

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 28, 1997, in Room 519--S of the Capitol.

Members present: Senator Langworthy, Senator Corbin, Senator Bond,  
Senator Goodwin, Senator Hardenburger, Senator Harris,  
Senator Karr, Senator Lee, Senator Praeger,  
Senator Sallee and Senator Steineger.

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

Conferees appearing before the committee: Harriet Lange, Kansas Association of Broadcasters  
Lieutenant Governor Gary Sherrer  
Eric C. Peden  
Marie Walter  
Kathy Klassen  
Sharon Smith

Others attending: See attached list

Harriet Lange, Kansas Association of Broadcasters, requested the introduction of a bill which would exempt broadcasters from sales tax on purchases of machinery, equipment, and electricity used to produce and put a broadcast signal on the air. (Attachment 1)

Senator Sallee moved to introduce the bill, seconded by Senator Corbin. The motion carried.

The minutes of the January 27 meeting were approved.

**SB 53--Income taxation; concerning rates of single-individual taxpayers.**

Lieutenant Governor Gary Sherrer testified on the Governor's behalf in support of **SB 53**, which was introduced to relieve the burden of higher income taxes borne by single Kansans. He felt there was no public policy issue that justifies the tax differential between married and single taxpayers and that there should be a tax relief priority for single Kansans. He emphasized the importance of phasing in tax relief for single taxpayers over a three-year period. (Attachment 2)

Senator Bond asked what the annual revenue loss would be if the bill was enacted. Mr. Sherrer said the loss would be \$16 million the first year and a total \$41 million by the time it was fully phased in over a three-year period.

Eric Peden, an attorney and a former Kansas resident, testified in support of **SB 53**. Mr. Peden noted that he initiated litigation to challenge the constitutionality of the Kansas income tax rate disparity between married and unmarried taxpayers that has existed in the Kansas tax code since 1988. He commented that neither the federal government nor any other state has ever imposed higher tax rates on unmarried taxpayers. He contended that the disparity cannot be defended on the grounds that it is a pro-family measure. He felt the issue was not one of marriage but of fairness. He encouraged the committee to consider equalizing the rates effective immediately rather than waiting three years as proposed by the Governor. (Attachment 3)

Marie Walter of Overland Park testified in support of **SB 53** from the viewpoint of a single Kansas taxpayer for 46 years. She felt the higher tax rate penalizes persons for conditions beyond their control. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S  
Statehouse, at 11:00 a.m. on January 28, 1997.

Kathy Klassen, a widow from Derby, followed with further testimony in support of **SB 53**. She has spoken to many widows, widowers, and other single citizens who all expressed the negative impact of the higher tax rate on their lives. She felt the tax rate differential between married and singles was unfair. (Attachment 5)

Sharon Smith, a single citizen from Edwardsville, gave final testimony in support of **SB 53**. She joined the legal action in 1995 asking for class action on behalf of single persons in Kansas, seeking to have the tax legislation pertaining to rate differentials between married and singles declared unconstitutional and asking the state to refund excess taxes collected from singles since 1988. As a result of the litigation, she felt more singles became informed about the disparity and became angered that the state had taken advantage of them. She recommended that the inequity be corrected in one action rather than over a three-year period. (Attachment 6)

Senator Langworthy called attention to written testimony in support of the bill submitted by Elizabeth M. Gerhardt, a widow from Overland Park. (Attachment 7) With this, the hearing on **SB 53** was closed.

The meeting was adjourned at 11:32 a.m.

The next meeting is scheduled for January 29, 1997.

SENATE ASSESSMENT & TAXATION COMMITTEE  
GUEST LIST

DATE: January 28, 1997

NAME	REPRESENTING
Jamie R. Bell	Senators Biggs/Gilstrap
Kathy Klassen	self
Sharon Smith	self
Maureen Walter	self
Eric Peden	guest
Kathy Taylor	ICBA
Sarah Davis	GIN scout council of KS
Tom Bruno	Attent Assoc.
Ed Spiess	Ks Gov. Consulting
Gene Amos	Shawnee Area C of C
Sonja Erickson	Senate Minority Leader
Harriet Lany	Ks Assn B' Casters
Jim Allen	Schickel-Katz
Whitney Damron	Kansas Bar Assn.
DON BROWN	Ks Dept. on Aging



## Kansas Association of Broadcasters

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January 28, 1997

TO: Senate Committee on Assessment & Taxation

FROM: Harriet Lange

RE: Request for bill introduction:

Sales tax exemption on the purchase of broadcast equipment and electricity required to produce and put a broadcast signal on the air

An inequity currently exists in Kansas' sales tax statutes which places radio and television stations at a competitive disadvantage. Newspapers, which are broadcasters' primary competitors for advertising revenue, may take advantage of the sales tax exemption on machinery, equipment and utilities granted to "manufacturers". Broadcasters currently may not. This exemption for newspapers affords them a competitive pricing advantage over broadcasters.

