

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation

The meeting was called to order by Senator Dan Thiessen at
Chairperson

11:00 a.m./p.m. on Wednesday, March 6, 1991 in room 519-S of the Capitol.

All members were present except:

Committee staff present:

Don Hayward, Assistant Revisor

Bill Edds, Assistant Revisor

Tom Severn, Research Department

Chris Courtwright, Research Department

Marion Anzek, Committee Secretary

Conferees appearing before the committee:

Senator Gerald Karr, Chief Sponsor of SB202

Elizabeth E. Taylor, Executive Director-KS Tobacco-Candy Distributors & Vendors Inc.

Mary Ella Simon, KS League of Women Voters

Frances Kastner, Director Governmental Affairs

Senator Marge Petty, Chief Sponsor of SB154

Senator Lana Oleen, Chief Sponsor of SB43

Clay Comfort, President-Jayhawk Chapter, Retired Officers Association, Lawrence, KS

Cletus J. Pottebaum, Co-Chairman-KS Coalition of Military Associations

James C. Trepoy, Retired Command Sergeant Major, U.S. Army from Salina, KS

Ronald L. Martin, State Commandant of the Marine Corps League and also ,

Pay & Personnel Center of the U.S. Coast Guard in Topeka

Lynn R. Samms, a military retiree from Junction City, KS

Theodore F. Sanders, a military retiree & member of the Retired Sergeants Major Assoc.

Chairman Dan Thiessen called the meeting to order at 11:06 a.m and turned attention to SB202 recognizing Senator Gerald Karr, Chief sponsor of SB202.

SB202:AN ACT relating to sales taxation; exempting sales of food for human consumption; amending K.S.A. 79-3606 and repealing the existing section; also repealing K.S.A. 79-3632 to 79-3639, inclusive.

THE FOLLOWING CONFEREES ARE PROPONENTS OF SB202.

Senator Gerald Karr said SB202 deals with the sales tax on food. He said the sales tax is a regressive tax and more regressive than other taxes available.

He said he felt the committee should pay particular attention to the equity issue.

He said the sales tax on food has a negative impact on lower income Kansans, and eliminating the sales tax on a basic necessity of life would be a significant reduction in the tax burden paid by poorer Kansans. He said he is asking to keep SB202 alive so the committee can have it as part of the total package for consideration when they discuss the possible repeal and exemptions and personal services. With his handout he passed a revised fiscal note with testimony. (ATTACHMENT 1)

Elizabeth E. Taylor, Executive Director for KS Tobacco-Candy Distributors & Vendors, Inc. said they are pleased to offer their support for the sales tax exemption on food products, because their members serve in volunteer capacities of leadership within their own communities. She said they have listed this social issue among their top five legislative priorities.

She urged the committee to consider enhancing the sales tax with some alternate appropriate measure of taxing vending operations and enhancing the income tax rate for all Kansas workers. (ATTACHMENT 2)

Mary Ella Simon representing the KS League of Women Voters said they believe in this policy because they believe it is one of the most regressive of all taxes. She said, a family that spends \$100 a week on food would realize a savings of more than \$250 at the end of the year.

She said of the 48 states with sales tax in place, 28 of them exempt food. (ATTACHMENT 3)

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation

room 519-S, Statehouse, at 11:00 a.m./~~p.m.~~ on Wednesday, March 6, 19⁹¹

Frances Kastner, Director Governmental Affairs said over the years they have expressed their opposition to exempting food from the sales tax base.

She said the state has in place a fairly generous sales tax refund (or credit on income tax) for those with lower incomes, and she said if the state can afford it, they think it would be more logical to expand the relief for those who qualify, and she reminded the committee members that food purchased with food stamps is not subject to sales tax, and the recipients are also eligible for the Food Sales Tax Refund.

She said another concern they have is exempting food from sales tax would require increasing sales tax by $\frac{1}{2}\%$ to replace the \$110,000 collected on food sales. (ATTACHMENT 4)

After committee discussion Chairman Thiessen concluded hearings on SB202 and turned attention to SB154.

SB154:AN ACT relating to property taxation; concerning the time of payment by certain elderly individuals; amending K.S.A. 1990 Supp. 79-2004 and repealing the existing section.

Senator Marge Petty, Chief sponsor of SB154 said basically the concept of this bill is to allow taxpayers 65 years and older to make partial payments for those on fixed income. It does not change the amount of money they pay, it merely allows them pay in (3) payments rather than (2) payments. They can make $\frac{1}{4}$ payment, then $\frac{1}{4}$ payment and then $\frac{1}{2}$ payment in December.

Senator Petty said she had contacted the Department of Revenue to see if they felt this would have an affect on counties, and they reported to her, there were no counties that had requested "no fund warrants".

Having no conferees on SB154, The Chairman turned attention to SB43 recognizing Senator Lana Oleen, Chief sponsor of the bill.

SB43:AN ACT relating to income taxation; concerning military retirement benefits; amending K.S.A. 1990 Supp. 79-32-117 and repealing the exsiting section; also repealing K.S.A. 79-32-111b.

THE FOLLOWING CONFEREES ARE PROPONENTS OF SB43.

Senator Lana Oleen said this bill is not new to this committee, and she said SB43 is the result of Proposal No. 10 which was studied during the 1989 Special Committee on Assessment and Taxation. She said the bill passed out of the interim committee and was brought forth in SB423 last year, which passed out of this committee and went to Ways and Means Committee being double referred.

She said when the court case of Davis vs Michigan was passed and the decision was rendered, there were 24 states that were out of compliance with equal treatment for states and civil service employees in their taxation level. She said, since that time (23) states have taken action through courts and legislatures.

She said she would highlight the statement that was given on February 6, 1990 fiscal note of SB43 prepared by the Department of Revenue, and she quoted "this bill or any other legislation equalizing the income tax treatment of military veterans benefits and KPERS retirement benefits is essential to the states defense in current litigation with military retirees" unquote. She said we are looking at an \$80.M fiscal note for retro-active court cases pending vs. the fiscal note. She said she does not have a new fiscal note for this year on SB43, but the one from last year was \$7.2M and another was \$7.8M.

Senator Oleen said she would like to call attention to the recent resolution, dealing with the Persain Gulf. She said, it has noted time and again with members from the Pentagon that the loss of lives, is indeed recognized by America, but she pointed out it is military career who is making the decisions and kept these numbers down.

She said, she believes the career military should be recognized by the State, as they deserve equal treatment like the state employees pensions, with legistators pensions and KPERS retirees. She said, she felt the military retirees should be given the same equal treatment.

She urged the committee consideration and a repeat action from the bill of last year. (NO WRITTEN TESTIMONY)

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation

room 519-S, Statehouse, at 11:00 a.m./~~p.m.~~ on Wednesday, March 6, 1991

Nancy Lindberg representing Robert T. Stephan, Attorney General said the Attorney General felt any plan of taxation even if constitutionally proper should be fair. Fair taxation demands that we not tax one segment of our state while allowing others' main source of income to be tax free.

