

SENATE TAXATION COMMITTEE
MINUTES OF MEETING
APRIL 21, 1975

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The meeting was called to order at 3:45 p.m.

Senator B. Mahlon Brown was in the Chair.

PRESENT: Senator B. Mahlon Brown, Chairman
Senator Gene Echols, Vice-Chairman
Senator Helen Herr
Senator William Raggio
Senator Mel Close
Senator Norman Hilbrecht
Senator Thomas Wilson

AJR 10: PROPOSES CONSTITUTIONAL AMENDMENT TO EXEMPT BUSINESS INVENTORIES FROM PROPERTY TAXATION AND LEGISLATIVE EXEMPTION OF OTHER PERSONAL PROPERTY.

AJR 21: PROPOSES CONSTITUTIONAL AMENDMENT FOR PROGRESSIVE EXEMPTION OF BUSINESS INVENTORIES FROM PROPERTY TAXATION AND LEGISLATIVE EXEMPTION OF OTHER PERSONAL PROPERTY.

These resolutions were taken up at the same time inasmuch as they addressed the same subject.

Speaking in behalf of the resolutions was Mr. Bob O'Connell, Manager of J.C. Penney Company in Las Vegas, who made the following remarks:

I am Robert O'Connell, manager of the J.C. Penney store on the Boulevard in Las Vegas. I am also here representing the Greater Las Vegas Chamber of Commerce. Additionally, I am president of the Nevada Retail Association and in this regard represent about 220 retailers in Nevada. With me today from the J.C. Penney Company is Mr. Russell Pearson of Sacramento, government relations coordinator for the Western Region. I want to thank you for the opportunity of appearing here today to ask your assistance in eliminating the remnants of the Personal Property Tax in Nevada.

I think most all of us would agree that taxation should be based on ability to pay and the benefits received. The Personal Property Tax is not based on either. The Personal Property Tax must be paid even when there are no profits to pay it. It is our belief that it is basically unfair to tax a businessman on merchandise not yet, and perhaps never, sold.

The Personal Property Tax, especially the tax levied on inventory held by retailers and others on the assessment date each year, is a handicap to Nevada's economy. A company dealing with volume, low cost products, with rapid turnover will pay little inventory tax while a businessman dealing in slow turning, high cost merchandise can pay the inventory tax more than once on the same item.

The businessman who considers himself part of the community, and stocks his shelves to serve the community, is actually penalized. By stocking more sizes and serving the hard to fit, he carries more inventory with low turnover.

In November, 1960, Section I of Article X of the Nevada Constitution was amended to include the Free Port Provisions. This was an early indication that Nevada's legislators recognized that the taxation of inventory was a drag on the economic growth of the State.

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Briefly, the western states currently tax inventory as follows:

- ARIZONA - No personal property tax on inventory.
- CALIFORNIA - Currently exempts 50% of the inventory. Legislation has been introduced in the current session to phase out the inventory tax over the next five years.
- IDAHO - No tax on inventory.
- MONTANA - Legislation in the current session to exempt Personal Property.
- NEW MEXICO - Now exempts inventory.
- OREGON - Currently phasing out the inventory tax. As of January 1, 1980 inventories no longer taxed in Oregon.
- UTAH - Inventories are exempt.
- WASHINGTON - Began a ten year phase out of the inventory tax as of January 1, 1974.
- WYOMING - Exempts merchants' inventories.

From this brief analysis, it is obvious that all of the Western states have come to recognize the inequities in a business inventory tax. They have also seen that a business inventory tax places a state at a disadvantage when competing with other states for new industry. I don't think this could have been more in evidence than when Mr. Ralph Henderson, Vice-President, Catalog Division, J. C. Penney Co., publicly indicated that there was no doubt but that Nevada's Free Port Law spelled the difference between building Penneys first West Coast Mail Order Distribution Center in Nevada rather than in Northern California.

