

Journal of the Senate

SIXTY-FIFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, May 10, 2017, 10:00 a.m.

The Senate was called to order by President Susan Wagle.
The roll was called with 40 senators present.
Invocation by Reverend Cecil T. Washington:

Lord, in humble appreciation, we must acknowledge that there are no adjectives big enough, wide enough or deep enough to embrace Your being. There are no words to fully capture or enable us to apprehend the scope of Your being. **YOU ARE GOD!**

Your Word in Psalms 139:1-16, reveals that there's no place that any of us can hide from Your presence. You can't be outsmarted, outdone, outpaced or overwhelmed. You can't be caught off guard, overpowered, shocked, stunned or dumbfounded by anything. **YOU ARE GOD!**

And even though we are created by You, and our human understanding is vastly limited, You have given us an awareness that You are vastly unlimited.

You are unrestricted and unrestrained in all that You choose to do. So, thank You for choosing to reveal Yourself and even share with us, various qualities of Your being, along with the many blessings You provide.

Your mercies are new every day. Your compassion fails not and Your grace is sufficient for all our needs.

Keep us ever aware of Your loving kindness and save us from being a part of that group mentioned in Romans 1:18:32, where they refused to glorify You as God and were not thankful.

Help us to maintain a daily awareness and appreciation that **YOU ARE GOD!** In Jesus' Name, Amen.

The Pledge of Allegiance was led by President Wagle.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill was introduced and read by title:

SB 250, AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system; excluding members of the legislature and other elected officials from membership; amending K.S.A. 74-4991 and K.S.A. 2016 Supp. 74-4902 and repealing the existing sections, by Committee on Federal and State Affairs.

MESSAGE FROM THE HOUSE

The House adopts the Conference Committee report on **HB 2153**.

The House announces the appointment of Representatives Waymaster, Davis and

Wolfe Moore as conferees on **HB 2079** to replace Representatives Sloan, Rahjes and Victors.

On motion of Senator Denning, the Senate recessed until 3:00 p.m.

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

ORIGINAL MOTION

Senator Denning moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bill: **HB 2067**.

CONFERENCE COMMITTEE REPORTS

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2067** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee amendments, as follows:

On page 1, by striking all in lines 6 through 34;

By striking all on page 2;

On page 3, by striking all in lines 1 through 22; following line 22, by inserting:

"Section 1. K.S.A. 2016 Supp. 79-32,110 is hereby amended to read as follows: 79-32,110. (a) *Resident Individuals*. Except as otherwise provided by K.S.A. 79-3220(a), and amendments thereto, a tax is hereby imposed upon the Kansas taxable income of every resident individual, which tax shall be computed in accordance with the following tax schedules:

(1) *Married individuals filing joint returns.*

(A) For tax year 2012:

If the taxable income is:	The tax is:
Not over \$30,000	3.5% of Kansas taxable income
Over \$30,000 but not over \$60,000	\$1,050 plus 6.25% of excess over \$30,000
Over \$60,000	\$2,925 plus 6.45% of excess over \$60,000

(B) For tax year 2013:

If the taxable income is:	The tax is:
Not over \$30,000	3.0% of Kansas taxable income
Over \$30,000	\$900 plus 4.9% of excess over \$30,000

(C) For tax year 2014:

If the taxable income is:	The tax is:
Not over \$30,000	2.7% of Kansas taxable income
Over \$30,000	\$.810 plus 4.8% of excess over \$30,000

(D) For tax years 2015; and 2016 and 2017:
 If the taxable income is: The tax is:
 Not over \$30,000 2.7% of Kansas taxable income
 Over \$30,000 \$810 plus 4.6% of excess over
 \$30,000

(E) For tax year ~~2018, and all tax years thereafter~~ 2017:
 If the taxable income is: The tax is:
 Not over \$30,000 ~~2.6%~~2.85% of Kansas taxable income
 Over \$30,000 but not over \$100,000 ~~\$780~~\$855 plus ~~4.6%~~4.9% of excess over
 \$30,000
Over \$100,000 \$4,285 plus 5.1% of excess over
\$100,000