The KAB is proposing to even the playing field by extending to broadcasters the same exemption: sales/use tax on purchases of machinery and equipment, and electricity, necessary for the purpose of producing and putting a broadcast signal on the air.

We are proposing the following language, by adding a subsection to KSA 79-3606: "The following shall be exempt from the tax imposed by this act:... *all sales of machinery and equipment used directly and primarily for the purpose of producing a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. For purposes of this subsection, machinery and equipment shall include, but not be limited to, that required by rules and regulations of the federal communications commission, and all sales of electricity which are essential or necessary for the purpose of producing a broadcast signal or is such that the failure of the electricity would cause broadcasting to cease.*"

Granting broadcasters the same exemption newspapers now enjoy, would have a fiscal impact to the state estimated to be \$500,000 to \$600,000 annually. Although of minimal impact to state revenues, the proposed exemption would mean a great deal to local radio and television stations by enhancing their vitality and ability to better serve their local communities.

Senate Assessment & Taxation  
1-28-97  
Attachment 1

STATE OF KANSAS



GARY SHERRER  
LIEUTENANT GOVERNOR

January 28, 1997

Testimony to Senate Committee on Assessment and Taxation  
Lieutenant Governor Gary Sherrer

Senator Langworthy and members of the committee, I would like to thank you for the opportunity to testify. I am here today on Governor Bill Graves' behalf to speak for single Kansans who have borne the burden of higher income taxes--higher than those imposed on married Kansans. There are four points I would like to make:

1. I believe there is no public policy issue that justifies this tax differential. While the Kansas Supreme Court found it constitutional, their ruling doesn't make it reasonable or fair. As the Governor asked in his State of the State message: "is it fair that a struggling, single parent have more taken from his or her paycheck? Is it fair that the state adds to the burden of grief caused by the loss of a spouse by raising the survivor's income tax?" As those who shape policy and law, we have not only an interest, but an obligation to make taxes equitable. As the law now stands, our public policy is unjust for single Kansans and there should be a tax relief priority.
2. As a group, single Kansans certainly merit a fair tax policy. The average gross-taxable income for the single tax payer is just \$19,000. The Governor asked for fairness and balance in tax policy. These Kansans need and deserve this legislation.
3. There are tax proposals that single out just one group of Kansas taxpayers for relief while ignoring all others. I would encourage each of you to remember an excerpt from the State of the State in which the Governor says: "The people we must serve are not just those who are the loudest, or those who are the most organized, or those who can hire voices." I believe the one-half million single Kansas citizens deserve as much consideration as the people you will hear from in the coming days.
4. It is important that this plan be phased in over three years as the Governor has recommended. We cannot address this issue to the exclusion of other inequities. As noted previously, we are not bound to do anything legally. If we take action based on fairness in taxation, those receiving the benefit should also be fair.

In summation, we have no compelling public policy reason to tax single Kansans at a higher rate, we should work to provide fairness in our taxing policy. The average income for single Kansans is \$19,000 identifying them as a group that merits relief. Approximately one-half million taxpayers deserve to be heard. Their claim is legitimate and their cause deserves response. We have an opportunity to not only do the right thing but to return tax dollars to those who truly can benefit. But, in doing so we need to be reasonable and fiscally prudent in our efforts, and expect the same from those we are trying to help.

If any of you have questions, I would be happy to answer them.

*Senate Assessment & Taxation  
1-28-97*

Testimony of Eric C. Peden

I would like to thank this committee for the opportunity to appear before you today, and testify in regard to Senate Bill 53 and Governor Graves' proposal to equalize the income rates between married and unmarried taxpayers.

My name is Eric Peden. I am an attorney presently practicing law in Kansas City, Missouri. I am a former Kansas resident and taxpayer, and my ties to the State of Kansas remain strong. My entire family still resides in Kansas. I am a graduate of the University of Kansas, with degrees in business administration and accounting and also law. I have taught as an adjunct instructor at Kansas City Kansas Community College in the past.

