

SENATE TAXATION COMMITTEE
MINUTES OF MARCH 20, 1973

Room 231

The meeting of the Senate Taxation Committee was called to order by Chairman B. Mahlon Brown, with the following members and guests present:

PRESENT: Senator B. Mahlon Brown Senator Eugene Echols
 Senator Carl Dodge Senator Thomas Wilson
 Senator Mel Close

G U E S T S

W. W. Richards, Dept. of Motor Vehicles, Motor Carrier
Leonard H. Winkelman, Dept. of Motor Vehicles
Donald J. Crosby, State Highway Department
Grant Bastian, State Highway Department
James C. Lien, Nevada Tax Commission
Ray D. Yowell, Inter-tribal Council of Nevada

Agenda items under consideration were as follows:

SENATE BILL 396: Imposes excise taxes and a use tax to augment the state highway fund. (Introduced by the Committee on Transportation)

Mr. Grant Bastian, representing the State Highway Department, testified that the intent of this bill was to make it possible that if any excise taxes are abandoned by the Federal government, they would automatically accrue to the Highway fund.

He has learned that there is a problem with some of the other collection agencies of the state trying to obtain these funds and, in the circumstances, he requested that action be held on this until these agencies can work out some arrangement.

A representative of the Motor Carrier Division of the Motor Vehicle Department explained that his agency is also interested in obtaining some of these funds and concurred in the request for delaying action of this measure.

Senate Bill 396 will be placed on the next agenda for the Senate Taxation Committee, March 27, 1973.

SENATE BILL 399: Permits transfer of certain moneys apportioned under County-City Relief Tax Law. (Introducer Dodge)

Senator Dodge, as introducer of the bill, explained that he understands there is a conflict with regard to this bill. In the previous presentation, it was indicated that this measure might be a beneficial thing so far as overall revenues available to the county and cities if we were to enact the amendment to this bill on page (2).

In discussing this with his constituents, however, there has been a misunderstanding and he now would prefer to withhold action on the bill. The Commissioners of his district have indicated they are opposed to this inasmuch as they have instituted the county-city relief tax and are, therefore, enjoying a substantial amount from that distribution.

A motion was made by Senator Dodge to withhold action on SB 399; motion seconded by Senator Close and carried unanimously.

SENATE BILL 456: Exempts property of Nevada Humane Society, Inc., from property tax. (Introducer Senator Wilson)

Senator Wilson stated that, although he was aware of the previous feelings of the Committee relative to granting exemptions to organizations, he felt this measure has considerable merit and asked for favorable consideration.

He explained the Humane Society provides a public service that would have to be conducted by a governmental agency, if the Society did not function. It is his opinion that exemptions of this nature should be considered individually on their own merit and, if it is determined that they are providing a necessary function for the benefit of the public, they should be granted the exemption. In reviewing the services provided by the Humane Society, he has concluded that they do meet the criteria outlined above and should qualify.

After brief discussion, a motion was introduced by Senator Echols that this bill be returned to the Senate floor with a recommendation of "do pass"; seconded by Senator Wilson. Voting "aye" Senators Wilson and Echols, voting "nay" Senators Dodge and Close; motion did not carry.

SENATE BILL 452: Proposes to amend sales and use tax act of 1955 to exempt food products for human consumption (Introducer Senator Neal)

Senator Neal appeared to testify in behalf of the bill, explaining the rationale behind this measure was to allow a tax break to the residents of Nevada by removing the sales tax from all food products. In his opinion sales tax imposed on the necessities of life is not fair taxation, he would suggest increasing the tax rate on non-essential items such as alcoholic beverages, tobacco, etc., in order to generate the revenue that would be lost.

The bill would provide that this question be placed on the ballot at the general election in 1974, and if approved, to become effective January 1, 1975.

In reply to a question by Senator Close as to the amount the tax would have to be increased in order to raise the same amount of revenue, Mr. James Lien from the Nevada Tax Commission, estimated a one-half cent increase would be required.

He explained, further, that the measure would not provide the benefits for which it was intended inasmuch as administration of the program would require the employment of additional personnel at the grocery stores to assist in separating the food items from the non-food items, which would result in increased prices back to the consumer. Additionally, other states such as California have found this extremely difficult, in that they must differentiate between taxable items in areas such as salt (table salt as opposed to salt used in ice cream freezers, or used on sidewalks); hot foods sold throughout the store ready for consumption; pet food, etc.

