

Approved Feb. 24, 1988
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT & TAXATION

The meeting was called to order by Senator Fred A. Kerr at
Chairperson

11:00 a.m./p.m. on February 23, 1988 in room 519-S of the Capitol.

All members were present except:

Senator Dan Thiessen

Committee staff present:

Tom Severn, Revisor's Office
Chris Courtwright, Revisor's Office
Don Hayward, Revisor's Office
Sue Pettet, Secretary to the Committee

Conferees appearing before the committee:

Sen. Hoferer
John McNeal, Retired Officers Assoc.
Jim Savage, Retired Enlisted Assoc.
Steve Goodman, Disabled Veterans Assoc.
John Luttjohan, Department of Revenue
Mark Burghart, Department of Revenue

Chairman Kerr called the meeting to order and said the agenda for the day was to have a hearing on S.B. 520.

SENATE BILL 520

Sen. Hoferer expressed support for S.B. 520, a bill which would repeal the \$120.00 non-refundable tax credit for certain military retirees and in its place provide that military retirees over 55 years of age be allowed to deduct retiree payments included in federal adjusted gross income not exceeding \$32,000 for married filing jointly or \$25,000 for all other retirees. This would exempt for those over 55 all or most of military retired pay from the Kansas Income tax.

John McNeal testified in support of S.B. 520. (Att. 1, 2, 3 & 4). He stated that the armed service retirees are the only Federal retired personnel that are not exempted from Kansas Income Tax on retired pay. He felt S.B. 520 would generate incentive for the retirees to remain in Kansas. He said he felt the fiscal note to the state would be between \$2.2 million and \$2.7 million.

Jim Savage testified in support of S.B. 520. He stated that he was also representing the local chapter of the members of the Retired Enlisted Assoc. He stated that he felt military retirees have a strong tendency to retire near the base where they had spent a substantial amount of time. He felt exemption of retirement pay might encourage more retirees to locate in Kansas. In response to a question, Mr. Savage stated that other states handle the income taxation in various ways. Some states have partial exemptions or tax credits. There are 15 states in which there is no income tax on military retirement pay; 10 of those states have no income tax at all.

Steve Goodman testified in support of S.B. 520. He encouraged the committee to support the Disabled Veterans of Kansas by passing S.B. 520. He said that many of the disabled veterans rely solely on their retirement income benefits.

John Luttjohan testified. (Att. 5) He stated that the proposed legislation allows a modification subtraction for the amount of retirement pay received due to prior service in the armed forces of the United States. He stated that the Department took no stand regarding the bill, but felt there could very possibly be a legal problem regarding the bill. He felt that the issue of "equal protection" may be raised by the bill in that the modification subtraction applies only to resident taxpayers. The current method of taxation states that a non-resident is allowed to compute his tax as if he were a resident and then prorate the computed tax based on his Kansas

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT & TAXATION,

room 519-S, Statehouse, at 11:00 a.m./~~p.m.~~ on February 23, 1988

source income. This allows the nonresident the benefit of all deductions. If this bill were passed, Kansas tax law would treat nonresidents differently from resident taxpayers.

Committee Discussion on S.B. 554.

Mark Burghart, Dept. of Revenue, handed out Attachment 6. The language in the proposed amendment had been requested for consideration by the Chairman. It involves foreign income taxes of U.S. incorporated taxpayers which have either not been deducted in arriving at federal taxable income or which have been added back to federal taxable income. (See Att. for language in the amendment.)

Chairman Kerr and Senator Karr said that this problem was discussed in 1987 by the Tax Reform Task Force. After committee discussion, Senator Mulich made a motion to adopt the concept of amendment presented by the Department of Revenue in Att. 6. Sen. Karr seconded. Motion carried. Sen. Kerr reminded the committee that there were also two amendments previously adopted to S.B. 554.

Sen. Hayden moved that S.B. 554 be recommended favorably for passage as amended. Sen. Karr seconded. Motion carried.

Sen. Allen moved to adopt the minutes of the Feb. 19 and Feb. 22 meetings. Sen. Parrish seconded. Motion carried.

Chairman Kerr announced that the committee would be working S.B. 450 on Wednesday, Feb. 24.

Meeting adjourned.

The Honorable Fred Kerr
Senator 33rd District
Chairman, Senate Assessment and Taxation

Mr. Chairman and Members of the Committee:

My name is John McNeal, representing THE RETIRED OFFICERS ASSOCIATION as state legislative chairman in expressing our fullest support of Senate Bill 520, an act amending KSA 1987 Supp. 79-32, 117 and repealing KSA 79-32, 111b.

