

**SECOND CONFERENCE COMMITTEE REPORT BRIEF
SENATE BILL NO. 169**

As Agreed to April 5, 2023

Brief*

SB 169 would make various changes to income, sales, and property tax law. Specifically, the bill would:

- Replace individual income tax brackets with a single rate of 5.15 percent;
- Reduce corporation income and privilege tax rates and discontinue corporate rate reductions required by the Attracting Powerful Economic Expansion Act (APEX);
- Expand the exemption on Social Security income;
- Provide for annual standard deduction increases by a cost-of-living adjustment;
- Accelerate the elimination of state sales and compensating use tax on food and food ingredients and the associated repeal of the food sales tax credit and disposition of revenue changes; and
- Increase the amount of the appraised value of residential property exempt from the statewide uniform 20 mill school finance levy to \$60,000.

Individual Income Tax Flat Rate

The bill would provide, beginning in tax year 2024, for a single individual income tax rate of 5.15 percent to be applied to all Kansas taxable income in excess of \$12,300 for married individuals filing joint returns and \$6,150 for all other individuals. Kansas taxable income less than those amounts would not be taxed.

Corporation Income and Financial Institutions Privilege Tax Rate Changes

The bill would reduce the tax rates applied to corporations and financial institutions.

For corporations, the normal tax rate would be set at 3.0 percent beginning in tax year 2024. [Note: The normal corporate rate is currently scheduled to be reduced from 4.0 to 3.5 percent in tax year 2024 due to an agreement under APEX.]

For banks, the normal tax rate would be reduced from 2.25 percent to 1.94 percent for tax year 2024 and to 1.63 percent for tax year 2025 and all years thereafter.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/klrd>

For trust companies and savings and loan associations, the normal tax rate would be reduced from 2.25 percent to 1.93 percent for tax year 2024 and to 1.61 percent for tax year 2025 and all years thereafter.

[Note: The surtaxes on corporations and financial institutions would not be affected by the bill.]

The bill would repeal possible future corporate rate decreases resulting from agreements under APEX.

Social Security Benefit Income Taxation Cliff Phase Out

Beginning in tax year 2023, the bill would expand the existing income tax exemption for federally taxable Social Security benefits available to taxpayers with \$75,000 or less in federal adjusted gross income (FAGI) to phase out taxpayer eligibility for the exemption through a linear transition formula from \$75,000 in FAGI to \$100,000 in FAGI.

The bill would provide for annual increases of \$5,000 to the upper bound of the transition beginning in tax year 2024.

Standard Deduction Increase and Cost of Living Adjustment

The bill would, beginning in tax year 2024, provide for all Kansas individual income tax standard deduction amounts to be annually increased by the cost-of-living adjustment determined under Section 1(f)(3) of the Internal Revenue Code.

Food Sales Tax Changes

The bill would accelerate the elimination of the state sales and compensating use tax rate on food and food ingredients to January 1, 2024.

The bill would raise the percentage of sales tax revenue distributed to the State Highway Fund to 18.0 percent of sales and use tax receipts beginning January 1, 2024.

The bill would sunset the food sales tax credit at the end of tax year 2023.

[Note: Under current law, the rate is scheduled to be reduced to 2.0 percent on January 1, 2024, and to 0.0 percent on January 1, 2025; the proportion of sales and use tax receipts distributed to the State Highway Fund is scheduled to be increased to 18.0 percent beginning January 1, 2025; and the credit is scheduled to be sunset after tax year 2024.]

School Finance Levy Residential Exemption

The bill would increase, beginning in tax year 2023, the amount of residential property exempt from the statewide uniform 20 mill school finance levy from \$40,000 to \$60,000 of appraised value.

A formula to increase the amount of the exemption based upon the statewide average increase in residential valuation over the preceding ten years would be delayed in implementation from tax year 2023 to 2024.

Conference Committee Action

The Second Conference Committee agreed to the provisions of House Sub. for SB 169 and further amended the bill as follows:

- Provide for a single individual income tax rate of 5.15 percent;
- Provide for a portion of the privilege tax rate reduction to occur in tax year 2024;
- Provide for an annual increase in the upper bound of exempt Social Security income;
- Eliminate the standard deduction increase for taxpayers filing single returns;
- Eliminate state sales and compensating use tax on food and food ingredients on January 1, 2024, and repeal the food sales tax credit beginning in tax year 2024;
- Set the amount of the appraised value of residential property exempt from the statewide uniform 20 mill school finance levy at \$60,000; and
- Change the effective date of the bill to publication in the statute book.