(F) For tax year 2018, and all tax years thereafter:
If the taxable income is: The tax is:
Not over \$30,000 3% of Kansas taxable income
Over \$30,000 but not over \$100,000 \$900 plus 5.25% of excess
over \$30,000
Over \$100,000 \$4,575 plus 5.6% of excess
over \$100,000

(2) *All other individuals.*

(A) For tax year 2012:
 If the taxable income is: The tax is:
 Not over \$15,000 3.5% of Kansas taxable income
 Over \$15,000 but not over \$30,000 \$525 plus 6.25% of excess
 over \$15,000
 Over \$30,000 \$1,462.50 plus 6.45% of excess
 over \$30,000

(B) For tax year 2013:
 If the taxable income is: The tax is:
 Not over \$15,000 3.0% of Kansas taxable income
 Over \$15,000 \$450 plus 4.9% of excess over
 \$15,000

(C) For tax year 2014:
 If the taxable income is: The tax is:
 Not over \$15,000 2.7% of Kansas
 taxable income
 Over \$15,000 \$405 plus 4.8% of
 excess over
 \$15,000

(D) For tax years 2015; and 2016 and 2017:
 If the taxable income is: The tax is:
 Not over \$15,000 2.7% of Kansas taxable income
 Over \$15,000 \$405 plus 4.6% of excess over
 \$15,000

(E) For tax year ~~2018, and all tax years thereafter~~ 2017:
 If the taxable income is: The tax is:
 Not over \$15,000 ~~2.6%~~2.85% of Kansas taxable income

Over \$15,000 but not over \$50,000	\$390 \$427.50 plus 4.6% 4.9% of excess over \$15,000
Over \$50,000	<u>\$2,142.50 plus 5.1% of excess over \$50,000</u>

(F) For tax year 2018, and all tax years thereafter:

<u>If the taxable income is:</u>	<u>The tax is:</u>
Not over \$15,000	3% of Kansas taxable income
Over \$15,000 but not over \$50,000	\$450 plus 5.25% of excess over \$15,000
Over \$50,000	<u>\$2,287.50 plus 5.6% of excess over \$50,000</u>

(b) *Nonresident Individuals.* A tax is hereby imposed upon the Kansas taxable income of every nonresident individual, which tax shall be an amount equal to the tax computed under subsection (a) as if the nonresident were a resident multiplied by the ratio of modified Kansas source income to Kansas adjusted gross income.

(c) *Corporations.* A tax is hereby imposed upon the Kansas taxable income of every corporation doing business within this state or deriving income from sources within this state. Such tax shall consist of a normal tax and a surtax and shall be computed as follows:

(1) The normal tax shall be in an amount equal to 4% of the Kansas taxable income of such corporation; and

(2) (A) for tax year 2008, the surtax shall be in an amount equal to 3.1% of the Kansas taxable income of such corporation in excess of \$50,000;

(B) for tax years 2009 and 2010, the surtax shall be in an amount equal to 3.05% of the Kansas taxable income of such corporation in excess of \$50,000; and

(C) for tax year 2011, and all tax years thereafter, the surtax shall be in an amount equal to 3% of the Kansas taxable income of such corporation in excess of \$50,000.

(d) *Fiduciaries.* A tax is hereby imposed upon the Kansas taxable income of estates and trusts at the rates provided in subsection (a)(2) hereof.

(e) ~~Tax rates provided in this section shall be adjusted pursuant to the provisions of K.S.A. 2016 Supp. 79-32,269, and amendments thereto.~~

~~(f) Notwithstanding the provisions of subsections (a) and (b); (1) For tax years 2016, and all tax years thereafter and 2017, married individuals filing joint returns with taxable income of \$12,500 or less, and all other individuals with taxable income of \$5,000 or less, shall have a tax liability of zero; and (2) for tax year 2018, and all tax years thereafter, married individuals filing joint returns with taxable income of \$5,000 or less, and all other individuals with taxable income of \$2,500 or less, shall have a tax liability of zero.~~