What SB520 Does

The proposed law rescinds the \$120.00 non-refundable tax credit for certain military retirees and in its place provides that military retirees over 55 years of age be allowed to subtract amounts included in federal adjusted gross income as military retired pay not exceeding \$32,000 for married filing jointly or \$25,000 for all other retirees, thus exempting for those over 55 all or a part of military retired pay from the Kansas Income Tax.

Discussion

Senate Bill 520 would correct an inequality that has long existed and at the same time make a large contribution to economic development in Kansas.

The armed service retirees are the only Federal retired personnel that are not exempted from Kansas Income Tax on retired pay. Federal Civil Service retirement annuities are totally exempt from Kansas Income Tax. (KSA 72-32, 117, Sec 1(c)(VII)). Retired railroad employees are also exempted by 1(c)(VIII) and by Federal law. Kansas Public Employee Retirement recipients are also exempted. Military Retirees seem to have been overlooked creating an inequity that should be corrected.

Military Retirees presently living in this state make a major contribution to the State's economy. The total federal payment to these 12,403 retirees (8803 enlisted; 3600 officers - 1985 Dept. of Defense Report) is \$144,348,000 which makes an increase in economic activity in the state of over one-half billion dollars when the usual "turn-over" multiplier of four is applied. This economic contribution can and should be increased by providing incentives for more military retirees from the large military bases in Kansas and in other states to settle in Kansas upon retirement.

In addition today's military retirees, particularly the enlisted retirees, represent a major source of highly skilled and highly trained employees for fueling the economic development of the state especially in the high technology industries where there is always a need for such manpower. Incentives such as provided by SB520 are needed to keep our present retirees in the state and to induce more retirees to come to work in Kansas.

Fiscal Effect

An exact determination of the fiscal effect of SB520 would require a detailed review and analysis of each income tax return filed in Kansas. However, using US Dept. of Defense 1985 figures on numbers and dollars along with analysis and estimates of the retired group by age, marital status and rank, one can make an estimate that is, we believe, within 5% to 10% accuracy. 1987 Kansas and Federal Income Tax were used as was a four percent tax rate which the Kansas Dept. of Revenue reports as the tax bracket for the average Kansas taxpayer.

Our estimate is \$2,200,000. This is one-quarter of one percent of the 793.7 million total individual income tax payments projected for fiscal 1989.

Thank you for allowing us to be heard.

Fiscal Analysis

Dept of Defense Report 1985:

Kansas Retired officers receiving retired pay	3,600
Enlisted personnel receiving retired pay	8,803
Total military retirees receiving retired pay	12,403
Average annual retirement pay - officers	\$ 16,630.00
Average annual retirement pay - enlisted	\$ 9,596.73
Total annual retirement pay - officers	\$ 59,868,000.00
Total annual retirement pay - enlisted	\$ 84,480,000.00
Total annual retirement payments	\$144,348,000.00
Tax bracket for average Kansas Income Tax return	4%

Estimates used in analysis

Percent of retired married	75%
Percent of retired officers over 62	55%
Percent of retired enlisted over 62	45%
Tax on income over 82,000/25000 limit	\$175,000.00
<p style="margin-left: 40px;">Note: only Chief Warrant 4 and officers, Major and above, are affected by the 32,000/25,000</p>	
Officers not exempt (under 55) percent	10%
Enlisted not exempt (under 55) percent	20%

Annual Gross military retirement pay currently subject to income taxation before deductions	\$144,348,000.00
Personal exemptions	
Married retirees (.75 X 12,403 X 2000)	\$ 18,604,500.00
Single retirees (.25 X 12,403 X 1000)	\$ 3,100,750.00
Total	\$ 21,705,250.00
Net subject to tax	\$122,642,750.00

Minimum Standard Deductions	
Married (\$2100 X 12,403 X .75)	\$ 19,534,725.00
Single (\$1700 X 12,403 X .25)	\$ 5,271,275.00
Total	\$ 24,806,000.00
Net subject to tax	\$ 97,836,750.00

Deduction for Federal Income Tax paid	\$ 7,113,698.00
Net subject to tax	\$ 90,723,052.00
Tax rate	.04
Total tax under present law	\$ 3,628,922.00

