

Approved: Jan 26, 1995  
Date

## MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 11:00 a.m. on January 24, 1995 in Room 519--S of the Capitol.

Members present: Senator Langworthy, Senator Corbin, Senator Martin, Senator Bond, Senator Clark, Senator Feleciano, Jr., Senator Hardenburger, Senator Lee, Senator Ranson, Senator Sallee and Senator Wisdom.

Committee staff present: Tom Severn, Legislative Research Department  
Chris Courtwright, Legislative Research Department  
Don Hayward, Revisor of Statutes  
Elizabeth Carlson, Secretary to the Committee

Conferees appearing before the committee: Senator August Bogina  
Jack Luschen, Taxpayers of Kansas  
Cedric Moege, Kansans for Equal Property and Pension Tax  
Blaine Whitehead, Goodyear  
James Wetsel, Prairie Village

Others attending: See attached list

### APPROVAL OF MINUTES

Senator Feleciano made a motion to approve the minutes of January 23, 1995. The motion was seconded by Senator Bond. The motion carried.

### APPOINTMENT OF SUBCOMMITTEE

Senator Langworthy announced she has appointed a subcommittee for **SB 40--Establishment of Kansas Tax Court and Property Appeals Tax Board.** The subcommittee will be chaired by Senator David Corbin with Senator Bond, Senator Sallee, Senator Martin and Senator Lee as members. The subcommittee will meet upon adjournment of the Senate on January 26, 1995 in Room 529-S.

### **SB 39--INCOME TAX ON RETIREMENT BENEFITS**

#### Proponents

Senator August Bogina, sponsor of the bill, appeared to explain the bill. (Attachment 1) He called the attention of the committee to page 2, lines 15, 16, and 17 which he said should have been stricken. This was a drafting error.

Senator Bogina read from his attached statement stating he has requested this bill be introduced to create equity among retired income taxpayers. He said it does not cause double taxation and he explained why. If the bill is enacted, the KPERs contributions would no longer be taxed when earned and paid. **SB 39** is revenue neutral and the state will not gain additional tax revenue by implementing this change. It does create equity among all retired taxpayers--military personnel, federal and state employees. The bill would provide an additional \$2000 exemption for persons receiving retirement benefits. He requested favorable consideration of **SB 39**.

There were questions from the committee regarding how he arrived at the \$2000 exemption and he said he tried to make it revenue neutral. One committee member stated it would become revenue positive very quickly with inflation and COLAS. There was discussion regarding retirees with 401ks and IRAs. Senator Bogina said anyone receiving a retirement benefit would be eligible for the retirement exemption.

Senator Langworthy asked the Department of Revenue if the committee could have a revised fiscal note by tomorrow and also some answers to their questions.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S  
Statehouse, at 11:00 a.m. on January 24, 1995.

Jack Luschen, Taxpayers of Kansas, read from the attached statement. (Attachment 2) He asked that taxes be applied equally to all citizens. He stated that retirees in the private sector do not get COLAS and a lot of other perks that federal, state, military and railroad pensioners get. He asked the committee to support **SB 39**. He included several newspaper articles with his statement.

Cedric Moege, Kansans for Equal Property and Pension Tax, spoke as a proponent for **SB 39**. He said he much prefers the 1994 Session Bill which gave an \$8000 tax exemption. He said those who retired 10 to 15 years ago have a much lower pension. He asked the committee if they would not accept the \$8000 exemption, would they agree to a compromise of \$5000.

Blaine Whitehead, President of the Goodyear Retirees, spoke in favor of **SB 39**. He said he believes everyone should be taxed equally.

James Wetsel, Prairie Village, said he thinks **SB 39** is a move in the right direction; however, he did not see why there should be any exemption at all. He said he thinks the bill will reward those who need it the least. The answer is to give the state retirees more money by increasing their pension. He said he was willing to sacrifice to see that everyone is treated equally.

Senator Ranson said if state employees are paying taxes on the money that goes into their retirement, if **SB 39** passes they will get a little more money in salary. Why not just lower the tax rate across the board?