It may seem an anachronism for us to come before you in these difficult times to ask that you reduce the state's income by eliminating the Personal Property Tax. However, it is our belief that the revenue loss would be more than offset by revenue from increased sales and new businesses encouraged by removal of the tax. For the fiscal year 1973-74 a 14% increase in assessed valuation was noted in the State of California under 45% exemption. For fiscal 1974-75 a 21.5% increase was seen under the 50% exemption.

In the years following the elimination of the inventory tax, Arizona's economy was bolstered by a twenty million dollar sugar plant in Chandler, a five million dollar packing plant, and many many warehouse distribution centers for national firms. The list of Arizona's post inventory tax growth is a long one.

The Advisory Commission on Intergovernmental Relations recommended that states give high priority to eliminating or perfecting the Business Personal Property Tax because "it discriminates eratically among business firms". The commission recommended that the tax be eliminated on inventories. Many state executives, jurists, and mayors have repeatedly recommended the tax on business inventories be eliminated.

A sound state and local tax structure should produce adequate, economically oriented revenues. Most importantly, its structure must distribute the tax burden equitably and encourage the states economic activity and growth. It is our belief the Personal

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Property Tax on inventories is without these standards.

He was encouraging the passage of both resolutions the final decision as to which resolution will go to the voters could be made at the next legislative session. They do lean toward adoption of AJR 10.

A map showing the business inventory tax in neighboring states was presented and attached hereto.

Testifying in support of the amendment was Mr. William B. Byrne, Deputy Assessor for the County of Clark. He testified they have found this type of assessment almost impossible inasmuch as there is such a turn over of inventory it is impossible to judge the amount of business inventory and there are no proper guidelines set up. He, also, recommended adoption of both resolutions.

Ernest Newton, representing the Nevada State Chamber of Commerce, spoke in behalf of the amendment. He stated that he believes the study that will inevitably follow during the next two years will determine with great knowledge the fiscal loss, if any, that would be occasioned by the adoption of either of these resolutions; and whether the projected 2 and one half million dollar loss would be critical in view of what they perceive would be a substantial growth in the value of real property.

He stated the last sentence in both bills "other personal property" was added primarily to give the legislature the opportunity to exempt household personal property which is probably more inequitably assessed than any other property in the state.

Mr. John Sheehan, Nevada Tax Commission, spoke in behalf of the amendment. He stated there might be some problems with cattle ranchers inasmuch as they do feel their cattle or livestock are considered their business inventory.

Some discussion on the aspect of who would qualify for exemption and it was determined that an amendment should be included that would exclude livestock from the exemption.

Senator Close: Amend with a provision that the business inventory should not include livestock and recommend "DO PASS".

Senator Raggio - 2nd
Motion Carried.

SB 362: ENACTS AVIATION FUEL EXCISE TAX AND PROVIDES FOR DISBURSEMENT OF SUCH TAX
BY THE PUBLIC SERVICE COMMISSION OF NEVADA

Mr. Lien spoke in opposition to the bill which would enact an excise tax on aviation fuel; he stated that one problem they see with the measure is the fact that it calls for a refund based on at least 200 gallons purchased and used in a six-month period. His Commission fails to see any benefit to this bill. If the refund provision was taken out, there would be more dollars available to the counties, but the way it is written, they anticipate a dollar loss.

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Speaking in opposition were the following:

Mr. Earle Taylor, Director of the Las Vegas Airport, stated this measure would be detrimental to aviation in Nevada. His estimate was that Clark County would lose approximately \$105,000 in 1975, if this were passed.

Henry Echemendy, Manager of Carson City.

Bob Elkhart, lobbyist, spoke as an individual against the bill.

Bob Manderville, City of Reno, Director of Airport, stated it would mean a considerable amount of loss of revenue for his city.

Walt Mullolly, Airport Commission in Reno.

Wiley Pierce, President of Carson City Pilots Assn., indicated strong opposition in behalf of his Association. He stated it would be taxing one group to benefit another.

Senator Wilson - Motion to postpone action indefinitely.
Senator Herr - 2nd
Motion Carried.