Adjustments for provision of SB520	
Repeal of \$120 credit for over 62	-
Officers (55% of all)	
Enlisted (45% of all)	
Total	\$ 712,962.00
Net	\$ 2,915,960.00
Adjustment Income Tax over \$32,000/\$25,000 (still taxable)	\$ 175,000.00
Net	\$ 2,740,960.00

Income tax for those under 55 (still taxable)		\$22,882,800.00
Personal exemptions	officers single (10% of all)	\$ 90,000.00
	officers married (10% of all)	\$ 540,000.00
	enlisted single (20% of all)	\$ 440,000.00
	enlisted married (20% of all)	\$ 2,642,000.00
	Total personal exemptions	<u>\$ 3,712,000.00</u>
	Net taxable	\$19,171,000.00
Standard Deductions total officers & enlisted		\$ 4,242,000.00
	Net taxable	<u>\$14,928,000.00</u>
Federal Income Tax exemption		<u>\$ 1,310,234.00</u>
	Net taxable	<u>\$13,617,766.00</u>
	Tax at 4%	<u>\$ 544,711.00</u>
Total fiscal effect \$2,740,960 less \$544,711		<u><u>\$ 2,196,249.00</u></u>

STATES HAVING NO INCOME TAX ON MILITARY RETIREMENT PAY

1. Alaska
2. Connecticut
3. Florida
4. Nevada
5. New Hampshire
6. South Dakota
7. Tennessee
8. Texas
9. Washington
10. Wyoming
- *11. Hawaii
- *12. Illinois
- *13. Michigan
- *14. Pennsylvania
- *15. West Virginia

* These States have a specific exemption for all military retired pay.

NOTE: All States, including Kansas, exempt disability pay.

INCOME TAX ON MILITARY RETIREMENT PAY

Adjacent States

COLORADO: \$20,000.00 exempt if 55 or over.
\$2,000.00 exempt if under 55.

MISSOURI: No exemption.

OKLAHOMA: First \$1,500.00 of military pay exempt.

COMMENT: Colorado with the highest existing incentive to attract military retirees has the highest number of military retirees. Military Retirees constitute the highest percentage of the total population of any of the surrounding States.

MEMORANDUM

TO: The Honorable Fred Kerr, Chairman
Senate Assessment & Taxation Committee

FROM: John R. Luttjohann, Director of Taxation
Department of Revenue

DATE: February 23, 1988

RE: Senate Bill 520 - Modification Subtraction from Federal
Adjusted Gross Income for the Amount of Military
Retirement Pay

Thank you for the opportunity to appear before you on Senate Bill 520.

The proposed legislation allows a modification subtraction for the amount of retirement pay received due to prior service in the armed forces of the United States. The amount subtracted cannot exceed \$32,000 for a joint return or \$25,000 for all other individuals. The modification is limited to resident individuals 55 years of age or older.

Until 1982, there existed a modification subtraction for military retirees 65 years of age or older. The maximum amount that could be subtracted from federal adjusted gross income was \$2,000. At that time, the subtraction was allowed to any qualified taxpayer regardless of residency status. The subtraction, as a result of Senate Bill 2 of the 1982 Legislative Session, was switched to a direct tax credit and restricted to only resident taxpayers. The tax credit is in the amount of \$120 for any qualified taxpayer who is 62 years of age or older as of December 31 of the taxable year.

A legal problem, in the form of an equal protection challenge, may be raised by this bill in that the modification subtraction applies only to resident taxpayers. Our current method of taxation holds that a nonresident is allowed to compute his tax, as if he was a resident and then prorates the computed tax based on his Kansas source income. This allows the nonresident the full benefit of all deductions. At no time have other subtraction modifications been limited to resident taxpayers. If this bill is passed, Kansas tax law would treat nonresidents differently from resident taxpayers in the initial computation of tax. This could conceivably alter our entire method of taxing nonresidents and represents a significant departure from current policy.

I'd be glad to respond to any questions you may have.

JRL:bkh

New Section. With regard to the petroleum exploration and production foreign income taxes of U.S. incorporated taxpayers which have either not been deducted in arriving at federal taxable income or which have been added back to federal taxable income under K.S.A. 79-32,117(b)(ii), the Director may, upon the taxpayer's request on or before the filing date of its original return, allow a deduction for the amount by which such taxes in the aggregate exceed 52% of the related income of the taxpayer if the Director finds that such deduction is necessary to clearly reflect income. This deduction shall be in lieu of any other income modifications based upon high foreign income tax rates or distortion pursuant to K.S.A. 79-32,141, K.S.A. 79-3288, or otherwise.