The hearing for proponents was closed.

The meeting adjourned at 11:50 a.m.

The next meeting is scheduled for January 25, 1995.

# SENATE ASSESSMENT AND TAXATION COMMITTEE GUEST LIST

DATE: Jan 24, 1995

NAME	REPRESENTING
Stan J. Jannett	MYSELF
Don Johnson	NARFE
Oscar Albealot	NARFE
Donald L. Hadley Sr	Myself & Goodyear Retires
Craig Grant	HNEA
Thomas E. Young	AARP
Jack Hawk	KPERS
Mendish Williams	KPERS
LINDA McGill	PETE MCGILL & ASSOC
HAROLD PITTS	SELF
Cedric Moege	Ks food Equal Pay & Pension
Harold Grobner	" " " " " "
Lynn Drake	SRS
Donald Snodgrass	Ks Food Dealers Assn
LARRY MARR	K-H-P
Fred Cunningham	Goodyear Retiree
Blair Whitehead	" "
James W. Wetzel	self
Jack Luscher	Tai Rogers



TESTIMONY ON SENATE BILL 39

JANUARY 24, 1995

Madam Chair and Members of the Committee:

I have requested that Senate Bill 39 be introduced with the intent of creating equity among retired income taxpayers. This bill is somewhat similar to a previous bill that I introduced. The major difference is that it does furnish some tax relief to current retired taxpayers.

Some of the things that Senate Bill 39 does not do:

It does not cause double taxation. Post 1983 KPERS contributions that were taxed at the state level only would be recovered i.e. not taxed as part of the retirement benefits. In accordance with federal guidelines, an actuarial calculation would be made for each retiree and the equivalent amount of each previously taxed contribution would be deducted from taxable income. Upon the enactment of the bill, the KPERS contributions would no longer be taxed when earned and paid.

Senate Bill 39 also does not, in my opinion, infringe upon any contractual rights of state employees. Those benefit rights can not include taxation rates, amounts or type. The former Attorney General opined that non-vested employees, even though they are a part of KPERS could have income taxes levied against their retirement benefits. I respectfully submit that if that is the case, equal protection clauses would be pertinent. That Attorney General opinion is only an opinion and does not have the force of law.

What does Senate Bill 39 accomplish? Senate Bill 39 is revenue neutral. That is, the most accurate calculations that can be made by our Research Department indicates the state will not gain additional tax revenue by implementing this change. The bill does create equity among all retired taxpayers, military personnel, federal and state employees. There would be no elite or special class of taxpayer.

The bill is intended to provide an additional \$2000 exemption for each

*Senate Assess + Tax  
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attach 1-1*

person receiving retirement benefits. All retirees would have their taxable income reduced by this amount in addition to the current exemptions and deductions. The tax process flow chart prepared by our Research Department is attached hereto.

There have been many editorials, letters to the editor and other comments favorable to the topic of Senate Bill 39 and income tax equity. also, I have received many letters from around the state since I last appeared before this committee. Some of the comments include from the Garden City Telegram, "This issue should be decided on the basis of fairness, consistency and whether the state can forego more tax revenue"; Topeka Capital Journal, "Tax all or none"; Wichita Eagle, "treat all retirees fairly". Some of those articles and sample letters are attached hereto.

Also included herein is a flow chart that indicates the deduction for each retirant if Senate Bill 39 is enacted into law. The Department of Revenue has indicated that Kansas Pension Plan benefits are the smallest of the three affected by the bill. They have benefits equal to approximately 21% of the total amount that would be subject to the Kansas income tax.

Madam Chair and members of the Committee, I truly believe this is a reasonable solution to the equity issue - it eliminates an unfair and elite class of non-taxpayers and furnishes equitable adjustments of the income of all retired taxpayers.