SJR 15: MEMORIALIZES CONGRESS TO REMEDY TAX INEQUITIES INVOLVED IN CERTAIN TRANS-ACTIONS ON INDIAN RESERVATIONS

This measure has previously been heard in a public hearing.

Senator Wilson - "DO PASS"
Senator Echols - 2nd
Motion Carried.

AB 358: INCREASE PENALTIES FOR PROPERTY TAX DELINQUENTS

Mr. Bill Byrne, Deputy Assessor for the County of Clark was present and spoke in opposition to the measure. He explained there was no better security than having a lien on the property being taxed, and that is exactly what they do have. He feels this would be placing a hardship on the smaller property owner. Additionally, he feels the penalty as proposed is excessive; 25% is unfair and unjustified. He suggested a smaller amount be considered, if it is their intent to increase the penalty, but he would hate to see this imposed on the Clark County residents.

Mr. Lien testified on the bill by advising that if you look at the delinquency list you will note that the large property owners are the main violators. This is due to the fact that they can withhold payment of their taxes and use the money for other purposes. They would receive higher interest rate for their various uses than the amount of penalty they would have to pay. These payments are then made up every third or fourth quarter. He suggested bringing in other tax receivers and have them speak on the bill before any action is taken. This suggestion was accepted by the Committee and Mr. Lien volunteered to contact all 17 tax receivers to meet with the committee next week (April 28th).

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AB 158: INCREASES OIL, COAL, OR GAS ROYALTY REQUIRED FROM LESSEE OF STATE-OWNED LAND.

Mr. John Meder, State Land Use planning Agency, suggested amendments to the bill which would allow the inclusion of "geothermal" royalties. He explained this would be within the same practice as other states.

Senator Raggio - Motion to rescind the previous action whereby this was recommended for "DO PASS"
Senator Close - 2nd
Motion Carried.

Senator Raggio - Motion to amend and "DO PASS"
Senator Close - 2nd
Motion Carried.

AB 580: DISPENSES WITH RECEIPT FOR PROPERTY TAX UNLESS REQUESTED

Mr. Bill Byrne, Deputy Assessor for Clark County, was requested to comment on this bill in behalf of his Tax Receiver's office. He stated that Mr. Galloway was required, by law, to send a receipt for each tax payment. If the law could be amended to eliminate this requirement and maintain the provision that a receipt would be sent, upon request, it would save a considerable amount of money each quarter. He was speaking in support of the measure.

Senator Close - "DO PASS"
Senator Raggio - 2nd
Motion Carried.

AJR 25: MEMORIALIZES CONGRESS TO ENACT LEGISLATION RESTRICTING STATES FROM WITHHOLDING INCOME TAX OF NONRESIDENTS.

Mr. Lien testified that some people live in one state and are employed by a firm in another state, are being required to pay income tax in that state. This is felt to be an unfair tax situation.

Senator Close - "DO PASS"
Senator Echols - 2nd
Motion Carried.

SB 386: PROVIDES FOR SUBMISSION AT NEXT GENERAL ELECTION OF A QUESTION PROPOSING CERTAIN CHANGES IN SALES AND USE TAX LAW.

Senator Brown explained they had asked Mr. James Lien, Nevada Tax Commission, for some figures as to what other sources of revenue can be taxed rather than Sales Tax and they have provided those figures in a report which was distributed to the committee members.

He explained they were also waiting for confirmation from the Clark County School District that this proposed amendment satisfied them. The Supervisor of Washoe County School District has indicated he is in favor of it.

Senator Brown gave a brief history of the sales tax in Nevada and why it was adopted. He stated the one concern that has been expressed is that once we lose that 1% going

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into the school tax, there is that possibility that we might be precluded in the future of reenacting it.