The increased cost through administering the program would be passed back to the consumer, as well as the increased taxes on other items in order to make up for the loss in revenue; both factors contribute to defeating the purpose for which the bill was intended.

Loss of revenue from the sales tax on food products is estimated at \$11.1 million dollars, based on the formula that 12% of the total sales tax is collected from food products.

Chairman Brown briefed the members on previous action on similar mea-

sure, explaining that, while everyone is in agreement that they would like to see this tax eliminated, we must use a realistic approach in providing the needed revenue before taking steps to eliminate the tax.

In conclusion, a motion was made by Senator Echols, seconded by Senator Dodge, that Senate Bill 452 be killed in committee; motion carried unanimously.

ASSEMBLY BILL 420: It was noted that an identical bill has been approved by the Senate (Senate Bill 56) and, therefore, no action is required.

SENATE JOINT RESOLUTION 18: Proposes constitutional amendment prohibiting personal income tax. (Introducer: Senator Swobe)

Senator Swobe was not present; SJR 18 will be placed on the next agenda.

LEGISLATION REQUESTED (George Vargas)

Mr. George Vargas was present and made the following statement for the record: He is with the firm of Vargas, Bartlett and Dixon who are Counsel for the Showboat Hotel in Las Vegas. Mr. Dixon handles the account and was primarily responsible for listing of the Showboat on the American Stock Exchange and he has requested, as Counsel for the Showboat, this proposed legislation.

Chairman Brown informed the members that he has discussed the letter submitted by Mr. Vargas, with Mr. Phil Hannifan, of the Gaming Control Board, and it has met with his approval.

The Committee approved the introduction of the legislation, pursuant to the request of Mr. Vargas.

LEGISLATION REQUESTED (Senator Wilson)

Chairman Brown stated Senator Wilson had requested legislation to be introduced by the Taxation Committee and the measure was explained as a bill that would provide that real property tax exemption may extend for five years.

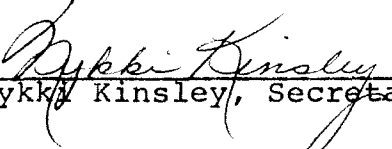
The committee was agreeable to introducing the bill and a motion to that effect was made by Senator Close, seconded by Senator Wilson and carried unanimously.

LEGISLATION REQUESTED (Senator Swobe)

Chairman Brown advised the members of a request for legislation by Senator Swobe creating a subdivision privilege tax, however, due to Senator Swobe's absence, this request was held until the next meeting of the committee.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Nykki Kinsley, Secretary

APPROVED:



Senator B. Mahlon Brown, Chairman

SENATE TAXATION COMMITTEE
MARCH 20, 1973 PM Adj

Room 231

SENATE BILL 396 Imposes excise taxes and a use tax to augment the state highway fund.

place on next agenda

(Introduced: Committee on Transportation)

SENATE BILL 452 Proposes to amend Sales and Use Tax Act of 1955 to exempt food products for human consumption.

killed

(Introducer: Senator Neal)

SENATE BILL 456 Exempts property of Nevada Humane Society, Inc., from property tax.

killed

(Introducer: Senator Wilson)

SENATE JOINT RESOLUTION 18 Proposes constitutional amendment prohibiting personal income tax

hold

(Introducer: Senator Swobe)

ASSEMBLY BILL 420 Provides for rubber stamp in lieu of transfer tax stamp.

not needed

(Introducer: Mr. Dini (by request))

NEVADA TAX COMMISSION

Stat file
Memo

TO: Director
Legislative Counsel
FROM: Mr. John J. Sheehan
Executive Secretary
SUBJECT: Exemption of Food from Sales and Use Tax

DATE: November 27, 1972

Attached herewith is the study which you requested in August 1972 to assess the impact of legislation which would exempt from sales and use taxes, all food items sold for human consumption.

Please advise if we may be of further assistance to you.

Title: Sales and Use Taxes Exemption of Food for Human Consumption

Purpose: To determine impact of such exemption on state and local revenues, and on taxpayers' retail operations.

Requested by: Nevada Legislative Counsel Bureau.