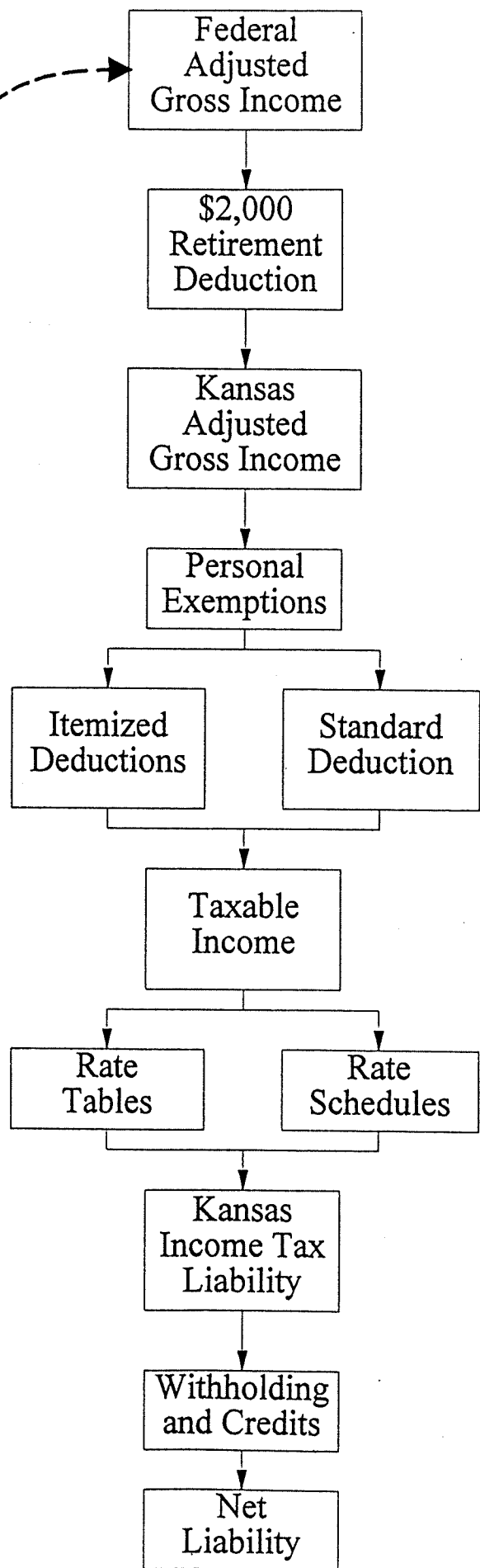
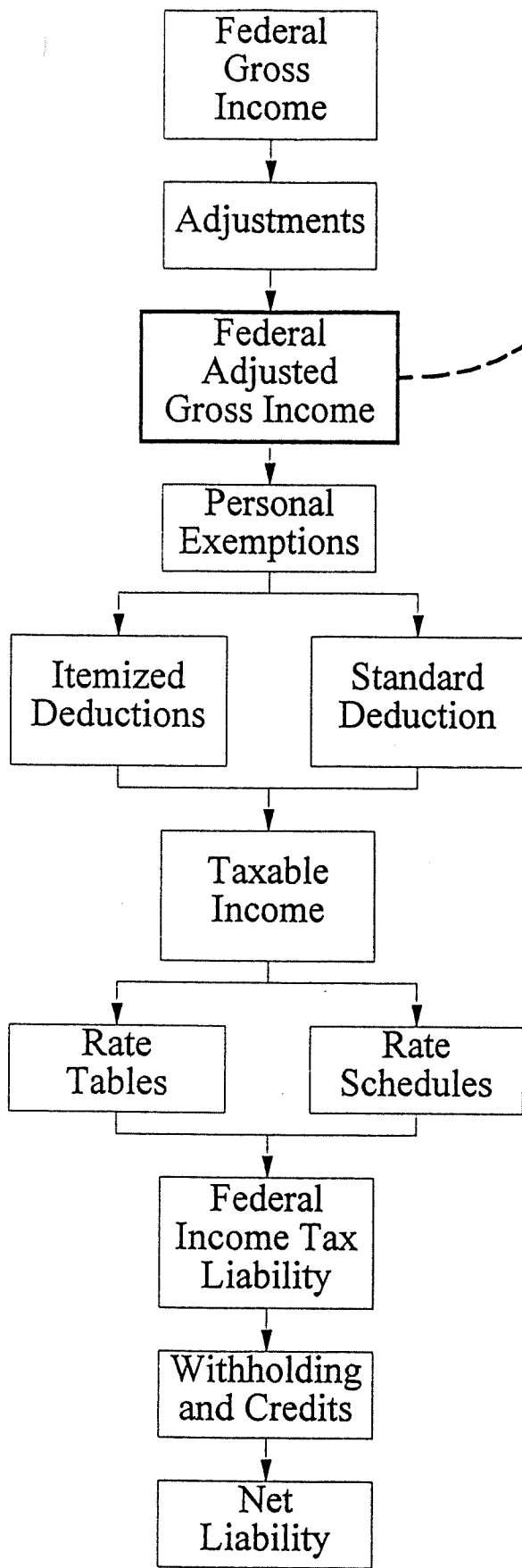
The interest of the bill is right!