Mr. Frank Daykin has prepared a legal opinion which was read and made a part of the record in which he submitted three conclusions:

1. To exempt from all currently operative taxes on retail sales the purchase of:
 - (a) Foods for human consumption, as narrowly defined in the bill. Thus, ordinary food products purchased in a store for preparation or consumption at home would be exempt, but restaurant or "fast-food" (drive-in, McDonald's, etc.) meals would be taxable.
 - (b) Certain health care products, such as eyeglasses, hearing aids, crutches and insulin.
2. To consolidate all currently operative taxes on retail sales into a single tax at the rate of 4 percent. The loss of overall revenue from the new exemption is made up, according to the estimates of the Nevada Tax Commission, by the increase from the present combined rate of 3.5 or 3 percent (depending on whether a county has adopted a city-county relief tax). The individual losses of revenue to school districts, cities and counties are made up, according to the same estimates, by the new apportionment of the augmented sales tax fund in section 118 of the bill.

Thus the tax burden is not reduced but shifted in part from those who spend a larger part of their incomes for food or medical supplies to those who spend a larger part for other consumer goods, and to tourists whose food is in the category.

3. To withdraw from the Sales and Use Tax Act, which is a referred measure amendable only by vote of the people, those provisions which deal primarily with administration of the tax, and reenact them in a form amendable by the legislature as circumstances may require. The definitions, the exemptions and the rate are left in the referred measure, preserving the control of the people over these features.

He stated that in his opinion, we would not be jeopardizing any future with the school tax. We would be saying: "for the time being 4% is all the money we need and we are going to put it all in the general fund" but this doesn't preclude the legislature from saying at some later time "we do need 1% to 1 1/2% for some other designated purpose". This might be for the schools, it might be for the cities, etc., as long as the money is earmarked and not placed directly in the general fund. We are not repealing the school fund by referendum, and will not lock us into any situation that we can't change our mind.

The school fund is not identified in the bill; all we do is make provision from the general fund to replace the revenue lost.

Mr. Daykin said if we were to leave the language as it is under the present law, then we would be 'locked in' but we are not. No longer will any money be earmarked. That portion of the bill does not go to the voter for their vote, only that portion of 4%. The only substantive change is in Section 118 which is the new apportionment of the sales tax fund.

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There was discussion on the ballot question as to why the difference in language between section 4 and section 5; it is due to the limitation of the number of words on the paper ballots as opposed to machine ballots.

Senator Hilbrecht stated he feels Section 4 it is better of the two and can see no reason why the question can't be the same in both cases. Senator Raggio asked if the language was a fair statement inasmuch as it doesn't mention the 4% increase. Could we add the words: "increased to 4%". Senator Hilbrecht would recommend we amend the bill so the question would be printed the same for all people and that the 4% increase be included.

Mr. Richard Morgan, Nevada State Educators Association, said he is appearing in behalf of the Washoe County Schools Association. He stated that this is the first time the Association has been split on a legislative issue affecting the schools. He feels the difference between the two sections of the state is due to not understanding the measure. The Washoe County Association favors the bill for the following reasons:

1. It was a campaign issue in Northern Nevada during the last election. Therefore, voters had an opportunity to be informed.
2. They feel this measure will be of benefit to those of fixed and middle incomes.

At some point, Nevadans must take a hard second and third look at financing at the cost of state and local government including administration and educational financing. This bill, if enacted, could force that decision at an earlier date.

He spoke in support of Senate Bill 386.

Senator Brown read into the record a telegram received from Connie Larson, President of the State PTA in opposition to this bill and asked that it be made part of the record.

Those speaking in opposition to the bill:

Joyce Woodhouse, President of the Clark County Classroom Teachers Association, stated that her group met on this measure and were opposed to it. They felt it might jeopardize future financing for education and did not want to do anything that might 'put a lid' on possible increased in taxes for schools.

It was explained that, according to Mr. Daykin, this is not something that could happen. She was asked if it would be possible that her members would change their mind, in light of Mr. Daykin's opinion. Ms. Woodhouse did not wish to comment. Senator Gojack advised the members of the committee that she had spoken with Ms. Woodhouse earlier during the day and at that time she was in support of the bill. She explained she has done a considerable amount of studying and research with Mr. Lien and is confident this bill will not do any harm to education.

