

Assembly

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MINUTES OF MEETING - COMMITTEE ON TAXATION - 55TH NEVADA ASSEMBLY SESSION -
FEBRUARY 20, 1969

Present: K. Hafen, Smith, Tyson, Young, Espinoza, Getto and Swackhamer
(Hilbrecht arrived later as indicated herein)

Absent: Schouweiler

Also Present: Frank Daykin, Legislative Counsel Bureau
Assemblymen Paul May and Dave Branch

Chairman Hafen convened the meeting at 8:15 a.m. and proceeded with A.B. 230, exempting unpatented mines from property transfer tax.

Swackhamer stated that an unpatented mining claim is not the right of ownership but only the right to go in and take the minerals from the land. He cited Article 10 of the Constitution "... except mines and mining claims, when not patented, the proceeds alone of which shall be assessed and taxed, and when patented, each..." He said that on that basis we should remove unpatented mining claims from the real estate transfer tax.

Smith moved that A.B. 230 be referred out with a Do Pass;
seconded by Swackhamer;
unanimously passed.

Mr. Daykin then arrived and A.J.R. 9, proposing to amend Nevada Constitution to allow imposition of estate tax not to exceed credit allowable under federal law was discussed. Mr. Daykin was asked if there had been a commission study on this and he said that there had been but no sub-committees had been formed. The study was made by the staff, which included himself and another attorney. He noted that the resolution wanted to consider only estate tax to pick up credit without adding to the tax burden of the Nevada residents. Under the state estate tax law, a credit is allowed to the state based on the size of the estate. He said they had investigated various states having an estate tax to pick up this credit and there were four of them; Alabama, Florida, Georgia and Arkansas. They had corresponded with the persons in those states who administered the statutes in an effort to find out if they had any problems in the way the statutes were drafted. None were found and so they proceeded with the drafting of the resolution.

Mr. Daykin then cited the resolution as follows: "The legislature may provide by law for the taxation of estates taxed by the United States, but only to the extent of any credit allowed by federal law for the payment of such a state tax." He noted that this would be the most liberal of all other states in that it provided for an automatic stepping aside in the event another state were involved. "The combined amount of such federal and state taxes shall not exceed the estate tax which would be imposed by federal law alone. If another state of the United States imposes and collects death taxes against an estate which is taxable by the State of Nevada shall be reduced by the amount of death taxes collected by such other state."

Mr. Daykin said that the proposed amendment had been submitted to the State Bar Association and the two accountant associations. The State Bar Association came back with the customary quibbles and the CPA's endorsed the proposal.

Mr. Young corrected this statement to the affect that the state Bar Association had not replied but had published their views in their journal. Daykin said this was correct that the journal had stated a 5 man study had been made; however, it was learned later that of the 5 man study, 3 had not been present and one had dissented. The accountants seem to be satisfied that this would work and not increase anyone's taxes. The State Bar Association's objection is based on the psychological affect on Nevada. The right of Nevada to be able to say, "we have no estate or inheritance tax".

Swackhamer: In your correspondence with Florida, did they indicate in any way the slowing down of people coming in for retirement or who may have left when the law was enacted. The general opinion is that there is a lot of capital in Nevada that would not be here except for our provision against the taxes.

Daykin: Florida could not identify one way or the other. They would have had no way of gaining that information. I can say that there was no mass exodus from the state and they have certainly had monied people continue to move to Florida. I don't see how our passing this resolution could have that much sugnificance on people. I think if they come so far in life as to be subject to the tax, they are not worrying that much about it and are usually prepared. The affect of the tax does not become significant until the estate gets into approximately the 1/2 million dollar figure.

Hafen: Is there any way of telling how much in tax this would be worth to the state?

Daykin: The revenue is so fluctuating that it is hard to pin down. However, I can say that if Howard Hughes were to die in Nevada, we would get a pretty good amount of money. On the other hand in a given year, we may not get anything.

Swackhamer: An internal revenue agent who handles the federal estate tax feels that in a 10 year period it would be up to \$200,000 to \$900,000 a year, depending on who died.

Young: Of course on the chart when it asks if we have an estate tax above the federal credit, we can still say "no". This refers to the estate tax and not the inheritance tax.

Swackhamer: Are we going to do something about this?