The purpose of the bill is just!

I urge and respectfully request your favorable consideration of Senate Bill 39.

Thank you.

Attachments



Sen. Gus Bogina  
State Capital

Enclosed are copies of three excerpts from the Topeka Capital-Journal in May 1994. I wrote the one entitled "Make Pension Taxes Fair". After the letter was printed I got a lot of calls from people here in town who said "You hit the nail right on the head" and other comments which were supportive.

Now that a new legislature is in session is an opportunity to correct this injustice to retirees. What sense is it to force private pensioners to pay full state income taxes and completely exempt governmental and military retirees? Must those of us who still pay hire lawyers to file a class action lawsuit against the state just to receive a fair and equitable treatment?

I know there is a concern about the loss of tax revenue at a time when state budgets are tight. My suggestion would be to tax all retirees equally (at the same rate) and exempt the first 7 or 8 thousand of pension income for all. For those receiving a small pension - this would eliminate most of the tax. For those receiving a generous pension - this would reduce his state tax. The amount to be exempted would depend on what state budget could stand. The bottom line is - it would be a fair tax, one that ALL retirees would have to pay.

Please consider supporting legislation to correct income tax discrimination in this state!

Gus - I have read you are supportive of a plan similar to this to correct this problem. I would hope you continue to push for legislation during this session. Good luck!

- Bill L. Miller



12-1-94

Senator Bogina;

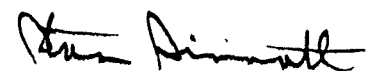
Your comment on the pension tax equity, as it appeared in the Topeka newspaper story, was timely and welcomed. For the newspaper to state your goal with such bold headlines was heart warming considering that in the past this topic was often buried in a postscript. When the two House candidates visited our home on separate occasions, soliciting our vote, I took the opportunity to present each with a copy of the flyer I mailed to you previously. I asked each to support an equitable approach to the taxation of pensions. Each candidate stated that the tax policy should be applied equally to all pensions. Hopefully this campaign rhetoric can be counted on when the appropriate legislation comes up for a vote.

In another section of the newspaper wherein the article mentioned above was printed, was a story about lowering car taxes. In the article it was stated that this car tax raises about \$280 million in state revenue. Keeping that figure in mind, I will make a guesstimate that a tax on those pensions now exempt would raise approximately \$45 million.

Isn't it possible to blend the approach <sup>TO TAX</sup> all pensions with the lowering of car taxes at least in the range of 10%/15%? In effect this would be a revenue neutral approach. Match the revenue as close as possible between that raised by the equitable pension taxation and the lowering of car taxes. This combination would enhance broader support both legislative proposals.

I'm attaching an editorial that appeared in the Topeka Capital supporting the equitable taxation of pension distributions. This paper took a similar stance last year, along with the Eagle in Wichita.

