

Approved: April 28, 1994
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 March 30, 1994 in Room 519-S of the Capitol.

Members present: Senator Langworthy, Senator Tiahrt, Senator Martin, Senator Bond, Senator Corbin, Senator Feleciano Jr., Senator Hardenburger, Senator Lee, Senator Reynolds, Senator Sallee, Senator Wisdom

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

Conferees appearing before the committee: Halsey Hines, Commander, USN (Ret.)
Mark Burghart, Counsel, Department of Revenue
Nancy Parrish, Secretary, Department of Revenue

Others attending: See attached list

JOINT MEETING WITH SENATE FEDERAL AND STATE AFFAIRS

HB 3068--INCOME TAX REFUNDS FOR RETIRED MILITARY PERSONNEL

Halsey Hines, Commander, USN, (Ret) appeared before the committee in support of **HB 3068**. (Attachment 1) He asked the committee to take action on the bill. He said he had been paying taxes on his military retirement pension since 1963 and he hoped the legislature would make the right choice and pass the bill favorably.

Mr. Hines was asked by the committee if he would be satisfied and accept less than 100 percent of what is owed him. He said he would accept it because he has no choice.

Mark Burghart, Counsel, Department of Revenue, continued his testimony from the meeting yesterday. He pointed out to the committee some charts attached to his written testimony that showed the payment to the military retirees being paid over a period of years and by different methods.

He was asked a number of questions by the committee concerning those who non-complied and was that figured on just what a state employee has paid in, or is this also figured on federal employees? Another question was when the hearings for the military retirees were held. Mr. Burghart said they were only looking at state employees withholding and the hearings were held as the requests were received. He also said there had been misleading information given out as being from the Department that the military retirees did not have to exhaust their administrative processes.

Nancy Parrish, Secretary, Department of Revenue, passed to the committee a balloon of **HB 3068** with the recommendations from the Department as to how the bill should be amended so that it could be administered by the Department. (Attachment 2) The Departments recommendation would be that the terms be set out so the legislature and retirees would know what amount would be due them. She said her recommendation would be to refund the tax that was paid in and the language that is in the balloon would provide for that. It would be up to the Legislature if they wanted to add in the interest. She went on to explain the provision of the changes made in the bill. The amount in the bill is the actual amount paid in. If the Legislature wants to pay interest that would have to be added to the bill. This would refund 100 percent of the tax. \$33 million would need to be in reserve to pay off the refund liability. The retirees have offered to compromise.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S
Statehouse, at 11:00 a.m. on March 30, 1994.

Secretary Parrish said there would be three payments of \$18.5 million. She believes this would fund all of the tax. This would be for the tax years 1984 through 1991. However, the liability may be less.

The committee wanted to know if these proposed amendments were adopted, what assurance is there that the retirees would accept this? Secretary Parrish said she could not speak for the retirees. She said she thought the Department could get the committee some numbers for some years and she would provide them at the meeting tomorrow. She asked, do you want to start with the lump sum and pay that or do you want to start with the methodology? That is a question for the Legislature to decide. A committee member also asked about an opt-out provision, if any of the retirees do not want to accept what is being given to them. They thought the retirees should have the ability to do this. Other members did not think that could be done.

Mr. Frieden, Counsel, Kansas Military Retirees for Tax Fairness, said he favored an opt-out class. He mentioned two states who did have the opt-out provision. He also said that the amount to pay the retirees plus the interest would be fine with him.

There were questions about tax credits and how difficult would it be to administer. Secretary Parrish did not think it would be difficult. She said Arizona has used this method in some cases to those who could use the credit, but they had also sent checks out if that was preferred.

The committee also asked if there is an issue with the funding for 3 years. Staff said this bill just provides for a three year transfer so there is no appropriation made.

Senator Langworthy called on Bill Caton, Kansas Finance Development Authority, to explain what bonding would be available.

Mr. Caton said he did have an opportunity to talk to the Governor yesterday and she has two concerns about the financing of **HB 3068**. She is concerned if the funding would be over a long period of time and if she has a bill sent to her without some funding method.

He spoke about the bond issues. He said sometimes it is more advantageous to borrow money and the state has the ability to do that. He said they could borrow for as long as 8 years, and they could borrow for 3 years at 4.1 percent interest which is less than the 5 percent interest paid to the retirees. That would be a cheaper way than taking money out of savings or idle funds. When the State uses bonds they are subject to appropriations. The Finance Council does have the authority to issue bonds.

The committee was interested in what kind of interest the state would be paying if they issue bonds. They wanted to know what the cost would be for 3, 5, or 8 years and Mr. Caton said he would be back tomorrow with those figures.

Senator Langworthy announced the committee would meet tomorrow, Thursday, March 31, at 12:00 noon.

The meeting was adjourned at 12:00 noon.

