

## Assembly

MINUTES OF HEARING - TAXATION COMMITTEE - 55TH NEVADA ASSEMBLY  
SESSION - FEBRUARY 27, 1969

Present: K. Hafen, Hilbrecht, Young, Smith and Getto

Absent: Schouweiler, Swackhamer, Tyson and Espinoza

Also Present: Ray Knisley  
William Sanford, Attorney at Law  
Frank Fahrenkopf, Attorney at Law  
George Vargas, Attorney at Law  
George Folsom, Attorney at Law  
R.O. Kwapil, First National Bank of Nevada  
Ernest Newton, Nevada Taxpayers Association  
Representatives of the Press

Mr. Hafen convened the meeting at 8:15 a.m. and advised the witnesses that the committee had previously heard A.J.R. 9, given it a Do Pass and it was presently on the Chief Clerk's desk.

Knisley: I think my opposition stems back to every session for the past 8 or 9 years. I am still opposed even though it has been stated it could produce as much as \$700,000 at high points and \$200,000 at low points. The problem it seems to me is in the administration of estates. There is no way to protect the property of an estate against a lien. This will mean freezing bank accounts and locking up deposit boxes. There is no other way to do it. If the Federal Government would levy the tax and collect it; then return the state's portion, it would be fine, but they do not do it that way. So it is necessary for the state to lien the property. I recall in California a time when we had to strip all of the assets of the estate and pay off the tax to the state first. This often leaves the survivors in a bad way. You never get out from under the lien, it never gets completely signed off. Unless there is ample property in the estate to pay the tax, they will be continually harrassed. With the state tax, you find that people will try to hide their assets if they can. Of course, it is not possible to hide them from the Federal Government. I have argued with Bill Swackhamer about this for years now. It is his opinion that we should do this so that the Federal Government will know we are taking advantage of this tax credit and it might give us a better chance of pushing the credit for the slot machine tax. I am afraid of what people are going to say in the future; they might feel that if the inheritance and estate tax is good, why wouldn't the income tax be good.

Hafen: Don't you feel that there is a difference between the procedures in California and the ones proposed for Nevada?

Knisley: Undoubtedly there is a difference. But we must bear in mind that for four years now, the proponents of this type of bill have been citing three ideal acts. They have repeatedly said it is not necessary to lock up the assets of an estate, but no-one seems to know how this can be done.

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Kwapil: I would like to read a statement here from Commerce Clearing and the restrictions that they impose on safety deposit openings after death. (Mr. Kwapil then read the statements)

Knisley: When Governor Sawyer was a sponsor of this same thing, he spoke with a lady in Arizona who informed him in very profane terms that if Nevada did not have this tax, they should definitely not try to get it. She told him that her assets had been tied up because of the estate tax for many years and at that time she was still unable to free them.

Folsom: I practiced as a CPA until 1967 and since that time I have practiced law and am associated with the firm of Woodburn, Forman, Wedge, Blakey, Folsom and Hug. There was a time when as a CPA I thought Nevada was foolish not to pick up this credit which was allowed like all of the other states. I felt it had been overlooked. Since entering into the field of law, I have had experience in the estate planning field. I am a member of the State Bar Taxation Committee. Our Chairman is Mr. Grubic and Mr. Reed and myself are the other members. We discussed this at our last meeting and it was unanimously agreed that it would be wrong for Nevada to pass this bill. The first thing you can tell people who are considering moving to Nevada is that we have a constitutional prohibition against estate and inheritance taxes. They will ask "What happens with the accounts and safety deposit boxes after death?" And we can say "Nothing". These are the same people who we can ask for contributions and gifts to the State of Nevada. They give to our charities and to the universities and schools. We want these people in the State of Nevada; they are good for the state. The tax climate is good for them and that is the reason why the provision was put into the constitution. I know you can say we are only picking up the Federal credit allowed and will not cost the people anything but they don't understand that. Right now they only know that there is no such tax in the state.

There can be nothing more specific than being able to show people in the constitution that there is no estate tax. I feel if we continue to maintain this tax climate we will continue a healthy growth. Those people who may be thinking about coming into Nevada will not come because they will say "Nevada is going in the same direction as all of the other states." With my estate planning clients, we now go over their other assets and if there are some in other states, I tell them, "Get those assets out of there and get them into Nevada." Most of these assets end up in Nevada banks. Therefore, this provision in the constitution is a great benefit to the State.

Hilbrecht: Mr. Folsom, do you have any computations on this tax revenue? Mr. Knisley indicated some very low figures, \$200,000 to \$700,000; do you have any that you have worked up?