~~(f) Any taxpayer whose withholding or estimated tax payments were based upon the rates as provided in subsection (a) as it appears on June 30, 2017, shall not be assessed penalties and interest arising from the underpayment of taxes due to changes to the rates in subsection (a) that became law on July 1, 2017, so long as such underpayment is rectified on or before April 17, 2018.~~

Sec. 2. K.S.A. 2016 Supp. 79-32,117 is hereby amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

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

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

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

(iii) The federal net operating loss deduction, except that the federal net operating loss deduction shall not be added to an individual's federal adjusted gross income for tax years beginning after December 31, 2016.

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

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

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

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

(viii) The amount of any costs incurred for improvements to a swine facility, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2016 Supp. 79-32,204, and amendments thereto.

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

(x) Amounts received as nonqualified withdrawals, as defined by K.S.A. 2016 Supp. 75-643, and amendments thereto, if, at the time of contribution to a family postsecondary education savings account, such amounts were subtracted from the federal adjusted gross income pursuant to K.S.A. 79-32,117(c)(xv), and amendments thereto, or if such amounts are not already included in the federal adjusted gross income.

(xi) The amount of any contribution made to the same extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 2016 Supp. 74-50,154, and amendments thereto.

(xii) For taxable years commencing after December 31, 2004, amounts received as withdrawals not in accordance with the provisions of K.S.A. 2016 Supp. 74-50,204, and amendments thereto, if, at the time of contribution to an individual development account, such amounts were subtracted from the federal adjusted gross income pursuant to subsection (c)(xiii), or if such amounts are not already included in the federal adjusted gross income.

(xiii) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2016 Supp. 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

(xiv) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2016 Supp. 79-32,221, and amendments thereto.

(xv) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2016 Supp. 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-32,248 or 79-32,251 through 79-32,254, and amendments thereto.

(xvi) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2016 Supp. 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments thereto.

(xvii) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2016 Supp. 79-32,256, and amendments thereto.

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

(xix) For ~~all~~ taxable years beginning after December 31, 2012, and ending before January 1, 2017, the amount of any: (1) 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; (2) loss from rental real estate, royalties, partnerships, S corporations, except those with wholly owned subsidiaries subject to the Kansas privilege tax, 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 (3) 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; all to the extent deducted or subtracted in determining the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011, and as revised thereafter by the internal revenue service.

(xx) For ~~all~~ taxable years beginning after December 31, 2012, and ending before January 1, 2017, the amount of any deduction for self-employment taxes under section 164(f) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer, to the extent the deduction is attributable to income reported on schedule C, E or F and on line 12, 17 or 18 of the taxpayer's form 1040 federal income tax return.

(xxi) For ~~all~~ taxable years beginning after December 31, 2012, and ending before January 1, 2017, the amount of any deduction for pension, profit sharing, and annuity plans of self-employed individuals under section 62(a)(6) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxii) For ~~all~~ taxable years beginning after December 31, 2012, and ending before January 1, 2017, the amount of any deduction for health insurance under section 162(l) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxiii) For ~~all~~ taxable years beginning after December 31, 2012, and ending before January 1, 2017, the amount of any deduction for domestic production activities under section 199 of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxiv) For taxable years commencing after December 31, 2013, that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid for medical care of the taxpayer or the taxpayer's spouse or dependents when such expenses were paid or incurred for an abortion, or for a health benefit plan, as defined in K.S.A. 2016 Supp. 65-6731, and amendments thereto, for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 2016 Supp. 40-2,190, and amendments thereto, to the extent that such taxes and assessments are claimed as an itemized deduction for federal income tax purposes.

(xxv) For taxable years commencing after December 31, 2013, that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid by a taxpayer for health care when such expenses were paid or incurred for abortion coverage, a health benefit plan, as defined in K.S.A. 2016 Supp.

65-6731, and amendments thereto, when such expenses were paid or incurred for abortion coverage or amounts contributed to health savings accounts for such taxpayer's employees for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 2016 Supp. 40-2,190, and amendments thereto, to the extent that such taxes and assessments are claimed as a deduction for federal income tax purposes.