She said, the Attorney General felt, the State of Kansas should end this discrimination against military retirees and exempt them from taxation. (ATTACHMENT 5)

Clay Comfort, President of the Jayhawk Chapter, Retired Officers Association, Lawrence, KS said their association strongly supports SB43. He said, as a group they have closely observed the reform of State Income Tax Laws in the 25 States affected by the U.S. Supreme Court's David vs Michigan decision of March 1989. He said it is distressing to know that as of this date, of the States affected by Davis vs Michigan only KS has yet to recognize the High Court's mandate for fairness and equity in the taxation of military retirees' pensions. He said military retirees are being treated unfairly and taxed in an unconstitutional manner by the State of KS. (ATTACHMENT 6)

Cletus J. Pottebaum, Co-Chairman, KS Coalition of Military Associations said since 1974, the military retirees in KS have made appeals for equal taxation. In the 1981 time period, the state had granted a \$120 tax credit for retirees of the U.S. armed services who are 62 or older. This exemption is not equal to that granted to other federal retirees, living in the state of Kansas.

He said their objectives of the military retirees in KS are: (1) Seek equality in taxation of military retiree income. (2) Request exemptions on taxation of military retiree income consistent with those policies now extended to other federal retired personnel in the state of KS. (ATTACHMENT 7)

James C. Trepoy, retired Command Sergeant Major, U.S. Army from Salina, KS said the Public Salary Tax Act of 1939 (attached to his handout) provides that a duly constituted tax authority having jurisdiction to tax compensation for personnel services of an officer or employee of the United States or any agency or instrumentality may be taxed if such taxation does not discriminate against such officer or employee because of the source of such compensation.

He said the State of KS does not tax Federal Civil Service retirement benefits, nor does the State of KS tax state retirement benefits such as KPERS, and other similar programs.

He said the KS military retirees are not asking for relief of paying taxes, but asking for equity in the taxation of retiree pensions. (ATTACHMENT 8)

Ronald L. Martin said he was representing the State Commandant of the Marine Corps League and also the Pay & Personnel Center of the U.S. Coast Guard in Topeka.

He said many are confused about contributing to their pension and as has been stated many times, they accepted a reduced wage and were promised at re-enlistment time that they were earning their retirement pay. He said his retirement check says "retired pay not a gift of the Government" He said he has earned his pay and he contributed towards it with hours and days at his job without any consideration of additional reward.

He said at this particular moment in the history of our great Nation many of our troops have offered their very lives for the Country they love and many have stepped forward with a new patriotism not seen since World War II. He said, do we now say, you did a great job and we stand with you but don't retire from the chosen profession of the Military because we will then discriminate against your retired pay?

(ATTACHMENT 9)

Lynn R. Samms a military retiree, Junction City, KS said he would like to publicly recognize those that has placed their name in support of SB43 as co-sponsors and thanked them for believing in the bill. He said all they ask for is equal consideration, which would place military retirees on an equal footing with the tax treatment presently accorded to federal, state and local government and civil service retirees.

He urged the committee to favorably pass SB43 with no amendments. (ATTACHMENT 10)

Theodore F. Sanders, a military retiree and a member of the Retired Sergeants Major Association said they have made their appeals to the Special Joint Assessment and

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation,
room 519-S, Statehouse, at 11:00 a.m. ~~pm~~ on Wednesday, March 6, 1991.

Taxation Committee in August and October 1989. He asked the committee to give favorable consideration to SB43. (ATTACHMENT 11)

Chairman Dan Thiessen said the committee has ran out of time and he thanked the conferees and apologized to the ones that were not able to testify, but The Chairman assured them their testimony would go on record, and he adjourned the meeting at 12:09 p.m..

WRITTEN TESTIMONY WAS TURNED IN BY THE FOLLOWING

- (1) Representative Elizabeth Baker (ATTACHMENT 12)
- (2) Charles M. Yunker, State Adjutant (ATTACHMENT 13)
- (3) Michael E. Rohly, Commander of Abilene's VFW Post #3279 (ATTACHMENT 14)

GUEST LIST

COMMITTEE: SENATE ASSESSMENT & TAXATION

DATE: WED. 3-6-91

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
MIKE ROLLY	1604 SPRUCEWAY ST. MILFORD, KS 66410	VFW Post 5279
ROBERT L. BOWDEN	351 W. REPUBLIC STAMPA, MO 64740	CHAP #16 TREA
Bob Peare	140 NW 35th St Topeka, Kans	Private
Jackie Clark	KC, Mo	Fullmark
KEYTON E BARKER JR	8549 SW K-4 Hwy	PLAINTIFF (Barker, et al vs Ks)
Paul Johnson	Topeka	PAK
Delbert Hoidal	7605 ILLINOIS TRAIL	Fleet Reserve Assn
Harold Aragon	7035 E. Hackberry Dr Topeka, KS 66607	The Retired Enlisted Assn.
SAM SHAMBURGER	MANHATTAN, KS 66502 1304 WREATH AVE	Retired mil
Robert Rodgers, Esq.	KCS	ASSN/PTF
Norman Gaul	Highland	Retired mil. + TROA
ELIZABETH E. TAYLOR	TOPEKA	Tobacco/Candy Dist
Mary Ella Demer	Topeka	KS Lg. of Women Voters
JANET STUBBS	Topeka	HBA of KS
Maryoie Jantz	Prairie Village	Joi. Co. Commission ^{in Agency}
John D McNeal	Topeka	TROA
Theodore Sanders	Junction City	RSGM Assn.
D. Allen	J.C.	TREA
LELAND L. ROBINSON	911 MEADOW LN JUNCTION CITY	RET SGIM ASSOC
EMER V. GIBBERT	4034 SW 35th Ave TOPEKA, KS 66614	RET. VET
ALLEN H. BLUM	2533 SW 85th St WARARUSA, KS. 66546	Ret. Mil. TROA
GLENN L. SYMES	4335 SE 26 St TOPEKA KS 66605	US AIR FORCE RETIRED
Terry Guy	Meriden	Revenue
MARK A. BURGHART	TOPEKA	REVENUE
John E. Walters	MILFORD	Ret. UNLISTED ASSN

State of Kansas

Senate Chamber

GERALD "JERRY" KARR
SENATOR, SEVENTEENTH DISTRICT
CHASE, LYON, MARION, MORRIS,
OSAGE COUNTIES
R.R. 2 BOX 101
EMPORIA, KANSAS 66801



Office of Democratic Leader

STATE CAPITOL
TOPEKA, KANSAS 66612-1565
913-296-3245

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**STATEMENT BY SENATOR GERALD "JERRY" KARR
BEFORE THE SENATE ASSESSMENT AND TAXATION COMMITTEE
CONCERNING SENATE BILL 202
EXEMPTION OF FOOD FROM SALES TAX
MARCH 6, 1991**

Thank you, Mr. Chairman, for the opportunity to appear before your committee in support of Senate Bill 202 that would exempt food from Kansas sales tax.

