard and who has been certified by the United States department of veterans affairs or its successor to have a 50% permanent disability sustained through military action or accident or resulting from disease contracted while in such active service.

(j) "Gross rent" means the rental paid at arm's length solely for the right of occupancy of a homestead or space rental paid to a landlord for the parking of a mobile home, exclusive of charges for any utilities, services, furniture and furnishings or personal property appliances furnished by the landlord as a part of the rental agreement, whether or not expressly set out in the rental agreement. Whenever the director of taxation finds that the landlord and tenant have not dealt with each other at arm's length and that the gross rent charge was excessive, the director may adjust the gross rent to a reasonable amount for the purposes of the claim.

(k) "Rent constituting property taxes accrued" means 15% of the gross rent actually paid in cash or its equivalent in 2013 or any taxable year thereafter by a claimant and claimant's household solely for the right of occupancy of a Kansas homestead on which ad valorem property taxes were levied in full for that year. When a household occupies two or more different homesteads in the same calendar year, rent constituting property taxes accrued shall be computed by adding the rent constituting property taxes accrued for each property rented by the household while occupied by the household as its homestead during the year.

Sec. 15. K.S.A. 2012 Supp. 79-4508 is hereby amended to read as follows: 79-4508. (a) Commencing in the tax year beginning after December 31, 2005, the amount of any claim pursuant to this act shall be computed by deducting the amount computed under column (2) from the amount of claimant's property tax accrued or rent constituting property tax accrued, or both.

	(1)	(2)
Claimants household accrued	Deduction from property tax	income
		<u>or rent constituting property tax accrued, or both</u>
	But not more than	
At least		
\$0	\$6,000	\$0
6,001	7,000	4%
7,001	16,000	4% plus 4% of every \$1,000, or fraction thereof, of income in excess of \$7,001
16,001	27,000	40% plus 5% of every \$1,000, or fraction thereof, of income in excess of \$16,001
27,001	27,600	95%

(b) The director of taxation shall prepare a table under which claims under this act shall be determined. The amount of claim for each bracket shall be computed only to

the nearest \$1.

(c) The claimant may elect not to record the amount claimed on the claim. The claim allowable to persons making this election shall be computed by the department which shall notify the claimant by mail of the amount of the allowable claim.

(d) ~~In the case of all tax years commencing after December 31, 2004,~~ The upper limit threshold amount prescribed in this section, shall be increased by an amount equal to such threshold amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) of the federal internal revenue code for the calendar year in which the taxable year commences.

Sec. 16. K.S.A. 2012 Supp. 79-4509 is hereby amended to read as follows: 79-4509. In the event property taxes accrued or rent constituting property tax accrue, or the sum of both exceeds \$700 for a household in any one year, the amount thereof shall, for purposes of this act, be deemed to have been \$700.

Sec. 17. K.S.A. 2012 Supp. 79-4511 is hereby amended to read as follows: 79-4511. (a) Every claimant under this act shall supply to the division, in support of a claim, reasonable proof of age or disability, and changes of homestead, household membership, household income, and size and nature of property claimed as the homestead. A claim alleging disability shall be supported by a report of the examining physician of the claimant with a statement or certificate that the applicant has a disability within the meaning of subsection (g) of K.S.A. 79-4502, and amendments thereto.

(b) Every claimant who is a homestead owner, or whose claim is based wholly or partly upon homestead ownership at some time during the calendar year, shall supply to the division, in support of a claim, the amount of property taxes levied upon the property claimed as a homestead and a statement that the property taxes accrued used for purposes of this act have been or will be paid by the claimant. Upon request by the division, such claimant shall provide a copy of the statement of property taxes levied upon the property claimed as a homestead. The amount of personal property taxes levied on a manufactured home or mobile home shall be set out on the personal property tax statement showing the amount of such tax as a separate item.