In April of 1993, I initiated litigation to challenge the constitutionality of the Kansas income tax rate disparity between married and unmarried taxpayers that has existed in the Kansas tax code since 1988. At the end of last month, the Kansas Supreme Court ruled that the rate disparity does not violate the Equal Protection Clause. The Court found that the differences in tax rates between married and unmarried persons are rationally related to the state's interest in encouraging marriage.

However, the Court's ruling should not be viewed as bringing the issue to a rest. The Court was only able to consider the possible constitutional basis for the tax rate disparity - i.e., could the Court find a rational basis for charging different rates between married and unmarried taxpayers? The questions of (i) fairness of the disparity, and (ii) the wisdom of continuing the disparity, are questions that are going to have to be answered by this legislature. In light of our lawsuit, thousands of single taxpayers have filed refund claims with the Department of Revenue. One newspaper reported that number to be over 50,000. Even then, it represents only a fraction of the more-than 500,000 single filers in Kansas, who are now aware of this issue or are becoming aware of this issue, and they are going to be watching to see what the legislature does.

The tax rate disparity between married and unmarried persons was first created in 1988. At that time, Kansas began to impose one set of tax rates on married taxpayers filing joint returns and another set of less-favorable tax rates on all other taxpayers. This was unprecedented. Neither the federal government nor any other state has ever imposed higher tax rates on unmarried taxpayers. One of the great myths that has surrounded our lawsuit from day one is that all other states charge higher rates to singles like Kansas. This just simply isn't true. We even presented evidence in court where the former director of research for the Department of Revenue acknowledged before the House Taxation Committee in 1992 that Kansas is the only state that charges different rates between married and single filers.

Senate Assessment & Taxation  
1-28-97  
Attachment 3

Under the present tax structure, unmarried taxpayers are charged income tax rates that are **20% HIGHER** than the rates charged to married taxpayers, at all levels of taxable income. For example, the following rates apply:

Married Individuals Filing Joint Returns

<i>Over</i>	<i>But Not Over</i>		<i>Tax</i>
\$0	\$30,000		3.50% of taxable income
\$30,000	\$60,000	\$1,050 plus	6.25% of excess over \$30,000
\$60,000	-	\$2,925 plus	6.45% of excess over \$60,000

All Other Individuals

<i>Over</i>	<i>But Not Over</i>		<i>Tax</i>
\$0	\$20,000		4.40% of taxable income
\$20,000	\$30,000	\$ 880 plus	7.50% of excess over \$20,000
\$30,000	-	\$1,630 plus	7.75% of excess over \$30,000

This dual-rate structure has the effect of creating an excise tax on being single. All levels of taxable income earned by a married couple are taxed at lower rates than the taxable income earned by an unmarried individual. Married taxpayers with \$10,000, \$100,000, \$1,000,000 or \$10,000,000 of taxable income will never be subject to a rate higher than 6.45%. Unmarried taxpayers will pay tax at the rates of 7.5% and 7.75% on all amounts of taxable income in excess of \$20,000.

The rate disparity cannot be defended on the grounds that it is a pro-family measure. All married taxpayers - regardless of whether they have children or other dependents - receive the benefit of the lower rates. Conversely, all unmarried taxpayers - regardless of whether they have children or other dependents to support - are taxed at the higher rates. Thus, Kansas is the only state where a millionaire married couple with no children will be taxed at a lower marginal tax rate than a widowed taxpayer responsible for dependent children with just over \$20,000 in taxable income.

There is no evidence to suggest that the legislature ever intended to use the tax rates as a mechanism to entice people to get married, or any of the other reasons argued by the Department of Revenue in court [i.e., (1) favor and foster marriage, (2) alleviate financial burdens associated with marriage, (3) compensate for the marriage penalty of federal law, and (4) encourage joint-return filing to reduce the State's administrative costs].

If there was a difference in property tax rates or sales tax rates based on marital status, everybody would clearly know it was wrong. If a person walked into a store and at the checkout stand is asked: "Married or single?" and charged a different sales tax rate, the public would not stand for it. The result should not be any different because the rate disparity is buried in the darkness of the Kansas income tax code.

The issue now facing the legislature is not one of marriage, but of fairness. Kansas taxpayers come in all shapes, sizes and situations, such as: (1) married couples with children, (2) married couples without children, (3) high-income married couples, (4) retired married

couples, (5) single persons with children, (6) single persons without children, (7) single persons living alone, (8) widows and widowers, (9) divorced persons with children, (10) divorced persons without children, (11) nonresident married couples, (12) nonresident single persons, and (13) minor children taxpayers. Should the Kansas tax rate structure discriminate across-the-board based on marital status alone, ignoring family status and all other characteristics of a taxpayer. The answer is clearly "No."