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

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

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

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

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

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

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

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

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

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

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

(xi) For taxable years beginning after December 31, 1986, dividend income on

stock issued by Kansas venture capital, inc.

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

(xiii) For taxable years beginning after December 31, 2004, amounts contributed to and the amount of income earned on contributions deposited to an individual development account under K.S.A. 2016 Supp. 74-50,201 et seq., and amendments thereto.

(xiv) For all taxable years commencing after December 31, 1996, that portion of any income of a bank organized under the laws of this state or any other state, a national banking association organized under the laws of the United States, an association organized under the savings and loan code of this state or any other state, or a federal savings association organized under the laws of the United States, for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect, which accrues to the taxpayer who is a stockholder of such corporation and which is not distributed to the stockholders as dividends of the corporation. For ~~all~~ taxable years beginning after December 31, 2012, and ending before January 1, 2017, the amount of modification under this subsection shall exclude the portion of income or loss reported on schedule E and included on line 17 of the taxpayer's form 1040 federal individual income tax return.

(xv) For all taxable years beginning after December 31, 2006, amounts not exceeding \$3,000, or \$6,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program or a qualified tuition program established and maintained by another state or agency or instrumentality thereof pursuant to section 529 of the internal revenue code of 1986, as amended, for the purpose of paying the qualified higher education expenses of a designated beneficiary at an institution of postsecondary education. The terms and phrases used in this paragraph shall have the meaning respectively ascribed thereto by the provisions of K.S.A. 2016 Supp. 75-643, and amendments thereto, and the provisions of such section are hereby incorporated by reference for all purposes thereof.

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

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

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

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

(xx) For ~~all~~ taxable years beginning after December 31, 2012, and ending before January 1, 2017, the amount of any: (1) 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; (2) net income, not including guaranteed payments as defined in section 707(c) of the federal internal revenue code and as reported to the taxpayer from federal schedule K-1, (form 1065-B), in box 9, code F or as reported to the taxpayer from federal schedule K-1, (form 1065) in box 4, 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 (3) 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; all to the extent included in the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011 and as revised thereafter by the internal revenue service.

(xxi) For all taxable years beginning after December 31, 2013, amounts equal to the unreimbursed travel, lodging and medical expenditures directly incurred by a taxpayer while living, or a dependent of the taxpayer while living, for the donation of one or more human organs of the taxpayer, or a dependent of the taxpayer, to another person for human organ transplantation. The expenses may be claimed as a subtraction modification provided for in this section to the extent the expenses are not already subtracted from the taxpayer's federal adjusted gross income. In no circumstances shall the subtraction modification provided for in this section for any individual, or a dependent, exceed \$5,000. As used in this section, "human organ" means all or part of a liver, pancreas, kidney, intestine, lung or bone marrow. The provisions of this paragraph shall take effect on the day the secretary of revenue certifies to the director of the budget that the cost for the department of revenue of modifications to the automated tax system for the purpose of implementing this paragraph will not exceed \$20,000.

(xxii) For ~~all~~ taxable years beginning after December 31, 2012, and ending before January 1, 2017, the amount of net gain from the sale of: (1) Cattle and horses, regardless of age, held by the taxpayer for draft, breeding, dairy or sporting purposes, and held by such taxpayer for 24 months or more from the date of acquisition; and (2) other livestock, regardless of age, held by the taxpayer for draft, breeding, dairy or sporting purposes, and held by such taxpayer for 12 months or more from the date of

acquisition. The subtraction from federal adjusted gross income shall be limited to the amount of the additions recognized under the provisions of subsection (b)(ix) attributable to the business in which the livestock sold had been used. As used in this paragraph, the term "livestock" shall not include poultry.

(xxiii) For all taxable years beginning after December 31, 2012, amounts received under either the Overland Park, Kansas police department retirement plan or the Overland Park, Kansas fire department retirement plan, both as established by the city of Overland Park, pursuant to the city's home rule authority.