Mr. Bob Warren spoke in opposition to the measure addressing himself to the political aspect. He said he has conferred with the cities and they want to propose an amendment. The cities feel that passage of this bill in its present form will have the effect of pre-empting all cities of broader or more comprehensive taxes. They feel that the voters will balk at levying any additional taxes and in view of their deteriorating financing it would be detrimental to them. Their proposed amendment would read: "that the 4% sales tax levy be expanded to include taxes on services as well as on all tangible personal property." They further propose that some of the monies raised

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be added to the city-count relief tax. Their proposal is not to increase above the 4%, but to include additional service categories.

Their position is that the bill should be amended; if it is not amended they can't support it. He doesn't feel, however, that they would offer any opposition.

Mr. Marvin Pecollo, Superintendent of Washoe County School District has sent a letter supporting the measure. He did want to clarify it to the point that if Mr. Daykin's opinion is correct, the letter stands. If there is any question that the legislature cannot have the authority to impose additional taxes if they feel it is necessary, they would have to withdraw their support.

Mr. Robert Petroni, Attorney for the Clark County School District, spoke on the bill saying he had some concern. He suggested obtaining an opinion from the Attorney General.

Senator Close suggested drafting language that the legislature retain the power to impose additional sales taxes in addition to the 4% rate if and when we feel it is necessary to fund the expanding programs of state government. He feels that should be on the ballot in such a way as to not negatively affect the bill.

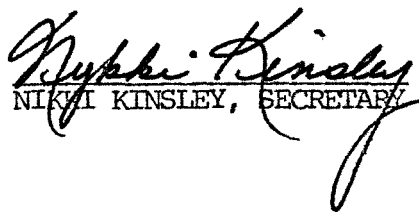
Senator Gojack stated she has several letters and telegrams that she would like to see made part of the record, all in support of the measure.

It was the consensus of opinion that we should make the proposal as clear as possible for the voters so they will know exactly what they are voting for, or against.

Mr. Lien will work with Mr. Daykin and frame some language that can be put on the ballot in a clear, concise form. This will be brought back to committee for their consideration.

There being no further business, the meeting was adjourned.

RESPECTFULLY SUBMITTED:


NIKKI KINSLEY, SECRETARY

APPROVED BY:


B. MAHLON BROWN, CHAIRMAN

AGENDA FOR COMMITTEE ON TAXATION

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MONDAY

Date. APRIL 21, 1975 Time PM ADJ. Room 231

Bills or Resolutions
to be considered

Subject

Counsel
requested*

AJR 10

Proposes constitutional amendment to exempt business inventories from property taxation and allow legislature to exempt any other personal property from such taxation.