This committee has the opportunity to correct an injustice that has existed under Kansas income tax law since 1988. Equalizing the rates between married and unmarried taxpayers in Kansas is simply the right thing to do. While I would encourage this committee to consider equalizing the rates effective immediately, rather than wait the three years as proposed by Governor Graves, Senate Bill 53 is a step in the right direction.

Thank you for your time and attention.



Hearing on SB 53  
Senate Committee on Assessment and Taxation  
Tuesday, January 28, 1997

Testimony of Marie Walter

My name is Marie Walter, and I live in Overland Park, Kansas.

As a single taxpayer in the State of Kansas for 46 years, I feel very strongly that I have been discriminated against because I chose to remain unmarried and care for my elderly mother who lived until her death on a meager social security benefit.

As Governor Graves stated recently, it is equally unfair that a single parent, struggling to keep a family in tact, has more taken from his or her paycheck. Moreover, this inequity adds to the burden of grief caused by the loss of a spouse, raising the survivor's income tax.

In each of the foregoing situations, we are being penalized by our state with additional taxation for conditions out of our control. What right does the State of Kansas have to penalize or reward its citizens for their choice of marital status?

I respectfully request that you eliminate this indefensible form of discrimination by passing Senate Bill No. 53 concerning the income tax rates of single individual taxpayers.

Thank you again for allowing me the opportunity to speak on behalf of all single taxpayers affected by this unjust tax structure.

Senate Assessment & Taxation  
1-28-97  
Attachment 4

Hearing on SB 53  
Senate Committee on Assessment and Taxation  
Tuesday, January 28, 1997

Testimony of Kathy Klassen

My name is Kathy Klassen, and I reside at 1258 Briarwood Road, Derby, Kansas 67037.

A young divorced mother of 3 works at Kentucky Fried Chicken. She earns the minimal wage and lives with her parents because she cannot afford to live on her own. I wonder how many people, such as yourself, she has served.

A 33-year old widower, with tears streaming down his face, tells me how he lost his wife and only daughter in a car accident just before Christmas.

A single mother of 2 tells me in the grocery store that she is trying to figure out how to feed the family for the next 2 weeks with \$50 in her pocket.

The above situations are not new. They were there in 1988 when this higher taxation was "voted in" by our State Representatives and Governor, and for the next 8 years, the state appointed judges have allowed our government to get away with this crime by saying: "The State of Kansas encourages marriage, therefore, we can tax you single people a higher rate?" Ladies and Gentlemen, you could care less if we were married or not - this is the only way you can justify the \$55 million a year you receive from single taxpayers!

There are now, over 600,000 widows, widowers, and single citizens, such as myself, who are law abiding Kansas citizens. We work hard, pay our taxes and are proud of the fact that we do not discriminate against MARRIED COUPLES!

Governor Graves announced on TV that the higher tax rate was not fair to widows, widowers and single people. Now, Governor Graves is saying, "'Give me another 3 years and I will equalize this taxation.'" ANOTHER 3 YEARS?? ISN'T THE LAST 8 YEARS ENOUGH?? LADIES AND GENTLEMEN, WHAT IS WRONG WITH THIS PICTURE?

What will it take to tell this government that over 600,000 single Kansas citizens will not tolerate this unfair taxation anymore? We have called! We have written! We have talked to you in person! Are you not listening?

My 33-year old daughter is now a widow. We buried my beloved son-in-law on November 20, 1996 - a week before Thanksgiving! I love my daughter and 3 dependent grandsons very much! I promised my son-in-law, on his death bed, that I would fight this issue with every breath in my body! I keep my promises!

Thank you for listening.

Senate Assessment + Taxation  
1-28-97  
Attachment 5

Testimony of Sharon Smith

My name is Sharon Smith. I am a lifelong resident of the State of Kansas, having been born in what I often lovingly refer to as a "little log cabin" at 81st and Leavenworth Road in what was then Bethel, Kansas, on August 31, 1942. Even now, I am a proud resident of Wyandotte County, Kansas.

I was educated in public schools and universities in Kansas. And I consider that that education was excellent and taught me judgment and values. It was those teachings that helped me to know that charging different tax rates between married and singles is unfair and downright discriminatory.

I was a little late to coming to this issue. I now work in Missouri and pay taxes in both states. When I first began my job in Missouri, the taxes were more or less equal, but through the years I noticed that Kansas taxes were gaining against the Missouri rates. I had missed the fact that the Kansas Legislature had deliberately raised the rates for singles and my taxes were reflecting those higher rates. When I did learn that I was paying more only because I had not found a husband, I was irritated, but assumed that the inequity would be corrected. I knew that a legal challenge to the inequity in tax rates had been filed and knew that logically there was no rational way to explain the disparity except that the state wanted the additional funds.