This session there have been many discussions about tax policy in Kansas. Those discussions have centered on the fairness of our current tax structure.

As we discuss the structure of our tax system, I believe we should pay particular attention to the equity issue. The sales tax is more regressive than other taxes available to the state. I recognize that Senate Bill 202 has a significant fiscal note (\$108.6 million SGF) but it should be considered as we discuss the broad picture on tax policy.

The sales tax on food has a negative impact on lower income Kansans. As the repeal of sales tax exemptions are discussed and as we consider adding the sales tax to certain services, eliminating the sales tax on a basic necessity of life would be a significant reduction in the tax burden paid by poorer Kansans.

36-91
ATT. 1

Memorandum

To: Mr. Louis Chabira, Deputy Director
Division of Budget

Date: March 6, 1991

From: Kansas Department of Revenue

RE: S.B. 202, As Introduced
"REVISED FISCAL IMPACT"

BRIEF OF BILL:

Senate Bill 202, as introduced, would exempt all sales of "food for human consumption" from Kansas sales tax.

Section 3 repeals the food sales tax refund on or after October 16, 1992.

This bill would take effect on July 1, 1991.

FISCAL IMPACT:

Passage of this bill would reduce fiscal year 1992 State General Fund Revenues about \$108.6 million. The State Highway Fund would be reduced about \$6.8 million in fiscal year 1992.

Based on federal statistics, Kansas sales tax collections from food have generally been estimated to be about 15% of total retail sales tax collections. Total collections from the 4.25% sales tax is estimated to be \$839.4 million in FY 1992. The FY 1992 consensus estimate for state general fund sales tax collections is \$790.0 million and the highway fund estimate is about \$49.4 million. If food makes up about 15% of total sales tax collections then the fiscal impact of this bill would be about \$125.9 million. Allowing for a one month lag, the fiscal impact to the state general fund in FY 92 would be a decrease of \$108.6 million ($\$125.9 \times 11/12 \times 16/17$), the highway fund would decrease \$6.8 million ($\$125.9 \text{ million} \times 11/12 \times 1/17$).

The food sales tax refund would be repealed in fiscal year 1993. In fiscal year 1990 food sales tax refunds paid were about \$3.1 million.


ADMINISTRATIVE IMPACT:

None.

LEGAL IMPACT:

None.

APPROVED BY:


Mark Beshears
Secretary of Revenue



Kansas Tobacco-Candy Distributors & Vendors, Inc.

Elizabeth E. Taylor - Executive Director

President

RONDA WASSENBERG (06-92)
Marysville, Kansas

Vice President

TOM GUTHRIE (06-92)
Kansas City, Kansas

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ROBERT PIOTROWSKI (06-91)
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Junction City, Kansas

March 6, 1991

TO: Senate Assessment & Taxation Committee
Senator Thiessen, Chair

FR: Elizabeth E. Taylor, Executive Director

RE: Support for SB 202

The Kansas Tobacco & Candy Distributors & Vendors Association is made up of the grocery wholesalers in Kansas selling tobacco, candy, groceries, paper products, snacks and juices, health & beauty aids and other related items to retail stores, restaurants, concessions, etc. throughout Kansas and adjoining states. Most of our wholesale houses are family owned and operated businesses and have been in existence for an average of twenty years.

We are pleased to offer our support for the sales tax exemption on food products. Because our members serve in volunteer capacities of leadership within their communities, we have listed this social issue among our top five legislative priorities.

In light of the severe financial crisis the state of Kansas is facing, we also want you, the Senate, to know that we stand behind you in resolving this problem. We urge your consideration of enhancing the sales tax (with some alternate appropriate measure of taxing vending operations) and enhancing the income tax rate for all Kansas workers. While we understand that there may be a need for elimination of waste in our government, we feel strongly that after review of our governmental structure, any ensuing tax crisis is a problem for all of us and that we should ALL share in the responsibility. For those who are less fortunate than to have the ability to work and provide for their families, however, we want to see a level of fairness. Eliminating the sales tax on food, of which a greater percentage of income is spent by the lowest income Kansans, is a necessary step in that direction.

Thank you for the opportunity to express our support for SB 202.

LWVK LEAGUE OF WOMEN VOTERS OF KANSAS

March 6, 1991

To: Senate Assessment and Taxation Committee
Sen. Dan Thiessen, Chairman

I am Mary Ella Simon speaking for the League of Women Voters of Kansas in support of SB202 which would remove the sales tax on food.

The League has a long history of supporting this policy because we believe it is one of the most regressive of all taxes. A family that spends \$100 a week on food would realize a savings of more than \$250 at the end of the year.

Unfortunately, like the windfall tax return, that savings would not show up in a check, but it would make that income available for other expenditures.

Of the 48 states with sales tax in place, 28 of them exempt food. In Shawnee County, we are currently paying a sales tax of $5\frac{1}{4}\%$ and of those states with a sales tax of more than 5%, only three tax food -- Mississippi, Tennessee, and West Virginia.

We acknowledge the state's current revenue problems, but believe the best interest of the public would be served by removing this tax on food and supplementing that lost revenue with increases in income tax, users' fees, and sales tax.

The time may be ripe for an increase in the gasoline tax with prices declining at the pump. The Legislature could take another look at the Highway Fund.

We believe the time has come for a revision of the state's tax structure to provide more revenue for social programs and education in the fairest and most equitable way.

Thank You,

Mary Ella Simon

3-6-91
ATT. 3



EXECUTIVE DIRECTOR
JIM SHEEHAN
Shawnee Mission

March 6, 1991

SENATE ASSESSMENT AND TAX COMMITTEE

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JOE WHITE
Kingman

DIRECTOR OF
GOVERNMENTAL AFFAIRS

FRANCES KASTNER

SENATE BILL 202

As Director of Governmental Affairs I am speaking on behalf of our members that are involved in the wholesale, distribution and retail of food products in Kansas.

Over the years many of you have heard me express our opposition to exempting food from the sales tax base. This year we want to share some comments from our members.

As the state-wide trade association for grocers we still believe that everyone should pay some kind of tax in support of the services that the cities and state provides for every citizen. We have in place a fairly generous sales tax refund (or credit on income tax) for those with lower incomes, and if the state can afford it, we think it would be more logical to expand the relief for those who qualify. Along this same line we should remind you that the food purchased with food stamps is NOT SUBJECT TO SALES TAX, yet those who receive food stamps (AT NO COST) are also eligible for the Food Sales Tax Refund.

Technology advances have made it less difficult to tax items that are NOT subject to the food stamp definition and exempt those food stampable items. It would probably place our grocers along the Nebraska border in a more competitive position since Nebraska does not charge sales tax on food.

In those areas where there is a city or county sales tax in place, as we understand the bill, they would have to charter out from under the food sales tax exemption in order to continue to charge local sales tax. One of our Directors from Fredonia informed me that their one cent sales tax was earmarked specifically for their city hospital operations. Although keeping the tax on food at the local level would cause him more work, he is not in favor of having his city lose that one cent sales tax.