Smith moved that A.J.R. 9 be given a Do Pass;
Seconded by Tyson;

Young stated that he would like to vote yes, but wondered if we should have a hearing on this first. Smith noted that the bill had been out for some time now. Hafen said he had received no requests for hearings. Discussion was held on possible interested parties and Hafen said possibly First National Bank would like a hearing. Swackhamer noted that there were some attorneys in Reno with clients who might be concerned. The question of course was that Nevada should not be deprived of having the choice on this. Smith commented that we should pick up the pieces we are permitted to pick up. This resolution is an unprovable thing and there would be no way of obtaining proof right now as to the affect this would have on Nevada. Hafen noted too the time involved.

Daykin: This still has to go to another session and then to the vote of the people. I think most feel it would be good. The Attorney General will be asked to present this and once in a while he asks our office for assistance in the drafting for the ballot.

Swackhamer: We must remember the affect of the way this goes on the ballot.

Daykin: Most likely the title of this resolution will read as follows on the ballow: "Shall Joint Resolution proposing to amend the constitution for the purpose of authorizing an estate tax not to exceed the credit allowable under federal law, be passed?" By reading that way, a "yes" vote would be in favor.

Hafen said there had been some questions as to whether this might complicate the settlement of an estate; possibly tie up the assets? The problems involved in California estates were discussed and Daykin said there should be no reason for Nevada to have these difficulties the way the resolution is written. He stated further that there would be no hardship on an estate and could be managed very easily.

When asked what amount of inconvenience would be caused by this tax, Daykin stated that we are not taking anything that the federal government does not tax. We would not step in like California and sell the stuff to be sure that we got our share. We can sit back and when it is time for the Federal Return to be prepared, we ask for a copy. That would be the only administrative expense involved. We are simply taking what the Federal Government takes now.

AJR 9 having received a motion for Do Pass and a seconded thereto; vote taken and unanimously carried.

(Hilbrecht arrived at this time)

Young noted that part of his assignment had been to get into the slot machine tax matter. He said he was working on this with Frank Gibson and the Governor. In the event the U.S. Government allows us the credit due on the slot machine tax, it would amount to approximately \$6 million. It was noted that the attitude in Washington indicates that there is a good possibility of receiving this credit.

A.J.R. 11, proposing constitutional amendment prohibiting personal income tax was presented by Assemblyman Paul May.

Mr. May stated that when Senator Dodge made his remarks regarding possible income tax for Nevada, his phone rang constantly. He said he knew the attitude of the people in Clark County is very negative on this. Further it made no difference whether determination is made this session or next; there are recommendations pro and con. This tax, however, is assessed only against the people of Nevada and the structure up to now has been to draw the majority of the taxes from the tourist trade.

Tyson: Do you think A.J.R. 11 has been run around enough without coming out of committee?

May: No, it will not accomplish its full intent until it is passed by both houses and put to the people.

Hilbrecht: I consider that possibly in the distant future, say 15 years, this might be the necessary source of revenue. All we would be doing now is

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delaying what is going to happen eventually.

Smith: In my contact with the Clark County School Teachers, they indicate they want to have a state income tax.

May: I would say then that maybe they are willing to give a portion of the anticipated raise back to the state.

Swackhamer: I don't think we should be working on the merits of this tax now. I am not going to act now for the people 20 years hence. We don't know what types of revenue may be available in the future.

May: You know that no matter what the action is of the committee, there can be no true determination until the people get the final vote.

Branch: Talking about locking into the constitution and the possibility of a constitutional convention; the income tax is assessed on the people who live here. Examples of other states are available. New Mexico passed a state income tax and the people raised up in arms. New Mexico had a lot of millionaires in the state and they were run off by the income tax. And they took their businesses with them. The little man did the same thing. They started taking the tax right out of the paycheck and then at tax time, they had to report. This put the little man on the spot. Consider that it costs \$5 to file the income tax return. I feel it is time that the legislature do something for us. If we are going to have a constitutional convention, there will be time to study the picture. We should give the rest of the members in both houses the consideration and let it go to the people.

The mining industry in the state, in my opinion does not pay their share. I would suggest a severance tax. I would propose such a tax, but it is too late now. The state income tax is discriminatory and I want the people to get the chance to vote on it.

Swackhamer: If we quit doing things for the people, we would not need an income tax. Also, your observation of the severance tax; the mining industry pays a tax on their net proceeds.

May: Yes, but they receive an allowance....

Swackhamer: That is a federal allowance. In actuality, they pay two taxes. Eureka does not get one dime from the state for school support. It comes from the miners. The state at one time lived almost entirely on the net proceeds tax on the mining industry. I think we will see the day when it happens again.

Getto moved that A.J.R. 11 be deferred for further consideration; seconded by Tyson and unanimously carried.

There being no further business, the meeting was adjourned.