(xxiv) For ~~all~~ taxable years beginning after December 31, 2013, and ending before January 1, 2017, the net gain from the sale from Christmas trees grown in Kansas and held by the taxpayer for six years or more.

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

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

(f) Any taxpayer who is in compliance with the provisions of this section as they appear on June 30, 2017, shall not be assessed penalties and interest from the underpayment of taxes due to changes to this section that became law on July 1, 2017, so long as such underpayment occurred prior to July 1, 2017, and is rectified on or before April 17, 2018.

Sec. 3. K.S.A. 2016 Supp. 79-32,120 is hereby amended to read as follows: 79-32,120. (a) (1) If federal taxable income of an individual is determined by itemizing deductions from such individual's federal adjusted gross income, such individual may elect to deduct the Kansas itemized deduction in lieu of the Kansas standard deduction.

(2) For the tax year commencing on January 1, 2013, the Kansas itemized deduction of an individual means 70% of the total amount of deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section.

(3) For the tax year commencing on January 1, 2014, the Kansas itemized deduction of an individual means 65% of the total amount of deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section.

(4) For the tax years commencing on and after January 1, 2015, and ending before January 1, 2018, the Kansas itemized deduction of an individual means the following deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section: (A) 100% of charitable contributions that qualify as charitable contributions allowable as deductions in section 170 of the federal internal revenue code; (B) 50% of the amount of qualified residence interest as provided in section 163(h) of the federal internal revenue code; and (C) 50% of the amount of taxes on real and personal property as provided in section 164(a) of the federal internal revenue code.

(5) For the tax years commencing on and after January 1, 2018, the Kansas itemized deduction of an individual means the following deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section: (A) 100% of charitable contributions that qualify as charitable contributions allowable as deductions in section 170 of the federal internal revenue code; (B) 100% of expenses for medical care allowable as deductions in section 213 of the federal internal revenue code; (C) 50% of the amount of qualified residence interest as provided in section 163(h) of the federal internal revenue code; and (D) 50% of the amount of taxes on real and personal property as provided in section 164(a) of the federal internal revenue code.

(b) The total amount of deductions from federal adjusted gross income shall be reduced by the total amount of income taxes imposed by or paid to this state or any other taxing jurisdiction to the extent that the same are deducted in determining the federal itemized deductions and by the amount of all depreciation deductions claimed for any real or tangible personal property upon which the deduction allowed by K.S.A. 2016 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto, is or has been claimed.

Sec. 4. K.S.A. 2016 Supp. 79-32,138 is hereby amended to read as follows: 79-32,138. (a) Kansas taxable income of a corporation taxable under this act shall be the corporation's federal taxable income for the taxable year with the modifications specified in this section.

(b) There shall be added to federal taxable income: (i) The same modifications as are set forth in ~~subsection (b) of~~ K.S.A. 79-32,117(b), and amendments thereto, with respect to resident individuals, except subsections (b)(xix), (b)(xx), (b)(xxi), (b)(xxii) and (b)(xxiii);

(ii) the amount of all depreciation deductions claimed for any property upon which the deduction allowed by K.S.A. 2016 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto, is claimed;

(iii) the amount of any charitable contribution deduction claimed for any contribution or gift to or for the use of any racially segregated educational institution;

(iv) for taxable years commencing December 31, 2013, that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid by a taxpayer for health care when such expenses were paid or incurred for abortion coverage, a health benefit plan, as defined in K.S.A. 2016 Supp. 65-6731, and amendments thereto, when such expenses were paid or incurred for abortion coverage or amounts contributed to health savings accounts for such taxpayer's employees for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 2016 Supp. 40-2,190, and amendments thereto;

(v) the amount of any charitable contribution deduction claimed for any contribution or gift made to a scholarship granting organization to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 2016 Supp. 72-99a07, and amendments thereto; and

(vi) the federal net operating loss deduction.