Another concern is that exempting food from sales tax would require INCREASING sales tax by 1/2 cent to replace the \$110,000 collected on food sales. We do not envy your job of finding a solution to the tax dilemma, but I do thank you for permitting me to share our thoughts with you.

Frances Kastner, Director
Governmental Affairs, KFDA



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

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March 6, 1991

Senator Dan Thiessen, Chairperson
Senate Assessment and Taxation Committee
State Capitol, 143-N
Topeka, KS 66612

RE: Senate Bill 43

Dear Chairperson Thiessen:

I am sorry I am unable to testify before your committee today. I do want to express my support for House Bill 2031.

Any plan of taxation even if constitutionally proper should be fair. Fair taxation demands that we not tax one segment of our state while allowing others' main source of income to be tax free.

Various governmental employee groups have been exempted from paying income tax on pensions. The military has been excluded from this benefit. I believe the State of Kansas should end this discrimination against military retirees and exempt them from taxation.

I ask for you to pass Senate Bill 43. Thank you.

Sincerely,

Robert T. Stephan
Attorney General

ATT. 5
3-6-91

Statement of Clay Comfort, President of the Jayhawk Chapter, Retired Officers Association, Lawrence, before the Senate Committee on Assessment and Taxation on SB 43, March 6, 1991.

I want to thank the Committee and especially Senator Oleen for this opportunity to appear in support of SB 43 this morning. On behalf of the many retired servicemen and women and their spouses in Lawrence area who are members of the Retired Officers Association, I can convey to you our strongest support for this bill and its companion bill in the other chamber.

As a group we have closely observed the reform of State Income Tax Laws in the 25 States affected by the U.S. Supreme Court's Davis vs. Michigan decision of March 1989. It is distressing to know that as of this date, of the States affected by Davis vs. Michigan, only Kansas has yet to recognize the High Court's mandate for fairness and equity in the taxation of military retirees' pensions. But we are reassured by Senator Oleen's untiring efforts to redress this inequity and most appreciative of the support by the co-sponsors.

The many retirees with whom I have discussed this matter during the past year understand clearly the fiscal constraints faced by Kansas; they want to carry their share of the burden but they believe, as do I, that presently they are being treated unfairly and taxed in an unconstitutional manner by the State of Kansas. We are also aware of the cost projections associated with SB 43. I would respectfully submit that reflection upon the State's fiscal condition in 1989 and 1990, and the missed opportunities to solve this problem in one of those years supports most strongly the familiar military adage that "bad news never gets better with age."

3-6-91
ATT-6

KANSAS COALITION OF MILITARY ASSOCIATIONS

6503 E. Murdock
Wichita, KS, 67206
6 March 1991

Subject: Taxation of Retired Military Income in Kansas

To: Honorable Dan Thiessen
Chairman, Senate Assessment
and Taxation Committee
The State Capitol
Topeka, KS, 66612

Dear Senator Thiessen:

In behalf of the military retirees in the state of Kansas, we wish to express our thanks for being invited to join your committee today, to present our appeal for equal taxation of retirement income.

Since 1974, the military retirees in Kansas have made appeals for equal taxation. In the 1981 time period, the state had granted a \$120 tax credit for retirees of the U. S. armed services who are 62 or older. This exemption is not equal to that granted to other federal retirees, living in the state of Kansas.

Since April 1989, we have renewed our appeals. This action was taken as the U. S. Supreme Court, in the case of Davis vs Michigan Department of Treasury, struck down a Michigan tax law that exempted from state income taxation, retirement benefits paid by the state. The court ruled that the taxation of certain federal retirement benefits while exempting similar state benefits violates the "doctrine of intergovernmental tax immunity".

In the past year and one half, twenty-five states have been taking steps to comply with the Supreme Court ruling on the Davis vs Michigan case. The majority of them have made changes to assure equality in taxation of retirement income. It is our hope that the state of Kansas, through legislative action will grant exemptions to the taxation of military retirement income, such as that now being done for other federal retirees.

The objectives of the military retirees in Kansas are:

1. Seek equality in taxation of military retiree income.
2. Request exemptions on taxation of military retiree income consistent with those policies now extended to other federal retired personnel in the state of Kansas.

The proposed bill number 43 is recommended for approval and adoption.

Thank you very much.

Sincerely,

Cletus J. Pottebaum

Cletus J. Pottebaum

Co-Chairman

Kansas Coalition of Military Associations

3-6-91
ATT. 7

March 6, 1991

SUBJECT: Taxation of Retired Military Pensions

To: Chairman, Assessment and Taxation Committee

FROM: James C. Trepoy, 734 Max Ave., Salina, Kansas
Command Sergeant Major, US Army, Retired

In behalf of the many military retirees and widows of military retirees in the State of Kansas, I wish to express our thanks for the opportunity to present our appeal for equal taxation of retirement income.

The Public Salary Tax Act of 1939, copy attached, provides that a duly constituted tax authority having jurisdiction to tax compensation for personnel services of an officer or employee of the United States or any agency or instrumentality may be taxed if such taxation does not discriminate against such officer or employee because of the source of such compensation.

The State of Kansas does not tax Federal Civil Service retirement benefits, nor does the State of Kansas tax state retirement benefits such as KPERS , and other similar programs.

The Supreme Court ruled in 1989, that it ^{is} unconstitutional if state laws tax the retired pay of federal and military retirees while allowing retirees of state and local governments to shield all or part of their pensions from the state income tax. The State of Kansas exempts both the federal civil service and state retiree pensions but not the military pension. Is the State of Kansas showing discrimination?

Of the 26 states affected by the Supreme Court ruling, most states have amended their income tax laws to exempt a part or all, of Federal retired pay, including military retired pay, from state income taxes. Surely, we don't want to be known as the last state to abide by the Supreme Court ruling.

As most of the retired military live in the areas surrounding a military installation, there are members of the House and Senate that do not have retirees living in their districts. We in the military served and represented all the people of the United States and not just certain districts of a state, so we ask that each and every one of you pass this information on to your colleagues.

We know the state of Kansas has a law on the book to tax military pensions, and I exhibit a pencil with an eraser on one end. The eraser is put on pencils so an error can be corrected. Now is the time to correct this discrimination.

We military retirees are not asking for relief of paying taxes, but asking for equity in the taxation of retiree pensions.

Thank you.

3-6-91
ATT. 8-1

1939

[Public No. 32—76TH CONGRESS]

[CHAPTER 59—1ST SESSION]

[H. R. 3790]

AN ACT

Relating to the taxation of the compensation of public officers and employees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Salary Tax Act of 1939".

TITLE I

SECTION 1. Section 22 (a) of the Internal Revenue Code (relating to the definition of "gross income") is amended by inserting after the words "compensation for personal service" the following: ("including personal service as an officer or employee of a State, or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing").

SEC. 2. Section 116 (b) of the Internal Revenue Code (exempting compensation of teachers in Alaska and Hawaii from income tax) is repealed.