I knew I was right when the state in its filings with the court could only give lame excuses like we want to encourage less paperwork by having people file joint returns and the state is promoting marriage. In reality, the way a person files taxes in Kansas is dependent on how the person files at the Federal level and no other legislation in the state was really promoting marriage. In fact, persons have to pay to get a marriage license.

In June of 1995, I joined the legal action as one of the plaintiffs, asking for class action on behalf of single persons in Kansas, seeking to have the tax legislation as pertaining to rate differentials between married and singles declared unconstitutional and to have the state refund the excess taxes collected since 1988.

The judge at the District Court level ruled that the state was illegally charging singles at a higher rate and that he could order refunds. The state appealed that decision to the Kansas Supreme Court. There, the court agreed that the state could charge married persons at a lower rate than single Kansas taxpayers. I am not happy with that decision. I believe that the arguments expressed by the state in its court briefs were incredulous. That the state supreme court adopted them was even more so.

*Senate Assessment & Taxation  
1-28-97  
Attachment 6*

In 1996, I happily attended three marriages of close friends or relatives. None of the three couples married because of Kansas tax rates. They did it the old fashioned way: they fell in love.

If the state has such an interest in promoting marriage that it can discriminate in income tax rates, why is it not helping its single persons like me find spouses? How is the state addressing the issue of unequal numbers of men and women? That list of questions could get long and ludicrous.

In reality, the state needed money and charging singles more gave the state extra funds. One legislator I heard interviewed on radio while the case was being litigated, agreed that legislators thought that single persons never would be an organized body to challenge the issue. As a result of the litigation, more people are informed and as Governor Graves noted in his State of the State address, there are some 500,000 single taxpayers in this state. Most of them are now aware and many are "mad as hell".

One of my consciousness-raising experiences was understanding the information that while the tax rates were about a percentage point different, that translates into a single person paying a 20% higher rate for taxes than a married couple having the same income.

The Governor has come late to this issue. He now says that the difference in rates is not right--not fair, running from the cover given him by the Supreme Court to the position we have held all along. We welcome his proposal to equalize tax rates. The extra funds received from single taxpayers since 1988 have contributed to the state's healthy financial situation. It is those funds raised from single taxpayers that are helping to subsidize the tax cuts generously offered by the governor and certainly single persons should share in the benefits.

I would, however, recommend that the inequity that has existed since 1988 be corrected in one action, rather than over the three years promoted by the governor. Once a problem is recognized, why prolong fixing it.

Single persons have no problem with paying taxes and supporting their state. But we do have a problem with a state that has taken advantage of us and then has hidden behind a transparent explanation such as "we're promoting marriage".

Testimony of Elizabeth M. Gerhardt

My name is Elizabeth M. Gerhardt, residing at 4810 W. 120th Place, Overland Park, Johnson County, Kansas. I am a 67-year old female whose husband died in 1988; single by fate, not by choice. When I relocated to Kansas from California in 1993, I had no idea that due to a disparity in income tax rates determined by marital status I would be "penalized" for being a widow.

Since marriage seems to be the only criterion to obtain tax relief and since only monogamous marriages are accepted, "supply and demand economics" can't rectify the situation for many of us. Socio-economic or demographic studies I have read posit that because males tend to die younger, most females will be single in their later years. These statistics are borne out in populations in retirement communities, activities at senior citizen centers, and in medical-assistance accommodations catering to our aging population.

But age is only one factor determining the reasons one is single. Younger people may have family responsibilities of parents or siblings, or other reasons not of their making, that make marriage non-viable. Some may be pursuing undergraduate or graduate degrees and working part or full time; others may be establishing themselves in careers and neither of these feel they have the real or emotional time necessary to nurture a marriage. Religious beliefs may dictate only one opportunity (e.g., remarriage following a divorce is usually prohibited) so one refuses to be coerced into marriage for tax benefits. Still others may be young widows/widowers or have attained single status through divorce.

It is interesting that this tax disparity applies only to income taxes. Is this because only income taxes mention or request marital status? Property taxes, personal property taxes, sales taxes, etc. are "blind".

I am respectfully requesting that this committee and Governor Graves promote repeal of the discriminatory laws affecting unmarried taxpayers, effective immediately.

Senate Assessment & Taxation  
1-28-97  
Attachment 7