Ced Moegge sent you a copy of the newspaper article I referred to earlier in this letter. Ced and I are prepared to contact the legislators of the merits to adopt the legislation outlined in this letter. Any information from your office that would help further this cause would be appreciated. Hopefully the proper legislation can be developed early in the session so that changes, if any, can be adopted. The last day of voting on the legislation in the previous session left us out in the cold without any room for counterpoints.

  
Stan Sinnott  
1133 Saline  
Topeka, Ks. 66604

1-20-95

January 20, 1995

Re: Equitable Taxation of Pension Distributions

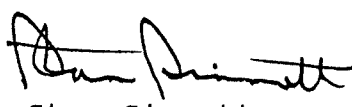
Senator Bogina:

Reflecting on comments you have made to me on the telephone and a quotation in a news article, you have a concern about introducing a tax exemption of a stated amount for pension distributions for those retirees who have paid taxes on a portion of their pension distribution.

It is my understanding that for year end tax purposes, a pension distribution form is normally issued by the plan trustee or a designated party. This form separates that portion of the distribution which had been accumulated on a tax free basis and now subject to taxation and that portion which had been taxed and not subject to be taxed again. If the form does not reflect this allocation, the information can be secured from the trustee or a designated party. In developing legislation and to assure yourself that this information is correct, you may find it advisable to secure a definitive statement from the state director of revenue on this matter.

Assuming that what was stated in the previous paragraph is correct, rather than construct legislation around offsetting compensation for those retirees who paid taxes on a portion of their pension, a position to develop is either to ~~subject~~ subject all taxable pension distributions (i.e. that portion of the account balance or benefit payments that have never been subject to tax) to state taxation or establish an exemption of a specified amount. In our (Ced Moegge and I) contact with legislators last year, we called for equitable consideration - tax or exempt. Our feedback was that the specified exemption had the greatest appeal and support.

We would welcome the opportunity to visit with you about this legislation, as we have a common goal. Let's get together at your convenience to share a unified effort to reach that goal.

  
Stan Sinnott  
1133 Saline Street  
Topeka, KS 66604  
913-235-9671



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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

ROBERT T. STEPHAN  
ATTORNEY GENERAL

August 24, 1994

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
TELECOPIER: 296-6296

Mr. R. C. Wyatt  
2011 Hi  
Dodge City, KS 67801

Dear Dick:

I received your letter of August 16, 1994, and believe that you may have the wrong impression of the opinion I issued in regard to the taxation of state retirement benefits. The state must respect a contract, just as those in private industry must abide by a contract in which they are a party. The state may tax retirement benefits of employees who have not yet been vested in their retirement. Once vested, the contract is complete and cannot be broken. The bottom line is that the state can commence taxation for those individuals who are within the retirement system but have not completed the contractual requirements.

Please do me a favor and don't take your legal advice from the Wichita Eagle. If you have any other questions, please let me know.

I hope all is going well with you and Annie.

Sincerely,

Robert T. Stephan  
Attorney General

RTS:bls

December 30, 1994

August Bogina, Jr., State Senator  
12510 W. 62nd Terrace, Suite 109  
Shawnee, KS 66216

Dear Senator Bogina:

I was disappointed at the close of the last legislative session when the bill to eliminate the unfairness in the taxation for retirement benefits was scuttled with Bob Stephan's remarks that it would be unconstitutional.

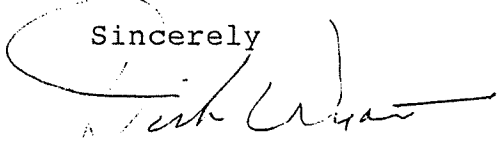
I have known Bob Stephan for many years, so wrote to him about the matter as reported by the Wichita Eagle. I am enclosing a copy of his response. I still cannot believe that the contract issued in 1961 is constitutional and cannot be changed, because I have seen "non-compete" agreements/contracts overuled by the Kansas courts because the term of 15 years was too long.