SEC. 3. Section 22 (a) of the Internal Revenue Code is amended by adding at the end thereof a new sentence to read as follows: "In the case of judges of courts of the United States who took office on or before June 6, 1932, the compensation received as such shall be included in gross income".

~~SEC. 4. The United States hereby consents to the taxation of compensation, received after December 31, 1938, for personal service as an officer or employee of the United States, any Territory or possession or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, by any duly constituted taxing authority having jurisdiction to tax such compensation, if such taxation does not discriminate against such officer or employee because of the source of such compensation.~~

TITLE II

SEC. 201. Any amount of income tax (including interest, additions to tax, and additional amounts) for any taxable year beginning prior to January 1, 1938, to the extent attributable to compensation for personal service as an officer or employee of a State, or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing—

(a) shall not be assessed, and no proceeding in court for the collection thereof shall be begun or prosecuted (unless pursuant to an assessment made prior to January 1, 1939);

(b) if assessed after December 31, 1938, the assessment shall be abated, and any amount collected in pursuance of such assessment

VINSON ACT SECTIONS

1st — 1940

2nd — 1940

SOCIAL SECURITY ACT



DEPARTMENT OF KANSAS

MARINE CORPS LEAGUE

INCORPORATED BY AN ACT OF CONGRESS

Office of

Ronald L. Martin
3637 SE Hwy 40 Lot C6
Topeka, KS 66607

Committee Taxation and Finance

March 6, 1991

Dear Senators:

I am here in my capacity of the State Commandant of the Marine Corps League and also as a member of the Pay & Personnel Center of the U. S. Coast Guard here in Topeka.

During the fall of 1989 I appeared before the joint committee considering this bill and spoke in favor of its passage. At that time I felt that the Military pensioner was being discriminated against by having their pension taxed when other Government and State retired employees are exempt from the tax.

As a veteran of the Korean War and the Viet Nam war, I stand against any and all aggression but as a career Marine I went where my Commander in Chief told me to go.

Many are confused about contributing to our pension and as has been stated many times, we accepted a reduced wage and were promised at re-enlistment time that we were earning our retirement pay. I believe this as my monthly retirement check says retired pay and not a gift of the Government. My pay was earned and I contributed towards it with hours and days at my job without any consideration of additional reward.

Now at this particular moment in the history of our great Nation many of our troops have offered their very lives for the Country we love and many have stepped forward with a new patriotism not seen since World War II. Do we now say you did a great job and we stand with you but don't retire from the chosen profession of the Military because we will then discriminate against your retired pay.

I must now tell you that I will remain State Commandant only until March 16 at which time I will relinquish this great position to assume my new duties as National Executive Director of the Marine Corps League in the Washington, D.C. area to then represent this organization at many military and political events beginning April 1. I look forward to this new task with the knowledge that Kansas sent me off to represent them and not feel that we have been discriminated against.

"ONCE A MARINE, ALWAYS A MARINE"

3-6-91
ATT: 9

6 MARCH 1991

TO: Honorable Dan Thiessen, Chairperson of the Senate
Assessment and Taxation Committee.

Subject: Senate Bill 43 Regarding the Stoppage of State
Taxes on Military Income.

1. I am Linnie R. Samms, a holder of the combat inf badge with two stars and served 30 years in the armed forces and proude to have served my country and my state of kansas. A past president of T.R.E.A. The Retired Enlisted Association chapter #4 in Junction City, Kansas.
2. First I want to Thank this Committee for hearing us to day and to SENTOR LANA OLEEN for the Dedication and Confidence she has in her Elected position and is working for the betterment of the people of kansas.
3. I Would like to publicly recognize those that has placed their name in support of SB 43 as co-sponsors and thank them for beleaving in this bill.
4. We the Military Retirees sence 1974 have made repeated appeals to the Governor an State Legislators Fleading for Equal taxation and that is all that we the retired military is asking that you give favorable consideration to this bill,which would place military retirees on an equal footing with the tax treatment presently accorded to federal,state, and local government civil servive retirees.
5. While realizing the constraints imposed on this body by the states financial situation,we desire that this bill be passed in its present form with no amendments, if at all possible.
6. I would like to point out that there will be a number of thoes active military that once again has placed their selves in harms way for the right for you and me and all freedom loving persons to have the right of choice to live under the flag of freedom, will be looking for a place that has the best reasons as to where they should make their permanent home

3-6-91
ATT. 10-1

7. We feel that SB 43 will encourage more military retirees to settle here in our state and there by improve the financial situation of the state.

8. I would like to point out the fact that no retiree was called back in to the service under the so called act of the state reason of right to tax the retired military pay because we were drawing retainer pay and not retirement pay.

9. I submit to you a copy of my w-2p from the goverment to give proof that I am not receiving what the state says that it has the right to tax my retired pay because we are being paid a retainer pay, as you can the goverment is paying me under retired pay.

10. My chapter members are asking that you give favorable consideration to this bill, which would place the retired military on an EQUAL footing with the tax treatment presently accorded to federal, state, and local government retirees.

11. Are there any questions?

12.

RETIREE PAY OPERATIONS DEPT. ARMY RETIRED PAY 6349 INDIANAPOLIS, INDIANA 46249-1536 35-600 5339W OMB No. 1545-0008			Form W-2P Statement for Recipients of ANNUITIES, PENSIONS, RETIRED PAY, OR IRA PAYMENTS			COPY B - FILE WITH RECIPIENT'S FEDERAL TAX RETURN					
FEDERAL INCOME TAX INFORMATION						STATE INCOME TAX INFORMATION					
Annuity, Pension or Retired Pay											
9	Gross amount	10	Taxable amount	11	Federal income tax withheld	4	State code	5	State income tax withheld	6	State
	18876.00		17574.63		2126.82				NONE		
LYNNIE R SAMMS 336 W 1ST JUNCTION CITY KS 66441-3026						511 14 9740					
1990 FORM W-2P DEPT. OF THE TREASURY - INTERNAL REVENUE SERVICE											

THANK YOU AGAIN

SFC RET LYNNIE R. SAMMS

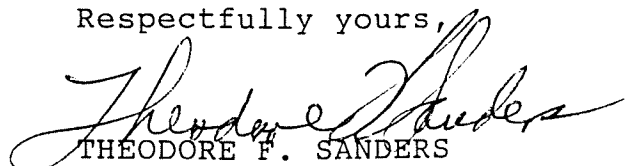
A PREPARED STATEMENT BY THEODORE F. SANDERS
FOR PRESENTATION TO THE
SENATE COMMITTEE ON SENATE BILL #43

I am a military retiree and a member of the Retired Sergeants Major Association.