(c) There shall be subtracted from federal taxable income: (i) The same modifications as are set forth in ~~subsection (c) of~~ K.S.A. 79-32,117(c), and amendments

thereto, with respect to resident individuals, except subsection (c)(xx);

(ii) the federal income tax liability for any taxable year commencing prior to December 31, 1971, for which a Kansas return was filed after reduction for all credits thereon, except credits for payments on estimates of federal income tax, credits for gasoline and lubricating oil tax, and for foreign tax credits if, on the Kansas income tax return for such prior year, the federal income tax deduction was computed on the basis of the federal income tax paid in such prior year, rather than as accrued. Notwithstanding the foregoing, the deduction for federal income tax liability for any year shall not exceed that portion of the total federal income tax liability for such year which bears the same ratio to the total federal income tax liability for such year as the Kansas taxable income, as computed before any deductions for federal income taxes and after application of subsections (d) and (e) of this section as existing for such year, bears to the federal taxable income for the same year;

(iii) an amount for the amortization deduction allowed pursuant to K.S.A. 2016 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto;

(iv) for all taxable years commencing after December 31, 1987, the amount included in federal taxable income pursuant to the provisions of section 78 of the internal revenue code; and

(v) for all taxable years commencing after December 31, 1987, 80% of dividends from corporations incorporated outside of the United States or the District of Columbia which are included in federal taxable income.

(d) If any corporation derives all of its income from sources within Kansas in any taxable year commencing after December 31, 1979, its Kansas taxable income shall be the sum resulting after application of subsections (a) through (c) hereof. Otherwise, such corporation's Kansas taxable income in any such taxable year, after excluding any refunds of federal income tax and before the deduction of federal income taxes provided by subsection (c)(ii) shall be allocated as provided in K.S.A. 79-3271 to K.S.A. 79-3293, inclusive, and amendments thereto, plus any refund of federal income tax as determined under ~~paragraph (iv) of subsection (b) of~~ K.S.A. 79-32,117~~(b)(iv)~~, and amendments thereto, and minus the deduction for federal income taxes as provided by subsection (c)(ii) shall be such corporation's Kansas taxable income.

(e) A corporation may make an election with respect to its first taxable year commencing after December 31, 1982, whereby no addition modifications as provided for in subsection (b)(ii) ~~of K.S.A. 79-32,138, and amendments thereto,~~ and subtraction modifications as provided for in subsection (c)(iii) ~~of K.S.A. 79-32,138, and amendments thereto,~~ as those subsections existed prior to their amendment by this act, shall be required to be made for such taxable year.

Sec. 5. K.S.A. 2016 Supp. 79-32,110, 79-32,117, 79-32,120, 79-32,138 and 79-32,269 are hereby repealed. ";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; by striking all in line 2; in line 3, by striking all before the period and inserting "income taxation; relating to determination of Kansas adjusted gross income, modifications, rates and itemized deductions; amending K.S.A. 2016 Supp. 79-32,110, 79-32,117, 79-32,120 and 79-32,138 and repealing the existing sections; also repealing K.S.A. 2016 Supp. 79-32,269";

And your committee on conference recommends the adoption of this report.

CARYN TYSON
DAN KERSCHEN
TOM HOLLAND

Conferees on part of Senate

STEVEN JOHNSON
TOM PHILLIPS
TOM SAWYER

Conferees on part of House

The motion of Senator Tyson to adopt the conference committee report on **HB 2067** failed.

On roll call, the vote was: Yeas 18; Nays 22; Present and Passing 0; Absent or Not Voting 0.

Yeas: Berger, Billinger, Bollier, Bowers, Denning, Doll, Francisco, Givens, Goddard, Hardy, Hawk, Kerschen, Longbine, McGinn, V. Schmidt, Skubal, Sykes, Taylor.

Nays: Alley, Baumgardner, Estes, Faust-Goudeau, Fitzgerald, Haley, Hensley, Hilderbrand, Holland, Kelly, Lynn, Masterson, Olson, Petersen, Pettey, Pilcher-Cook, Pyle, Rogers, Suellentrop, Tyson, Wagle, Wilborn.