(c) Every claimant who is a homestead renter, or whose claim is based wholly or partly upon homestead rental at some time during the calendar year, shall supply to the division, in support of a claim, a statement prescribed by the director certifying the amount of gross rent paid and that ad valorem property taxes were levied in full for that year on the property, all or a part of which was rented by the claimant. When such claimant reports household income that is 150% or less of the homestead rental amount and such claimant has failed to provide any documentation or information requested by the division to verify such household income in support of a claim as required pursuant to subsection (a), within 30 days of such request, such homestead property tax refund claim shall be denied.

(d) The information required to be furnished under subsection (b) or (c) shall be in addition to that required under subsection (a).

Sec. 18. K.S.A. 2012 Supp. 79-4522 is hereby amended to read as follows: 79-4522. A person owning or occupying a homestead that is not rental property and for which the appraised valuation for property tax purposes exceeds \$350,000 in any year shall not be entitled to claim a refund of property taxes under the homestead property tax refund act for any such year. The provisions of this section shall be part of and

supplemental to the homestead property tax refund act.";

And by renumbering sections accordingly;

On page 32, in line 3, by striking "and" and inserting a comma; also in line 3, after "79-4217" by inserting ", 79-4501, 79-4502, 79-4508, 79-4509, 79-4511 and 79-4522";

On page 1, in the title, in line 3, before "amending" by inserting "homestead property tax refund act."; in line 6, by striking the first "and" and inserting a comma; also in line 6, after "79-4217" by inserting ", 79-4501, 79-4502, 79-4508, 79-4509, 79-4511 and 79-4522"

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

On roll call, the vote was: Yeas 12; Nays 28; Present and Passing 0; Absent or Not Voting 0.

Yeas: Faust-Goudeau, Francisco, Haley, Hawk, Hensley, Holland, Kelly, McGinn, O'Donnell, Petersen, Pettey, V. Schmidt.

Nays: Abrams, Apple, Arpke, Bowers, Bruce, Denning, Donovan, Emler, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, Melcher, Olson, Ostmeier, Pilcher-Cook, Powell, Pyle, Smith, Tyson, Wagle, Wolf.

The motion failed and the following amendment was rejected.

A motion by Senator Pyle to amend **HB 2059** failed and the following amendment was rejected: on page 31, following line 43, by inserting:

"Sec. 13. K.S.A. 2012 Supp. 79-32,119 is hereby amended to read as follows: 79-32,119. The Kansas standard deduction of an individual, including a husband and wife who are either both residents or who file a joint return as if both were residents, shall be equal to the sum of the standard deduction amount allowed pursuant to this section, and the additional standard deduction amount allowed pursuant to this section for each such deduction allowable to such individual or to such husband and wife under the federal internal revenue code. For tax year 1998 through tax year 2012, the standard deduction amount shall be as follows: Single individual filing status, \$3,000; married filing status, \$6,000; and head of household filing status, \$4,500. For tax year 1998, and all tax years thereafter, the additional standard deduction amount shall be as follows: Single individual and head of household filing status, \$850; and married filing status, \$700. For tax year 2013, and all tax years thereafter, the standard deduction amount of an individual, including husband and wife who are either both residents or who file a joint return as if both were residents, shall be as follows: Single individual filing status, ~~\$3,000~~ \$6,000; married filing status, ~~\$9,000~~ \$12,000; and head of household filing status, \$9,000. For purposes of the foregoing, the federal standard deduction allowable to a husband and wife filing separate Kansas income tax returns shall be determined on the basis that separate federal returns were filed, and the federal standard deduction of a husband and wife filing a joint Kansas income tax return shall be determined on the basis that a joint federal income tax return was filed.";

And by renumbering sections accordingly;

On page 32, in line 2, after "79-32,118," by inserting "79-32,119,";

On page 1, in the title, in line 1, after "rates" by inserting a comma; in line 5, after "32,118," by inserting "79-32,119,"

On motion of Senator Bruce, the Senate adjourned until 2:30 p.m., Thursday, March 14, 2013.

HELEN MORELAND, ROSE MARIE GLATT, CHARLENE BAILEY, *Journal Clerks*.
DIANE MINEAR, *Secretary of the Senate*.