GUEST LIST
SENATE ASSESSMENT AND TAXATION COMMITTEE

DATE: March 30, 1994

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
HAROLD PITTIS	Topeka	AARP-CCRF
BASIL COVEY	Topeka	KRTA
Michelle Clum	Topeka	att. Jon Small
John D'Aloia Jr.	St. Marys	Senator Sallee
George Wurgatz		Gov. Office
Jack Arnold	Topeka	KDOR
Keith Tate	Topeka	DOA
Pat Dunn	TOPEKA	CITIZEN
Russ FREY	Topeka	KVMA
Chris McKersie	"	League of Ks. Men.
Julie Hein	Topeka	Hein, Ebert & Weir
Francine Jones	"	AVSA
Halsey Ames	"	U.S. Navy
Angela Pottbaum	WICHITA	TROA, USAF
CLARA POTTEBAUM	WICHITA	TROA, USAF
GREEN POTTEBAUM	"	"
Clay Cantant	Lawrence	TROA USAF
Bill Oberhardt	TOPEKA	SELE
Hollis B. Logan	Topeka	USAF, Retiree

STATEMENT FROM HALSEY HINES, Commander(Ret), US.NAVY
TO THE SENATE ASSESSMENT and TAXATION COMMITTEE

Re: HB 3068 - March 30, 1994

Madam Chair,

Members of the Committee,

I want to thank you for allowing me to appear before you today, to express my concern relating to the military retirees' appeal for refund of illegally taxed pension benefits.

I have been listening for the past two days to a succession of presentations and pleas about this matter, with little change in the end result: NO ACTION.

While I do understand our legislative body must use caution in considering the endorsement of any bill, it appears that the issue of our retired veterans is a clear-cut case. For months, the public, the press, and the State of Kansas have speculated, discussed, and analyzed the pros and cons of our appeal. It is NOT a new issue, and it cannot be buried, because it will not go away! We will not allow it!

The Supreme Court declared the procedure of taxation of retirement benefits illegal, and the state of Kansas was well informed of this decision. Yet, without any embarrassment, the retirees continued to be penalized. If we were to turn the tables around, You would not give me any choice about a settlement; you, the state of Kansas, would demand immediate repayment without any concern for my personal situation.

I served as a Naval Aviator -a fighter pilot- for 22 years. Then I returned to Kansas-my home state-. Since 1963, like many other veterans, I have been paying taxes on my pension benefits without complaining about this additional burden.

*Senate Assessment + Tax
March 30, 1994
attach 1-1*

Page 2.

STATEMENT FROM Halsey Hines
Ret. US Navy Commander

RE; HB 3068

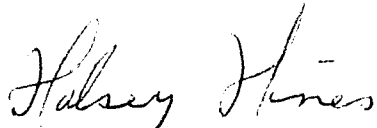
I am fully aware of all the objections standing in the way of this reimbursement. Yet, I remember never hesitating when my country asked me to serve during WWII, and I certainly do not remember any one ever objecting when our veterans put their life on the line. My question to you is: "How long do I have to wait before the State of Kansas will refund me the amounts I have contributed in taxes for the past 31 years?"

In the next forty-eight hours, the Kansas Legislature will adjourn to go home, and tabulate the issues they have resolved. You know the answer...

We, the military retirees are running out of time, but so is the State of Kansas and its governing body.

TODAY, you have only one choice, and I dare say, one obligation: let us know that you will support HB 3068, and put an end to a situation where military retirees must swallow their pride to regain what was taken from them in a most unfair manner.

Thank you.


Halsey Hines
5623 SW Hawick Ln
Topeka, Ks 66614-4183

HOUSE BILL No. 3068

By Committee on Federal and State Affairs

3-8

AN ACT relating to income taxation; concerning refunds of tax on federal military retirement benefits.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) The secretary of revenue is hereby authorized and directed to promptly negotiate, approve and recommend judicial approval of a settlement agreement to resolve all tax refund claims pending in the Barker class action for the amounts set forth in subsection (d). As used in this section, "Barker class action" means the consolidated class action styled *Keyton E. Barker, et al. v. State of Kansas, et al.*, Nos. 89-CV-666 and 89-CV-1100, filed in the district court of Shawnee county, Kansas. The settlement agreement shall include:

(1) Any stipulations, terms and conditions which may be necessary to effectuate the prompt and final disposition of the Barker class action; and

(2) provisions for joint administration under the supervision of the secretary of revenue and class counsel or their respective designees in accordance with methodologies for the calculation and payment of refund claims to eligible persons. The settlement agreement shall be submitted to the district court of Shawnee county, Kansas, no later than May 15, 1994.