AJR 21

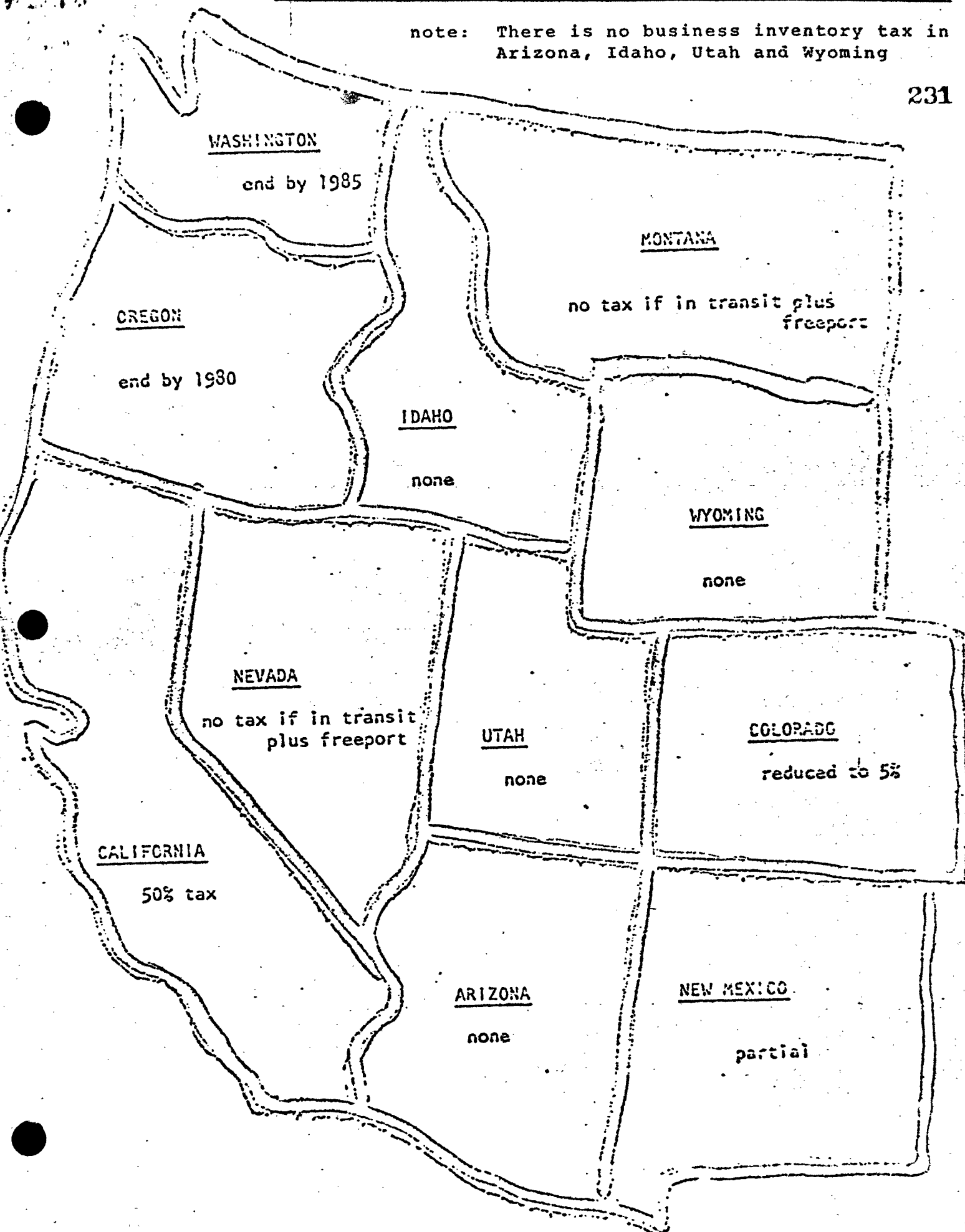
Proposes constitutional amendment for progressive exemption of business inventories from property taxation and legislative exemption of other personal property.

SB 362

Enacts aviation fuel excise tax and provides for disbursement of such tax by the public service commission of Nevada.



note: There is no business inventory tax in Arizona, Idaho, Utah and Wyoming



MEMO

NEVADA LEGISLATURE

From the desk of Senator . . .

B. MAHLON BROWN

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M E M O R A N D U M

April 18, 1975

TO: Members of Taxation Committee
SUBJ: Meeting of Monday, April 21, 1975

We will be considering the bills posted on the agenda as follows: AJR 10, AJR 21, and SB 362.

In addition, the following bills that have previously been discussed with no action:

SB 378 SUMMARY—Proposes to amend Sales and Use Tax Act of 1955 to exempt food products for human consumption. Fiscal Note: Yes. (BDR 32-1375)

SB 386 SUMMARY—Provides for submission at next general election of question proposing certain changes in Sales and Use Tax Law. Fiscal Note: Yes. (BDR 32-41)

SJR 15 SUMMARY—Memorializes Congress to remedy tax inequities involved in certain transactions on Indian reservations. (BDR 1244)

AB 158 SUMMARY—Increases oil, coal or gas royalty required from lessee of state-owned land. Fiscal Note: No. (BDR 26-548)

AB 358 SUMMARY—Increases penalties for property tax delinquencies. Fiscal Note: No. (BDR 32-1187)

I would like to stay as long as it takes to clear these up, if possible.

B. Mahlon Brown