The military community and I, through the Kansas Coalition of Military Associations and the Retired Sergeants Major Association of Kansas, have made our appeals to the Special Joint Assessment and Taxation Committee in August and October 1989. We are strongly recommending that the House of Representatives review **SENATE BILL #46** before making any alternate approach to solving the problem of equal taxation of State and Federal retirement pay as directed by the U.S. Supreme Court to comply with the decisions made on the Davis vs. Michigan case. We understand that the proposed **SENATE BILL #43** and **HOUSE BILL #2031** will be on the agenda some time soon. We hope you will give the bill favorable consideration when it reaches the House

If and when future hearings are scheduled reference military retiree pay taxation we would appreciate being notified in advance of time and place of such hearings.

Respectfully yours,


THEODORE F. SANDERS
PAC Chairman
Kansas Chapter, RSMA

B-6-91
A77-11

ELIZABETH BAKER
 REPRESENTATIVE, EIGHTY-SECOND DISTRICT
 SEDGWICK COUNTY
 601 HONEYBROOK LANE
 DERBY, KANSAS 67037



TOPEKA
 ———
 HOUSE OF
 REPRESENTATIVES

CHAIR: SEDGWICK COUNTY
 LEGISLATIVE DELEGATION
 MEMBER: BOARD OF TRUSTEES
 WICHITA STATE UNIVERSITY
 REGIONAL OMBUDSMAN: KANSAS
 COMMITTEE FOR EMPLOYEE
 SUPPORT OF THE GUARD AND
 RESERVE
 COMMITTEE ASSIGNMENTS
 RANKING MINORITY MEMBER: FEDERAL &
 STATE AFFAIRS
 MEMBER: ECONOMIC DEVELOPMENT
 ELECTIONS

March 6, 1991

To: Senate Committee on Assessment and Taxation

Re: SB 43

Chairman Thiessen and members of the Committee, I appreciate the opportunity to testify before you this morning. Since we have a number of proponents wanting to testify, I will be brief, but first, let me share with you why I believe this bill is of the utmost importance.

In this time of elation over our victory in the Gulf War it is very important that Kansans send a supportive message to our military and assure them their extraordinary services are recognized. Because of dissatisfaction with our involvement in Viet Nam, it became somewhat popular in our country to denigrate the value of military service, thus demeaning the lives of many individuals who had served our nation with great dignity and honor. Many of us tend to forget the bravery and devout patriotism that career military men and women must demonstrate in the performance of their duties after those duties have been completed. SB 43 is the way Kansans can say, "you will not be forgotten".

We all understand the implications of this legislation and how important it is to our retired military. SB 43 was recommended by the 1989 Interim Committee on Assessment and Taxation and there is a copy of that report attached. It is time to resolve this issue and that time is now. I urge your support of SB 43.

Thank you.

**RE: PROPOSAL NO. 10 -- TAXATION OF RETIRED MILITARY
PERSONNEL***

Proposal No. 10 -- Taxation of Retired Military Personnel directed the Special Committee on Assessment and Taxation to:

Monitor the status of legal and administrative proceedings in Kansas and other states regarding the taxation of military retirement income; examine state tax treatment of retired military personnel in general, including any changes in federal law necessary to permit taxation of on-base sales.

Background

Taxation of Retirement Income

Computation of the Kansas income tax begins with federal adjusted gross income. Thus, whether income is taxed in Kansas is often determined by whether it is subject to federal tax. However, several modifications to federal adjusted gross income are made in calculating Kansas adjusted gross income (KAGI).

Private retirement incomes are taxable. However, taxpayers may recover free of tax the amounts which they contributed from after-tax income. If, for example, a taxpayer contributes to his employee retirement plan, the taxpayer is entitled to receive a portion of his annuity free of tax so as to prevent the double taxation of income. The proportion is determined at the time of retirement and is the ratio of employee contributions to the expected value of the annuity. K.S.A. 79-32,117 (c)(iv) operates at the state level by excluding from KAGI:

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 [prior] taxable year

For those eligible (based on income), contributions to an Individual Retirement Account (IRA) are deductible from AGI when they are made; thus, the contributions are made from before-tax income. All payments from an IRA

* S.B. 423 accompanies this report.

(with the exception of roll-overs to new IRAs) are taxable when received by the taxpayer. Nondeductible payments to IRAs are now permitted and withdrawals of such amounts upon retirement will not be taxed.

Federal civil service annuities are deducted from federal AGI pursuant to K.S.A. 79-32,117 (c)(vii), which exempts "amounts received as annuities under the federal civil service retirement system, from the civil service retirement and disability fund."

Social Security and railroad retirement are included in federal AGI only when modified AGI exceeds \$25,000 for a single taxpayer, \$32,000 for a married couple filing a joint return, or zero for certain married couples who live together but do not file a joint return. "Modified AGI" in this context includes tax-free interest and certain overseas income. Kansas taxes the Social Security benefits which are included in federal AGI, but does not tax the railroad retirement income because 45 U.S.C. 231m bars state and local taxation of railroad retirement income.

Most state employees belong to the Kansas Public Employees Retirement System (KPERS). Annuities arising out of KPERS or the Police and Firemen's Retirement System are exempted from Kansas income tax by K.S.A. 74-4923. Within the KPERS law is a provision for the State Board of Regents to contract for retirement annuity contracts with the Teachers Insurance and Annuity Association (TIAA) (K.S.A. 74-4925 (1)(a) and 75-2935 (1)(f)). Pursuant to these sections and Revenue Ruling 12-88-1, TIAA annuity income of faculty and others employed by the Regents is exempt from Kansas income tax.

Other state and local employees are exempted by other statutes. Judicial retirement incomes are exempt under K.S.A. 20-2618. Court reporters are exempt under K.S.A. 74-49,105. Retirement income from local units in Kansas is exempt pursuant to K.S.A. 79-32,117 (c)(ix). Highway Patrol retirement is exempt under K.S.A. 74-4978g.

Taxation of Military Retired in Kansas

In 1973 the Legislature amended K.S.A. 79-32,117 to exempt \$2,000 of military retirement benefits of taxpayers aged 65 or older.

As a result of a 1980 interim study, a bill was introduced to increase the exemption amount to \$3,000 and lower the qualifying age to 55. The Senate Committee on Assessment and Taxation amended the bill to lower the qualifying age to 62 and change the \$3,000 exemption to a \$120 credit -- an equivalent benefit at the 4 percent average marginal rate which then prevailed. The bill passed the Legislature and became effective in 1982. The credit was codified at K.S.A. 79-32,111b.

Davis v. Michigan

On March 28, 1989, the U.S. Supreme Court announced its decision in the case Davis v. Michigan Department of Treasury (109 S. Ct. 1500). The decision held that under 4 U.S.C. 111, part of the Public Salary Tax Act of 1939, income tax exemptions for state employees are discriminatory if similar exemptions are not available to federal employees. The Court rejected the state's argument that the statute applied only to current income and not to retirement benefits. Since the state had conceded the issue in this case, the Court did not decide whether other federal retirees were due a refund.

Potentially large fiscal effects on some states are estimated to total \$500 million annually although the bulk of that represents taxes on federal civil service. Refunds could amount to four times the annual amount.