The Conference Committee Report was not adopted

EXPLANATION OF VOTE

Madam President: I vote yes. Perfect can be the enemy of good. I had deeply hoped for better. **HB 2067** does not address school funding, yet it is the first bite...a first bite at fixing the structurally unbalanced budget due to the disastrous tax cut plan of 2012. This is an anguished vote for me. I realize the political reality we face. First, that we might get a better plan if we wait longer or secondly, that we have looked at much worse bills, and could look at even worse ones should **HB 2067** fail. I vote yes with the promise and the hope that we will take the second bite and truly pass an additional tax bill next week that will address an adequate school finance plan, and also eventually deal with our highways, our state water plan, our inadequate state employee salaries, and our underfunded court system. This bill is but a start—not perfect, maybe good, but definitely better.—TOM HAWK

Senator Francisco requests the record to show she concurs with the "Explanation of Vote" offered by Senator Hawk on **HB 2067**.

CONSTITUTIONAL PROTEST

Protest of Senator Hensley

Against the Conference Committee Report for House Bill 2067

May 10, 2017

Madam President: I hereby exercise my right under Article 2, Section 10, of the Kansas Constitution to protest the Conference Committee Report for **House Bill 2067**.

On March 2, 2017, the Kansas Supreme Court affirmed the trial panel's decision that the public education financing system provided by the legislature for grades K-12 is constitutionally inadequate. While the Court provided no specific recommendations as

to the structure or implementation of a new school finance system, it did place the burden on the state to demonstrate that any new school financing system must be “reasonably calculated to address the constitutional violations” of the adequacy requirement while also satisfying the equity requirement.”

The legislature’s attorney has counseled both the House and Senate that the burden on the State to establish compliance with the Court’s ruling requires the legislature to “show its work.” This includes demonstrating the ability to fund any school finance formula passed by the legislature. Currently, **House Bill 2410** is the only school finance plan which has had a hearing and has been discussed in any meeting this legislative session. Assuming it were to become law, **House Bill 2410** would provide for \$150 million each year over five years.

The budget profile attached to this protest only includes funding for the first three years of the plan included in **House Bill 2410**. This profile clearly establishes that the Conference Committee Report for **House Bill 2067** falls well short of sustaining this school finance plan. In FY 2019, the state general fund would have a negative balance of \$173.8 million. In FY 2020, that shortfall grows to \$387.6 million. We have done the math and have shown our work. The Conference Committee Report for **House Bill 2067** doesn’t meet the constitutional requirements of the Gannon decision. This is in no way constitutional or acceptable for the school children of Kansas.—ANTHONY HENSLEY

State General Fund Profile FY 2017 - FY 2021
Senate Committee Action as of May 1, 2017
(Dollars in Millions)