Background

SB 169 was introduced by the Senate Committee on Assessment and Taxation at the request of Senator Tyson. The bill, as introduced, would have provided for a single individual income tax rate of 4.75 percent, beginning in tax year 2024. The House Committee on Taxation removed the contents of SB 169 and inserted the contents of HB 2457. The House Committee recommended a substitute bill with additional amendments to the contents of HB 2457 as introduced:

- Replace the phase-out of all Social Security income from taxation with a provision to smooth out the cliff from \$75,000 to \$100,000 [*Note: The Second Conference Committee retained this amendment, with a subsequent addition of an annual increase of the upper bound.*];
- Increase the flat tax rate to 5.25 percent and raise minimum taxable income levels [*Note: The Second Conference Committee modified this amendment.*];
- Delay implementation of reductions to corporate income and privilege taxes to tax year 2024 [*Note: The Second Conference Committee modified this amendment.*]; and
- Change the effective date of the bill to publication in the *Kansas Register*. [*Note: The Second Conference Committee did not retain this amendment.*]

HB 2457

HB 2457 was introduced by the House Committee on Taxation at the request of Representative Adam Smith.

House Committee on Taxation

In the House Committee hearing, **proponent** testimony was provided by representatives of Americans for Prosperity-Kansas, the Kansas Bankers Association, and the Kansas Chamber. The proponents generally stated the bill would provide needed tax relief to Kansans and Kansas businesses, make the Kansas more competitive and contribute to economic growth, and help the state retain residents.

Written-only proponent testimony was provided by representatives of the Kansas Association of Realtors and Kansas Policy Institute.

Opponent testimony was provided by an economics professor of the University of Kansas and by representatives of Kansas Action for Children and the Kansas National Education Association. The opponents generally stated the bill would substantially reduce state revenues available to provide services to Kansans and would disproportionately benefit wealthy taxpayers.

Written-only opponent testimony was provided by a private citizen and representatives of The Family Conservancy, Kansas Appleseed, Kansas Interfaith Action, and REACH Healthcare Foundation.

Neutral testimony was provided by a representative of the Kansas League of Municipalities.

House Committee of the Whole

The House Committee of the Whole made a technical amendment and amended the bill to:

- Increase the amount of residential property exempt from the statewide uniform 20 mill school finance levy to \$80,000 of appraised value; and
- Allow taxpayers to elect the tax year in which contributions to postsecondary education savings accounts are claimed.

[*Note:* The Second Conference Committee did not retain these amendments.]

Fiscal Information

The Department of Revenue indicates SB 169, as agreed to by the Second Conference Committee, is estimated to have the following fiscal effects:

(Dollars in Millions)

	FY 2024	FY 2025	FY 2026
Individual Income Tax Single Bracket 5.15%	\$ (99.2)	\$ (331.7)	\$ (335.0)
Corporate Rate Reductions	(12.1)	(40.6)	(41.4)
Privilege Tax Rate Reductions	(5.8)	(7.2)	(7.4)
Social Security Exemption Linear Transition and Annual Adjustment	(22.3)	(21.9)	-26
Standard Deduction Indexing	(3.8)	(15.8)	(25.1)
Food Sales Tax to 0.0% Acceleration	(115.5)	(122.7)	-
Food Sales Tax Credit Repeal Acceleration	-	10.3	-
<i>Subtotal – State General Fund</i>	<u>\$ (258.7)</u>	<u>\$ (529.6)</u>	<u>\$ (434.9)</u>
Food Sales Tax to 0.0% Acceleration	\$ (3.0)	\$ 3.6	\$ -
<i>Subtotal – State Highway Fund</i>	<u>\$ (3.0)</u>	<u>\$ 3.6</u>	<u>\$ -</u>
Res. Property Tax Exempt. to \$60,000	\$ (41.0)	\$ (43.3)	\$ (45.9)
<i>Subtotal – State School District Finance Fund</i>	<u>\$ (41.0)</u>	<u>\$ (43.3)</u>	<u>\$ (45.9)</u>
Total All Funds	<u>\$ (302.7)</u>	<u>\$ (569.3)</u>	<u>\$ (480.8)</u>

The Department of Revenue also indicated the bill has the potential to reduce revenues pledged to repay STAR bond projects by unknown amounts beginning in FY 2025, and the reduction in property tax revenue would require a corresponding appropriation for State Foundation Aid from the State General Fund in order to maintain Base Aid for Student Excellence in the school finance formula at \$5,103 for FY 2024, as included in *The FY 2024 Governor's Budget Report*.

The fiscal effect associated with enactment of the Social Security income taxation phase out, food sales tax rate reduction, and sales tax revenue distribution change provisions of the bill are partially reflected in *The FY 2024 Governor's Budget Report*.

Taxation; income tax; brackets; privilege tax; surtax; rates; Social Security benefits; phase out; sales tax; food sales tax; food sales tax credit; State Highway Fund; property tax; mill levies; school finance; exemption

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