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Folsom: No, but it would have to be a huge sum if it were going to overcome the tax climate we have now.

Hilbrecht: Are there any other jurisdictions who do not have the estate and inheritance tax?

Folsom: No, not anymore.

Hilbrecht: But you still think that the people would move out of the state if the tax were passed?

Folsom: They would move. Here is a constitutional provision that indicates a philosophy against the tax. These people do not want to understand any of the other problems involved. This is the only thing that they care about.

Hilbrecht: But you agree that AJR 9 does not cost anyone a dollar? Or do you feel it just says that and does not mean it?

Folsom: I believe it starts out that way, but it opens the door. All of a sudden we have a new revenue agent here. The taxpayer is still going to have to write a check to the State of Nevada.

Hilbrecht: Mr. Knisley has said we would be very naive if we did not take advantage of this should the Federal Government collect the tax and then return it to the state. As far as the affect of AJR 9, it does the same thing.

Folsom: The taxes are a complicated situation. In actuality they do not collect these taxes for us.

Hilbrecht: I was under the impression that all precautions had been taken in this resolution; there is no tax situs with the other states and no tax over the credit.

Folsom: That is what it says; but that is not necessarily what it means. They often say one thing and end up doing something else. I know that this change against the constitutional provision would open up doors for other changes. That is what is important in my mind.

Young: Mr. Folsom, you say you are on the State Bar Taxation Committee?

Folsom: Yes, but I am speaking here today for myself, not as a member of the committee.

Young: You said the name of your chairman was what?

Folsom: Mr. Grubic. (name spelled for Mr. Young)

Young: I am interested in knowing if your committee opposes this bill, what kind of tax they would prefer.

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Folsom: I would suppose any tax that would be proper for the administration of the government. Anything that would not change our taxation philosophy. After all, this has been a selling point for us and through experience we know it is a good sales point. It is especially good when explaining our tax climate to people who have had bad experiences in the past with death taxes.

Young: Did any of your committee give an opinion to the Legislative Counsel Bureau on this?

Folsom: I am not sure, but I believe a letter was written in regards to it; expressing our feelings.

Young: I ask because I understand that the State Bar did not respond at all. They published an article in their periodical journal but they did not respond directly.

Hafen: We in the committee are faced with some problems, not immediate, but in the long run with regards to education and cities and counties. It would take a sales tax of 3% and a personal income tax in order to satisfy the demands we are getting from these people. The constitution has been set up to prevent the estate tax, but there is no constitutional provision against the state income tax. How do you feel about this?

Folsom: The income tax is just as important to our people. If you were to put both of those taxes on we would be in the same boat as all other states completely.

Hafen: But you feel you would prefer the income tax over the estate tax from the point of the estate planning clients?

Folsom: Yes and I might add that sophisticated people cannot guess when they will die, but they do their best to rid themselves of their large assets before their death. It would be by accident if they were to die prior to eliminating their large assets. In this regard, the estate tax would be even more minimized.

Hilbrecht: You don't seriously advocate an income tax as an alternative for the estate tax, do you?

Folsom: I am not advocating any tax. But I think that if you amend the constitution with regard to the estate tax, you are going to do more harm than good. We who are selling Nevada to people right from our offices are going to lose our selling point.

Knisley: What is the minimum size of the estate affected by the estate tax?

Folsom: Any estate over \$60,000.

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Vargas: I have been practicing law for 36 years and of that time, 32 years I have been attending the sessions of the legislature. It has been said here that it would do nothing to pass this law except to open the door for expansion of the tax situation even though this is not the philosophy of AJR 9. I recall when the Federal Government was meeting and debating for the purpose of amending the constitution with regards to the income tax. It was stated at that time that there was no possible way for the income tax to ever reach 10%. Now, I think that is your answer.

It is difficult to sell Nevada to people for many reasons. We do have the free port law, but there is a lot of competition in that area. I have discussed in the past the possibility of pushing Nevada by the people in Wisconsin. They have stated they were not sure because of the open gambling in the state. Recently the Milwaukee newspaper came out with a headline which stated "NEVADA PROVIDES SLOT MACHINES, DIVORCES AND RAILROADS". These are the factors involved when we are trying to sell Nevada. I agree with Mr. Folsom that this is a good point for the state. I remember when the debates were going on to put this into the constitution. It was to assure the people that there would not be an estate or inheritance tax in Nevada.

Speaking of these people, I remember when Major Fleischmann came here. He came because of the fact we had no inheritance, estate or income tax. He was extremely allergic to all taxes, but especially to the estate and death taxes. It is a known fact that Nevada has benefited from Mr. Fleischmann being a resident. Then there is Mr. Borne who passed away a few years ago. We have substantial properties developed as a result of his coming here in Douglas County. It would be bad at this time to open the door by establishing the estate tax. I know the problems involved with your committee for demands for more money. But, I would not recommend an income tax either at this time.