Limiting Factors:

1. Total registered retail market operators in Nevada: 245
2. Number of market operators selected for study: 23 (9.39%)
3. Number of market operators (Respondents) cooperating in study: 17 (6.94%)
4. Number of stores operated by Respondents 105
 - a. Number of Respondents operating one store: 8
 - b. Number of Respondents operating more than one store: 9
5. Total annual Projected Retail Grocer Sales, statewide, 1972-73 \$320,660,968
6. Total annual Projected Retail Sales of Respondents, 1972-73 \$192,715,088
(60.1%)
7. Scope of Respondents' Annual Projected Retail Sales:
 - a. Low annual sales: \$ 469,314
 - b. High annual sales: \$67,761,726
8. Period covered by study: January 1, 1972 through June 30, 1972.
9. "Food for Human Consumption" was not limited in definition, and includes all such items sold by Respondents, excluding alcoholic beverages.
10. Retail market operators/Respondents are defined as retail grocers, and do not include prepared food retail outlets such as MacDonalds, Col. Sanders, etc.; Respondents may sell prepared foods ready for the table, in which case such sales are of minor volume and are included in these data.
11. Projections of sales and tax data are based on current growth rates.
12. Exhibit A definitions:
 - a. "Total Market Sales" means the gross taxable dollar receipts from all retail sales of all items offered for sale in the markets.
 - b. "Total Grocery Sales" means the gross taxable dollar receipts from all retail sales of all items offered for sale in the Grocery departments.
 - c. "Total Produce Sales" means the gross taxable dollar receipts from all retail sales of all items offered for sale in the Produce departments.

Discussion: The data contained in this study was derived from questionnaires submitted to the respondents and from conversations with many of the respondents' management personnel.

From the data shown in Exhibit A, the sale of foods for human consumption amounts to 77.59% of total retail market sales. As indicated in Exhibits B-1 through B-3, the taxes on sales of food for human consumption for 1972-73 would total \$4,936,178 in State General Fund Revenues, \$2,505,865 in Local School Support Revenues for distribution to the various school districts, and \$1,150,701 in County/City Relief Revenues distributed among the participating local entities. These amounts would be lost under the human food exemption proposal. Similarly, the same exhibits show the projected tax losses for 1973-74 and 1974-75, under the proposal. The above projected tax losses for 1972-73 amount to 11.41% of the total 2% Sales/Use tax General Fund revenues, 12.23% of Local School Support Tax revenues, and 10.84% of County/City Relief Tax revenues, as projected for that year. Similar proportions of loss are expected to hold constant in future years.

Exhibit C provides an indication of the impact of food exemption from sales tax, on the retail market operator. Of the 17 respondents, 29.4% indicated more employees would be needed in counter checkout operations, and 41.2% would require new cash registers to segregate sales into taxable and exempt categories. In accounting operations, 23.5% indicated one additional employee would be required to maintain the segregation in accounting. We interpret this data to mean that the requirement to segregate sales into taxable and exempt categories would entail additional, but unquantified, costs for some operators.

In the course of this study, ramifications of the proposed food sales exemption were discussed with management personnel of Nevada market chains which also operate in California, where the exemption applies. In summary, these discussions brought out the following points held in common among the operators.

- a. Definition of what constitutes taxable, versus nontaxable, food items must be precise, even down to the point of citing brand names (as is done in California in some instances). Lack of definition in the law, and supplementing regulations, requires the operator to make decisions on a personal judgment basis (taxable versus nontaxable) on his inventory items. In the course of subsequent audits, those decisions are frequently reversed by state auditors, likewise on a personal judgment bases, resulting in additional tax liabilities and accrued penalty and interest charges.
- b. In California, food market sales audits are performed on the basis of the retail value of shipment from suppliers (warehouses), rather than on direct cash register sales. While this basis requires complex accounting procedures, large corporations, and small operators who are members of cooperative warehousing associations, encounter few problems because their shipping and accounting procedures are computerized. One market chain reported that their last audit, covering three years, required two state auditors working full time six months to complete. Other operators, while less specific, agreed that audit was an expensive and disrupting occurrence for them and the state. Difficult audits should not be a deterrent. Rather, the exemption statute must eliminate all confusion by the use of clear and specific language.

- c. All market operators agreed that the exemption of food from sales taxes would generate additional operating costs for them. They expressed mixed opinions (about 50-50) when asked if their companies would absorb the added costs, or would pass such cost increases on to their customers. One operator expressed the opinion that the greatest impact in operating cost increases would be felt by the small, "corner grocery" type operator, not associated with a grocery cooperative, who must absorb the total workload and expense of segregating and accounting for taxable versus nontaxable sales.
- d. Operators expressed general dissatisfaction with the California system for basing the tax on retail values of taxable items shipped from warehouses. Percentage allowances for spoilage, pilferage, etc., were considered unrealistic and conducive to higher tax liabilities.