(b) Subject to the provisions of subsection (c), any person who paid Kansas individual income tax on or on account of federal military retirement benefits for any or all of the tax years from 1984 through 1991 shall be entitled to receive one or more refund payments in accordance with the terms of the settlement agreement referenced in subsection (a). As used in this section, "federal military retirement benefits" shall include all benefits calculated and paid by the United States in accordance with applicable provisions of title 10 and 14 of the United States code as retired pay, retainer pay or survivor's benefits. Where any person otherwise entitled to receive a refund payment under this section is deceased, the right to receive payment

in an aggregate amount equal to that portion of the tax actually paid pursuant to the Kansas income tax act which is attributable to retirement benefits received for service in the armed forces of the United States

and appropriations acts

Senate Assessment & Taxation

March 30, 1994

attach 2-1

1 shall pass to the person's surviving spouse, except that if any such
2 deceased person has no surviving spouse, the right to receive a
3 refund shall be determined in accordance with the laws of intestate
4 succession.

5 (c) There is hereby created a military retirees income tax refund
6 fund in the state treasury which shall be administered by the sec-
7 retary of revenue in accordance with this section and appropriation
8 acts. No expenditures from the military retirees income tax refund
9 fund shall be made until and unless the settlement agreement ref-
10 erenced in subsection (a) is approved by the district court of Shawnee
11 county, Kansas, after eligible persons have been afforded reasonable
12 notice and an opportunity to be heard.

13 (1) In the event of judicial approval, administration of the military
14 retirees income tax refund fund shall be subject to the jurisdiction
15 and supervisory control of the district court of Shawnee county,
16 Kansas, until such time as all refund payments have been made to
17 eligible persons in accordance with the terms of the settlement agree-
18 ment. The payment of refunds as provided in the settlement agree-
19 ment shall represent a final and complete settlement of all claims[,
20 including any appeal or administrative process perfected pursuant
21 to law for the purpose of obtaining a refund of income tax imposed
22 upon federal military retirement benefits,] of all federal military
23 retired personnel for taxable years 1984 through 1991 against the
24 state of Kansas, its departments, agencies, officials, employees and
25 agents regarding the taxation of federal military retirement benefits
26 for the taxable years 1984 through 1991.

27 (2) In the event that the settlement agreement does not receive
28 judicial approval, no expenditures or refund payments shall be made
29 pursuant to this section.

30 ~~(d) On July 1, 1994 Subject to appropriation acts providing~~
31 ~~therefore, on July 1, 1994, 1995, 1996 and 1997, the director of~~
32 ~~accounts and reports shall transfer \$21,446,935.00 \$10,000,000~~
33 ~~or the amount equal to 25% of the total amount of refundable~~
34 ~~income tax liability determined due and owing pursuant to the~~
35 ~~approved settlement agreement, whichever amount is less, from~~
36 ~~the state general fund to the military retirees income tax refund~~
37 ~~fund for expenditure pursuant to one or more vouchers ap-~~
38 ~~proved by the secretary of revenue or by the secretary's des-~~
39 ~~ignee. On July 1, 1995, the director of accounts and reports~~
40 ~~shall transfer \$21,446,935.00, plus interest thereon at the rate~~
41 ~~of 5% per annum from July 1, 1994 through June 30, 1995,~~
42 ~~from the state general fund to the military retirees income tax~~
43 ~~refund fund. On July 1, 1996, the director of accounts and~~

1 reports shall transfer \$21,446,935.00, plus interest thereon at
2 the rate of 5% per annum from July 1, 1995 through June 30,
3 1996, from the state general fund to the military retirees income
4 tax refund fund. Expenditures from the military retirees income
5 tax refund fund shall be made upon warrants of the director
6 of accounts and reports pursuant to vouchers approved by the
7 secretary of revenue or by the secretary's designee in accor-
8 dance with the settlement agreement referenced in subsection
9 (a) as approved by the district court of Shawnee county, Kansas,
10 and with appropriation acts.

11 [(d) On July 1, 1994, the director of accounts and reports shall July 1, 1995, and July 1, 1996
12 transfer \$21,446,935.00 from the state general fund to the military 18,500,000
13 retirees income tax refund fund for expenditure pursuant to one
14 or more vouchers approved by the secretary of revenue or by the
15 secretary's designee.] On July 1, 1995, the director of accounts and
16 reports shall transfer \$21,446,935.00, plus interest thereon at the
17 rate of 5% per annum from July 1, 1994 through June 30, 1995,
18 from the state general fund to the military retirees income tax
19 refund fund. On July 1, 1996, the director of accounts and reports
20 shall transfer \$21,446,935.00, plus interest thereon at the rate of
21 5% per annum from July 1, 1995 through June 30, 1996, from the
22 state general fund to the military retirees income tax refund fund.
23 Expenditures from the military retirees income tax refund fund
24 shall be made upon warrants of the director of accounts and reports
25 pursuant to vouchers approved by the secretary of revenue or by
26 the secretary's designee in accordance with the settlement agree-
27 ment referenced in subsection (a) as approved by the district court
28 of Shawnee county, Kansas.]

29 Sec. 2. This act shall take effect and be in force from and after
30 its publication in the ~~statute book~~

Kansas register