Committee Activity

The Committee devoted part of each meeting to this proposal. Staff prepared a background memorandum and briefed the Committee on the Advisory Commission on Governmental Relations Report A-50, dated July, 1976, which recommended that state and local sales and excise taxes be extended to on-base commissary and exchange sales. The Committee also was briefed on the Department of Defense Directory 1330.9 (Armed Forces Exchange Regulations) which extends access to such exchanges and commissaries to retired personnel, their unremarried spouses, and dependents.

The Department of Revenue briefed the Committee at each of its meetings on the status of the District Court case filed by several retired military personnel asking for refunds back to tax year (TY) 1984. The Department also informed the Committee on the progress and nature of the administrative appeals process, and provided a summary of legislative responses of other states. The Department also provided fiscal notes for several possibilities. The estimated annual cost of an exemption for military retirement pay is approximately \$7.5 million, according to the Department, and the fiscal note for allowing refunds back to TY 1984 would be approximately \$45-\$50 million. Finally, the Department provided a preliminary estimate that exempting only the first \$8,100 of public retirement income would be approximately revenue-neutral.

The Committee received public testimony at its August meeting, and received limited additional testimony at its October meeting. Retired military conferees uniformly appealed for a prospective exemption of their income on the basis of fairness -- that all public retirees should be treated alike. Some conferees requested refunds back to TY 1984, but others expressed a willingness

to forgo refund claims if a prospective exemption could be enacted. All expressed support for enacting legislation to achieve the exemption.

A representative of the Kansas Association of Public Employees opposed the taxation of Kansas state and local retirement incomes.

Committee Conclusions and Recommendations

The Committee recommends that military retirement income should be exempted from state income tax beginning with TY 1989. The Committee considered, but does not recommend, that refunds be allowed for taxes paid in prior years. Also, the Committee considered but does not recommend that a portion of other public salaries be taxed. Enactment of S.B. 423 will implement these recommendations.

Respectfully submitted,

December 4, 1989

Rep. Keith Roe, Chairperson
Special Committee on Assessment and Taxation

Sen. Dan Thiessen,
Vice-Chairperson
Sen. Jim Francisco
Sen. Audrey Langworthy
Sen. Phil Martin*
Sen. Don Montgomery
Sen. Lana Oleen
Sen. Marge Petty

Rep. Jayne Aylward
Rep. Rex Crowell
Rep. Cindy Empson
Rep. LeRoy Fry
Rep. Bill Roy
Rep. Michael Sawyer
Rep. Gene Shore
Rep. Marvin Smith
Rep. Joan Wagnon

* Ranking minority member.

AMERICAN LEGION STATEMENT ON SB 43
Presented March 6, 1991 by
Charles M. Yunker, State Adjutant

Thank you for allowing me the opportunity to appear before you today in support of SB 43 which if enacted into law would effectively eliminate inequities in how Kansas taxes Federal retirees and certain other government retirees. Today is my first opportunity to convey to the Legislature that The American Legion passed a resolution calling for equal taxation of military retirees.

Granted military retirees do not directly contribute to their retirement program but they do so indirectly through lower pay as compared to their civilian counterparts many of whom perform the same duties, sometimes side by side. Further regarding the direct vs indirect contributions towards retirement; military pay raises have always and continue to lag behind civil service pay increases.

Military personnel are on call 24 hours a day in the event of an emergency often living in substandard housing. In my four plus years in the military I never once was housed in anything more than a "temporary" World War II barracks. Actually my time aboard ship in cramped quarters was more liveable than the available barracks. Yes, military housing is changing for the better, but even the best is still like living in a college dorm. Their civilian counterparts get to go home every night, many military people do not.

Military personnel undergo periodic transfers straining their family life. Their civilian counterparts by and large are not transferred. Federal and other civil service workers receive paid Holidays; the military doesn't shut down, someone must be on duty 24 hours a day.

3-6-91
ATT. 13A

Military personnel are placed in harms way during war; their civilian counterparts are not, or rarely are.

I have heard testimony stating the "great" benefits that retirees receive by shopping at military installations. Yes, there are some savings, about 10% over and above civilian discount houses. However unless the retiree lives very near a military installation it is not worth the time, effort and expense to drive to Ft. Riley or Ft. Leavenworth, Wichita, etc.

Retired military pay is spent in Kansas and by not passing SB 43 you may drive retirees out of the state. By approving SB 43 you will indirectly improve the states economy by increasing the military retirees disposable income.

The American Legion's resolution calls for equal taxation of all retired Federal Employees. When considering SB 43 please remember the word "job" in the Army's advertisements "It's not a job it's an adventure." The Army may consider putting your life on the line an adventure; veterans call it serving our country and our state. But above all it is a job just like every other Federal job. We ask you to support SB 43.

**A Prepared Statement by Michael E. Rohly
For Presentation to the Special Committee on Assessment and Taxation
On the Taxation of Retired Military Personnel**

Good morning/afternoon/evening ladies, gentlemen. I'd like to thank the Chairman and each of the committee members for providing me and these other folks with the opportunity to speak before this committee. I'm here as the Commander of Abilene's Veterans of Foreign Wars Post #3279, Ike's Home Post, representing my 213 members and any military retiree who is unable to be here today. For those of you who weren't here for my previous presentation some eighteen months ago, I am Michael E. Rohly, a retired veteran and Army Master Sergeant of nearly twenty-seven years of service. I retired in 1984. Like you, in your profession, I've considered myself a *professional*, since my first reenlistment. Attached as Enclosure 1 is a copy of that prepared statement without its enclosures, you may read it at your leisure.

First and foremost I appreciate being invited to this hearing. But I'm frustrated when people want me *not* to be too vocal and impassioned about what I'm here to speak about today. I feel, that being a nice guy has gotten military retirees nowhere, and in my work with the V.F.W., I've appealed to our state leadership, the Department of Kansas, of two administrations for their support, soon a third, and all I've been told is that Kansas legislators are tired of hearing how military retirees are getting the short end of the stick, regardless of how unfairly and illegally we're being treated, or that we're being discriminated against.

Since my last appearance before this committee I've read and listened to a lot of rhetoric on whether the U.S. Supreme Court ruling of Davis vs. Michigan really pertains to military personnel, because that ruling was for "federal employees." On just that basis, I believe our legislature has a relatively simple decision to make, because our nation's constitution allows only our federal government to employ a standing armed force. I've also asked in letters I've written to Editors; "Why can't our Governor or our legislature, contact the United States Supreme Court and request documentation attesting that the intent of their ruling was for *all* federal employees, or, that it was just for civil servants?" I now ask this august committee: If this is *such* a problem, then why hasn't this Special Committee or Kansas' Speaker of the House, contacted the U.S. Supreme Court for a more complete delineation of that ruling?