In visiting with Senator Marian Reynolds about two weeks ago, she told me that you were planning to submit a new bill to the legislature in the upcoming session. My very best wishes go with you for success.

With what has happened to the Veterans retirements, the suit which I understand has now been filed to equalize the taxation of singles and married couples, I am in hopes that the legislature will find a way to tax ALL retirement benefits on an equal basis. The alternative of exempting ALL retirement benefits from Kansas Income Tax in my opinion would create a horrible problem for State Revenue.

Annie and I plan to be in Topeka for the Kansas Day activities and hope to see you there.

Sincerely



R. C. Wyatt  
PO Box 327  
Dodge City, KS 67801  
Phone: 316-225-6036

cc: Marian Reynolds  
Enc.

December 27, 1994

The Honorable Gus Bogina  
Chairman, Senate Ways and Means Committee  
State house  
Topeka, Ks. 66612

Dear Senator:

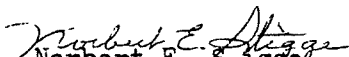
We are encouraged by your efforts to equalize state taxes on retirees living in Kansas. Obviously the present situation is an imposition on the private sector and especially the self employed retirees.

We are a couple, ages of 70 and 67 who worked together in a small business for thirty three years. A period of time when we had to make do with: No guaranteed income or automatic pay increases; No overtime pay; No paid holidays; No paid vacations; No sick leave pay; No paid health insurance; No matching funds for a guaranteed retirement pension after twenty years service.

Not having enjoyed the privileges accorded government employees, we acknowledge a reality that in retirement the state would continue to treat us as second class citizens.

Your statement quoted in the Capital Journal is 100% accurate, "It's discrimination and it's wrong." We wish there were more elected officials there to help you correct an obvious wrong. Our local Senator and Representative acknowledge that ours "is a valid concern" but neither of them express any desire to correct the matter.

Sincerely,

  
Norbert E. Sligge

2909 College Ave.  
Manhattan, Ks. 66502

**INCOME TAX ON RETIREMENT BENEFITS  
PROPONENT VIEW**

Our country was founded on the principle that taxes would be applied equally to all citizens. Why are federal, state and local civil service, military and railroad pensioners not taxed on their pensions in the state of Kansas? These groups are the highest paid pensioners in our country.

Lets look at the facts. Each of you have been given documentation on government pensions. In a Supreme Court ruling (7-2) made after the 1989 Michigan ruling by the Supreme Court, Justice Thomas wrote for the majority, "Because Federal Law does not necessarily entitle them to a refund, a state may either award full refunds to those burdened by an unlawful tax or issue some other order that creates in hindsight, a non-discriminatory scheme."

The retired military are among those who complain most loudly. In a series of articles in the Kansas City Times, starting March 11, 1985, the writers tell of the huge pensions and many perks of the military. Such as:

Commissaries--where they can purchase groceries, toiletries, household appliances at discount prices and no tax of any kind.

Medical Care--Totally free treatment for life. (although active-duty Personnel have first priority)

Recreation facilities and Clubs--retired military have access to all of these facilities which have been paid for by the taxpayers of our country.

Former U.S. Representative, Hastings Keith, stated this cost-of-living adjustments for the four pensions for which he is eligible will amount to over one million dollars during his life expectancy. **JUST FOR THE COLAS!!!!** Civil servants certainly do better than their bosses, the American taxpayer in the private sector. They are allowed to accumulate sick leave, vacation time and personal days. These are called "banked" or "spiking" time. Retirement and COLAs are paid on these at the time they retire and at the same rate. State and Local retirees enjoy many of these privileges as well, including COLAs and "spiking" time.

Less than 1% of the private sector receive COLAs and many receive no perks at all. Lower pensions are paid in the private sector on comparable salaries. Yet, our public servants are now excluded from paying state income tax. Fair, I do not think so. I ask you to support Bill SB-39, because this county was founded on a fair tax system that applied taxes to all people **EQUALLY!**

Jack A. Luschen

*Senate Assess + Tax  
Jan 24, 1995  
Attach 2-1*