	Actual FY 2016	Estimated FY 2017	Estimated FY 2018	Estimated FY 2019	KLRD FY 2020	KLRD FY 2021
Beginning Balance	\$ 71.5	\$ 37.1	\$ 50.0	\$ 67.9	\$ -	\$ -
Revenue						
Consensus Revenue Estimates	\$6,073.4	\$6,073.1	\$ 5,087.6	\$ 5,564.4	\$ 5,092.4	\$ 5,823.3
Revenue Adjustments						
Governor's Revenue Adjustments	\$ -	\$ 10.3	\$ 340.3	\$ 550.2	\$ 506.5	\$ 573.8
PMIB Loan / Repayment	-	234.4	82.9	-	-	-
IMD Premium Tax Extension	-	-	-	(72.5)	(76.1)	(79.8)
Additional Revenue	-	-	514.0	548.7	554.2	559.8
SB 189 (Mega Bill) Revenue Adjustments	-	-	(7.3)	(7.5)	(7.5)	(7.5)
Senate Omnibus Revenue Adjustments	-	(10.3)	(10.0)	(9.1)	(9.1)	(9.1)
Subtotal Revenue Adjustments	\$ -	\$ 234.4	\$ 919.9	\$ 1,018.8	\$ 1,027.9	\$ 1,037.1
Total Available Revenue	\$6,144.9	\$6,344.6	\$ 6,657.5	\$ 6,651.1	\$ 6,720.3	\$ 6,860.4
Expenditures						
Governor's Expenditure Recommendations	\$6,115.1	\$6,272.4	\$ 6,238.0	\$ 6,197.7	\$ 6,330.7	\$ 6,463.7
KPERS Changes	-	21.8	-	-	-	-
KPERS Layering	-	-	6.4	18.0	18.0	18.0
Additional Expenditures	-	-	150.0	300.0	450.0	450.0
SB 189 (Mega Bill) Expenditures	-	1.8	28.2	109.1	109.1	109.1
Senate Omnibus Adjustments	-	(1.4)	167.0	200.1	200.1	200.1
Total Adjusted Expenditures	\$6,115.1	\$6,294.6	\$ 6,389.6	\$ 6,824.9	\$ 7,107.9	\$ 7,249.9
Ending Balance	\$ 37.1	\$ 50.0	\$ 67.9	\$ (173.8)	\$ (387.6)	\$ (389.5)
<i>As Percentage of Expenditures</i>		0.6%	0.8%	1.0%	-2.5%	-5.4%
Prepared at the request and direction of Senator Tom Holland						Profile 17-066
Additional Revenue	\$ -	\$ -	\$ 514.0	\$ 548.7	\$ 554.2	\$ 559.8
SB 30			514.0	548.7	554.2	559.8
Additional Expenditures	\$ -	\$ -	\$ 150.0	\$ 300.0	\$ 450.0	\$ 450.0
Schools			150.0	300.0	450.0	450.0

Madam President: I vote AYE on the Conference Committee Report for **House Bill 2067**, but with a caveat: our work is not done. This is not a comprehensive plan. It does not solve our problems nor does it provide for a sustainable school finance plan. It is just the first step, but I believe it is a first step we should take. We can no longer balance our budget by borrowing and spending down reserves. As we are increasing income taxes, this proposal also eliminates the non-wage income “loophole”, repeals the future formulaic income tax reductions, establishes a third tier in the income tax rates and reduces the tax “cliff” created in 2012. There is more we could and should do. I do understand that in voting for this, I am committing to work to pass another plan to ensure that Kansas public schools are constitutionally funded. Knowing that this is a solid first step to solving our problems, I am willing to make that commitment.—MARCI FRANCISCO

Senator Hawk requests the record to show he concurs with the "Explanation of Vote" offered by Senator Francisco on **HB 2067**.

Madam President: I, like many in this room, was elected to repeal the Brownback experiment; an experiment which has left the economy of our state reeling. Today's budget bill does much that we know needs to be done: repeals the LLC exemption, removes the glide path to zero and returns our tax structure to three brackets. I have supported similar bills, but that was before the final Gannon Decision. That decision was a game changer and left no doubt as to what course we are to take. I was also elected to fund public education. This bill does not come close to meeting our constitutional duty because it does not fund education in a sustainable manner. It is a thinly veiled attempt to retain flat funding. The Supreme Court and the Kansas Constitution mandate adequate and sustainable funding. We are at the 86th day of the 2017 Legislative session and approximately the 680th day of the unconstitutional block grant education funding mechanism. Fifty one days remain to fix this problem. The clock is ticking on our self-imposed and now Court mandated deadline. A structural fix is not a fix if we do not fund education. I vote no on **HB 2067**.—LYNN ROGERS

Senator Pettey requests the record to show she concurs with the "Explanation of Vote" offered by Senator Rogers on **HB 2067**.

ORIGINAL MOTION

Having voted on the prevailing side on **HB 2067**, Senator Tyson moved the Senate reconsider its action on **HB 2067**. The motion carried.

Senator Tyson moved the Senate not adopt the Conference Committee Report on **HB 2067** and appoint a new conference. The motion prevailed.

The President appointed Senators Tyson, Kerschen and Holland as second conferees on the part of the Senate.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **Substitute for HB 2277**, as amended by House Committee of the Whole, be passed.

On motion of Senator Denning, the Senate adjourned until 10:00 a.m., Thursday, May 11, 2017.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