Sanford: Like George, I come from two professions. I was in the newspaper business until 1940 and practiced law since receiving my degree. In 1932, this state was as flat broke as they could be. Then came 1933 and the bank holiday arrived. About three banks opened after that. We had no cash and no capital. Branch banking came in about 1935, I believe, and a group of interested citizens set about to find a way to bring people into Nevada. The tax operation in other states prompted them to work up the idea of advertising Nevada as "one sound state". We had no income tax, no inheritance tax and no estate tax. A number of people came here with substantial wealth at that time, but because we had no constitutional provision, they would not stay here.

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Sanford (Contd.) So it went to the Legislature and in 1939 we passed the first resolution to prohibit the estate and inheritance tax. It was passed again in 1941 and approved by the voters. Since that time the money has flowed into the state and brought such men as Fleischmann and Borne. Borne bought the property in Lake Tahoe and shortly after that George Whittell came in and purchased. I also work with the estate planning and they ask one question. "Is there an inheritance or estate tax?" The fact that we had such a tax even though we only take the credit allowed is a block in their minds.

I wonder how the university in Nevada would have made out without Mr. Fleischmann. Then Mr. Cord went into Fish Lake Valley and on into Lovelock Valley and invested well over \$1 million in TV stations and business buildings. These people would not have put their money here if we had the tax. They would have put their money into bonds and coupons like they do in California and sit back and clip coupons. Instead they came here and invested their money - and lots of it. The Stack people too. We brought them in and assured them there would be a tax savings to them because of our constitutional provision.

It is true that we have no tax and are the only state who does not have it. So you ask, "Where would they go?" They are here because of our tax climate not because they love us or because they love our weather. They love our TAX CLIMATE. This far outweighs any revenue that could be gained by AJR 9. It is not a case of what the people SHOULD think, but what they DO think. I have been told that this would not cost people anything, but the door would be opened and when you do this, the people are going to leave.

Four years ago, I estimated that \$300 million would leave the state almost immediately if this resolution was passed. Mr. Knisley has since corrected this for me and said it is closer to \$500 or \$800 million. The think that disturbs me is if accepted, we have broken faith with the people we have brought into Nevada on the condition of our constitutional prohibition and who have invested a lot of money into the state. If they are going to be taxed the same here as they would in another state, why should they stay here? The amount of money received by this tax would be negligible in comparison.

The fact that these people are here and a great many of them leave this money to charity and contributions; even though it is untaxable, they are still contributions to the welfare of Nevada. There is more at stake than just a few dollars. There was a time when I was on the school board and during the years when we had too many kids and not enough schools. The donations made by these people have helped us in this problem and I believe the thing at stake here is the faith in Nevada. I am speaking as a private individual and not on behalf of anyone; I am interested in the state and I have watched it grow. I urge you to look back into the history and pledges that were made.

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Hilbrecht: Mr. Sanford, Don't you believe that the income tax for the people who are investing this money rather than clipping coupons will have the same affect on them?

Sanford: I think any type of tax would do the same. An income tax is spelling out the things to come; opening wide the doors that would be inevitable; this would be the first step.

Hilbrecht: Before Mr. Cord came here there was no sales tax, any number of taxes were not existing in those days. What affect did the sales tax have on these people?

Sanford: A number of these people have been asked their opinion on this and they have stated they would rather have a sales tax than an inheritance, income or estate tax. They can at least deduct the sales taxes from their federal tax returns.

Hilbrecht: Then you yourself would prefer the sales tax increase, is that right?

Sanford: Yes. I have never objected to an increase in the sales tax or even the real estate taxes. We need the money for our kids' education and if these taxes need to be raised, I would definitely not object.

Fahrenkopf: I have nothing to add other than I feel the same as the others who have spoken before me.

Knisley: I would like to add one more thing. So far we have been discussing only those people involved in the \$100 million bracket and over. It is important to note here that this tax begins to affect when the estate reaches \$60,000 and that is not out of reach by today's standards. These small brackets are where the harm comes in. These assets would have to be frozen and their survivors are the ones who are going to be hurt by it.

Chairman Hafen excused the witnesses and requested the members to remain.

Young then moved that the committee introduce BDR 32-1165, regarding requirements on mobile homes operations and others; and BDR 25-1163, changing the permissive nature of housing authority in regards to in-lieu payments.

Motion seconded by Smith;  
unanimously carried.

Meeting adjourned.