From an Agency workload standpoint, the cost of administration and audit of food sales tax exemption cannot be quantified accurately at this time. Problems in definition, as encountered in California, conceivably could require one or two additional full-time employees in the Compliance Section of the Revenue Division. Increased staffing in the Audit Division, both in Central and Field Office operation, will be a necessary prelude to the establishment and operation of an audit system capable of coping adequately and accurately with this problem.

Sales Data Summary Totals:

1.	Total Market Sales covered in study	\$60,881,622	
2.	Total Grocery Sales	42,262,171	
	a. Groceries for Humans, % of Total Grocery Sales	71.05%	
	b. Grocery Sales of Food for Humans		\$30,026,270
3.	Total Meat Sales for Humans		12,873,659
4.	Total Produce Sales	\$ 4,495,402	
	a. Produce for Humans, % of total Produce Sales	96.54%	
	b. Produce Sales of Food for Humans		\$ <u>4,339,710</u>
5.	Total Sales, Food for Humans		\$47,239,644
6.	Total Sales of Food for Humans, as % of Total Market Sales		77.59%

Exhibit A

Taxes Derived from Sales of Food for Human Consumption

State of Nevada General Fund, 2% Sales/Use Tax

Fiscal Year	Sales Tax
1972-73	\$4,936,178
1973-74	5,616,003
1974-75	6,385,952

Exhibit B-1

Taxes Derived from Sales of Food for Human Consumption

School District, 1% Local School Support Tax

School District	1972-73	1973-74	1974-75
Carson City	\$ 105,102	\$ 132,428	\$ 151,070
Churchill	44,300	51,388	58,353
Clark	1,342,059	1,516,526	1,724,339
Douglas	34,446	40,647	46,358
Elko	76,493	89,497	101,794
Esmeralda	269	220	324
Eureka	1,312	1,247	1,297
Humboldt	34,960	37,757	42,792
Lander	11,355	13,059	14,913
Lincoln	6,413	7,247	8,105
Lyon	27,119	30,916	35,012
Mineral	24,949	28,192	32,094
Nye	10,010	10,110	11,346
Pershing	12,298	15,495	17,506
Storey	783	923	973
Washoe	732,653	835,225	949,862
White Pine	41,344	40,103	45,710
Totals	\$2,505,865	\$2,850,980	\$3,241,848

Exhibit B-2

Taxes Derived from Sales of Food for Human Consumption

County/City Relief, 1/2T Tax

County City	1972-73	1973-74	1974-75
Clark			
Boulder City	\$ 18,165	\$ 20,526	\$ 23,339
Henderson	57,019	64,431	73,260
Las Vegas	437,461	494,331	562,070
North Las Vegas	158,385	178,975	203,501
Douglas	17,223	20,323	23,179
Elko			
Carlin	5,014	5,867	6,673
Elko	29,014	34,051	38,730
Wells	4,128	4,830	5,494
Humboldt	7,645	8,256	9,357
Winnemucca	9,835	10,623	12,039
Lincoln	2,058	2,326	2,600
Caliente	1,149	1,298	1,452
Lyon	10,245	11,679	13,226
Yerington	3,315	3,779	4,280
Mineral	12,474	14,096	16,047
Nye	4,224	4,266	4,787
Gabbs	781	789	886
Pershing	2,531	3,189	3,603
Lovelock	3,618	4,559	5,150
Washoe			
Reno	275,030	313,534	356,568
Sparks	91,297	104,078	118,363
Totals	\$1,150,701	\$1,305,806	\$1,484,604

Exhibit B-3

Operating Data Summary:

1. Checkout-counter operations:

Question	Respondent Answers		
	Yes	No	No Reply
a. Food Sales tax exemption would require:			
1) fewer employees	---	---	17
2) more employees	5	9	3
3) new cash registers	7	6	4

2. Accounting Operations

a. Food Sales tax exemption would require:			
1) more employees	4	11	2

(Note: Each of the "Yes" respondents indicated one additional employee would be required.)

Exhibit C

March 20th

<u>Name</u>	<u>Representing</u>
RAY D. YOWELL	Enter Tribal Council of Nev.
W. W. RICHARDS	DMV MOTOR CARRIER.
Leonard H. Winkelman	DMV
Donald L. Crosby	State Hwy
James C. Lien	New Tax Comm

Grant Bostan

School Dir
arts comm