Again, of all the rhetoric I've read and listened to, regarding the taxation of military retirees in Kansas, all too many people are concerned with whether we've contributed to our pension or not. To these people, I still say: "*So what if we don't contribute any money, to our retirement benefits!*" Of all the Kansas Statutes that I've read, including their history and notes, several references are made to tax exempt pension plans receiving contributions from the employee. But in all these same laws, nowhere does it state, that *only* pensions or retirement plans that employees contribute to, are to be considered for tax exempt status. And, as I listen to and consider all these things, this seems to be a major problem for our legislative body. I, as do others, feel there is *too much* concern, placed on tax revenues that would be lost, IF military retirees were no longer taxed, and, *too little* concern, for the multi-millions or billions, of state tax revenues that have already been lost, from our federal and state civil service retirees in the last thirty years.

As I have also written in letters to Editors, the problem as I see it, is that the Kansas Legislature is passing the buck to the Judicial Branch to solve *their* problem. I see this as a major obstacle, because Kansas' Supreme Court, and lower

...s, are expected to rule on what our legislators apparently refuses to do -- right or wrong -- deliver legislation that is fair and equitable to Kansas under the ruling of Davis vs. Michigan. Neither I nor any military retiree who's here to speak before you, would complain, if you taxed everyone fully, fairly and equally. But when you do enact laws, treat us fairly and equally. Do no less for the military retiree, than what you've done for state and federal civil service retirees who've been exempt for these past thirty years, I think that would be very fair. It seems to me that Kansas' Legislators wants our Judiciary body to enact our laws. Isn't this contrary to Kansas' Constitution? But all military retirees want, is equality and refunds for the tax years due us, which is a very small compensation for being treated as second, third or fourth class citizens for our faithful service.

Last October, United States Senator Nancy Kassebaum called me, and in our conversation I asked if she was aware that when she left her seat in the U.S. Senate, that her retirement benefits would be tax exempt in Kansas. Well, she wasn't aware of her future exemption and I referred her to Senator Lana Oleen. Ladies and gentlemen, Senator Kassebaum was under the assumption that she *would* be paying tax to Kansas, on all of her federal retirement benefits, and was very adamant about it. About Kansas' apathetic attitude toward military retirees, I've written to my Kansas Senator, the Honorable Mr. Ross O. Doyen, who's supposed to be representing me before Kansas' legislature, by certified mail, regarding this issue, and I have yet to receive a response. Yet people still feel, that military retirees shouldn't make waves when they appear before a committee like this one. If our legislators cannot help us, then who should we turn to, PACs and lobbyists, and pay to have laws enacted?

My solution is still a simple one: Exempt military pensions as fairly as you are exempting civil service pensions, or tax civil service pensions as fairly as you are taxing military pensions. But stop Kansas' illegal and discriminatory taxation of its military retirees. By the way, these tax exemptions includes your future retirement benefits when each of you are no longer our Senators and Representatives. In conclusion I ask you committee members the same question I asked you eighteen months ago: *What did military retirees DO, to receive such shabby treatment???* And further: *How long will it be, before the veterans and military retirees from Operation Desert Storm, will be standing here before a similar committee, asking the same questions, that I am asking you now?????*

Ladies and gentlemen I stand before you pleading for the fair and equal legislation, in taxing Kansas' military retirees. If you have any questions on my presentation, I'll be glad to answer them. Thank you.

Michael E. Rohly
U.S. Army Retired

1 Enclosure
as stated

**A Prepared Statement by Michael E. Rohly
for presentation to the
Special Committee on Assessment and Taxation
on
Proposal No. 10 -- Taxation of Retired Military Personnel**

Good afternoon ladies, gentlemen. I am Michael E. Rohly, a retired Army Veteran of nearly twenty-seven years. I retired as a Master Sergeant in 1984; and so you understand -- since my first reenlistment in the Army, I've considered myself a *professional*, like each of you, a **professional**. I am a combat veteran and I understand the hazards of military duty. Since my retirement, I've lived in Abilene and now I have a vested interest in what happens to military retirees, and more personally, to our income. And so we understand each other, both military and civil service employees are employees of a government. So regardless of how some of you may feel, military retirement pay *is considered a government pension* by the federal government and the IRS.

For your reading leisure, at Enclosure 1 is a copy of the Salina Journal's article, of the comments made by Kansas' Secretary of Revenue, Mr. Ed C. Rolfs, causing me to write letters to the Editors of the Abilene Reflector-Chronicle, the Junction City Daily Union, the Salina Journal, and The Wichita Eagle-Beacon. At Enclosure 2 is the letter printed by the Salina Journal on July 12. At Enclosure 3 is Secretary Rolfs' reply to me through his Director of Taxation, Mr. John R. Luttjohann, and my reply to him.

For Mr. Rolfs to say that military retirees contribute nothing to our pensions is ludicrous; I think he really meant that we don't contribute any money and he's correct. And yes it's true, federal and KPERS civil service employees do contribute to their pensions, I'll not argue these points. But it seems it's conveniently forgotten that civil service retirees are allowed to reduce the taxable amount of their pensions, by the amount they've paid into their pensions, when they file their federal tax returns. And I respond to Mr. Rolfs' comments by saying: "*So what if we don't contribute any money to our pensions!*;" they are still valid pensions, in fact they are *defined fixed benefit pension plans*, and whether they're pensions for military or civil service is *irrelevant*.

As examples of what I mean: Suppose instead of retiring as I did, I got out of the Army after ten years of service, applied for and was hired into a job at the Eisenhower Center in Abilene; I would then be working as a civil servant. And just suppose, I worked for ten more years, and I decided to retire from civil service; I could do that too, and with twenty years of **civil** service. At this point **none** of my retirement is taxed in the State of Kansas, but a military pension **IS**. *Would someone, please, explain the difference to me!*

In the past, Kansas let its KPERS employees claim the funds they've contributed to their pensions. like federal retirees have, but in the first three years of their retirement; and now it's based solely on life expectancies. Federal employees have the options of getting all the funds they paid into their pension, in their first two years of retirement, in sixty and

forty-percent increments, in cash with interest; **OR**, over the rest of their life, again, by reducing their taxable pension based on life expectancies. However, we members of the armed forces are expected to give life, limbs, and body parts, plus unspecified absences from our families, just to be discriminated against in regard to our taxes, for our service. But yes indeed, we do get a tax break, **if**, we are disabled while in service, but as a *reduction* of our pension, whereas most other disability payments are paid like monthly insurance annuities.

You should also consider -- that it's possible for a military person to serve twenty, thirty or more years, pay income tax to Kansas all these years, not live in Kansas, not be able to use any of the benefits or services they've paid for, then have their government pension taxed when they retire. *Such a deal.*

My solution is simple, tax military pensions as fairly as you tax civil service pensions, **OR**, tax civil service pensions as fairly as you tax military pensions; plus, this gives Kansas a way to stop discriminating towards its military retirees. But regardless of whether we are retired city, county, state ,or federal civil service employees or retired from the military, we *were* employees of our government; and our pensions come from a government treasury, they just come from treasuries at different levels. In conclusion I have one question: *What did military retirees DO to receive this shabby treatment???*

Thank you all.

[original signed]
Michael E. Rohly
U.S. Army Retired

3 Enclosures
as stated

Enclosure 1.