

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 5, 1981

The twentieth meeting of the committee was called to order at 8:05 a.m., Chairman Pat Goodover presiding, in Room 415 of the State Capitol Building.

ROLL CALL: All members were present except for Senators Bob and Steve Brown, who were excused.

CONSIDERATION OF SENATE BILL 255:

"AN ACT TO ELIMINATE CERTAIN TAXES FOR LINEAL DESCENDANTS;
AMENDING SECTIONS 72-16-313 AND 72-16-321, MCA."

Senator Turnage said this bill eliminates the Montana inheritance tax on lineal descendants but still leaves in place the Montana estate tax. The reason for the Montana tax to remain is that if there is a federal estate tax and credit is given for state death taxes, one is entitled to deduct that from the Federal return. This bill would eliminate the Montana inheritance tax on children. The fiscal note indicates an approximate decrease of 2.1 million dollars for the biennium. Sen. Turnage asked Mr. Stohl, Department of Revenue, to explain the fiscal note. Mr. Stohl said that had this law been in effect during 1980 the impact would have been 2 million dollars. The problem in allocating fiscal impact with inheritance taxes is that it takes 18 months from date of death until the revenue department sees collections. Sen. Turnage said this bill has a collateral effect in that it is conceivable for property left to a descendant to avoid having formal probate.

PROPOSERS: Mrs. Lucille Anderson, testimony is Attachment #1.
Pat Underwood, Director of Information for the Montana Farm Bureau.
Jo Brunner, W.I.F.E., testimony is Attachment #2.
Mons Tiegen, Montana Stockgrowers and Woolgrowers.
Dave Goss, Billings Area Chamber of Commerce.
Janelle Fallon, Montana Chamber of Commerce.

Sen. Elliott wondered about absence of effective date in the bill. Sen. Turnage said the effective date would be either July 1 or October 1, depending upon passage of another bill. He suggested that if the committee took action on an effective date, they request a fiscal note first. Sen. Turnage said he would like the date to be July 1, but we also could consider "on passage and approval." The hearing was closed on Senate Bill 255.

CONSIDERATION OF SENATE BILL 231:

"AN ACT TO REVISE THE ALCOHOLIC BEVERAGE LICENSING LAWS AS THEY RELATE TO CORPORATE LICENSE APPLICANTS AND LICENSEES; ELIMINATING RESIDENCY REQUIREMENTS FOR LICENSES OTHER THAN THOSE FOR

ON-PREMISES CONSUMPTION; AMENDING SECTIONS 16-4-103, AND
16-4-401, MCA."

Sen. Elliott said this is a bill to revise the all-beverage license laws as they relate to corporations. Changes in the bill were originally requested by the Legislative Auditor who considers this a housekeeping bill, but the bill itself was by the Department of Revenue. Essentially, the term corporate was taken out and a new corporate definition was added on pages 6 and 7. Sen. Elliott introduced Larry Weinberg, Staff Attorney for the Department of Revenue, who said the department faces problems in administering license law because of criteria in 16-4-401 term of "a natural person." At the same time the law, as written, contemplates ownership of licenses by corporations. The result has been for the Department to set up qualifications for corporations. He wanted to emphasize this as a vehicle for the committee to look at and give the DOR criteria for corporate license holders, something they can administer. The heart of the bill, according to Mr. Weinberg, is in section 3, an amendment to 16-4-401. He handed out a paper setting out DOR's views of this bill, Attachment #3, and also proposed amendment language, Attachment #4. He said Sen. Turnage was concerned about one individual controlling multiple licenses through the corporate structure, and that the amendments addressed that concern.

There were no proponents or opponents to this bill and questions were called for from the committee. There was a small discussion to clarify the proposed amendments, and the hearing was closed on SB 231.

In executive session, the committee's attention was called to the possible committee sponsorship of a bill dealing with liquor licensing. Sen. Goodover said if the committee decides they want to do something about this bill a public hearing will be scheduled.

Cort Harrington went through the proposed language of the bills he was asked to draft. There were comments from members indicating they would like clarification of criteria for bona fide restaurant, protection of existing rights of license holders, and census result application, etc. Rep. Harrington has a bill in committee which deals with Department of Revenue acceptance of annual estimates on census.

Phil Strobe, representing Montana Tavernowners Association, expressed a desire that the committee drop defining restaurant portion of the bill, saying it would be a lawyer's relief act.

Cort then introduced part 2 of the bill, dealing with resort licenses, which will take amendment. Cort said he left restrictions the same as were used on floater license. After Cort explained his approach in drafting language, Sen. Towe asked Mr. Strobe that if the committee were to drop the restaurant part of the proposal, change the figure from 10% to 30%, how would your people view that. Mr. Strobe said he felt they would look at it as being reasonable.

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Sen. Towe made a motion that the 2nd part of this bill be drafted as a committee bill. Senator Towe said he would propose the figure 10% but asked that 30% be put in just to get the bill drafted. Some members of the committee seemed to be in favor of the proposed solution.

Sen. Goodover said the committee would delay action to allow the Tavern association to come up with proposals to the second part. Then, if agreement could be reached, a committee bill would be drafted.

CONSIDERATION OF SENATE BILL 15:

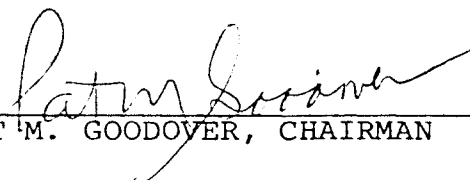
in sub-committee

Sen. Goodover said that one of the main concerns with this bill was the possibility that some small towns who would want to issue bonds for building might not have a chance to get a competitive interest rate on their issue. He suggested that a paragraph be added saying the interest rate would be based on FHA or VA rate during a 30-day period prior to sale of the bonds. Some members of the committee were still concerned about revenue bonds and an interest rate ceiling. After discussion it was thought the bill might be passed without being concerned about a maximum interest rate. Sen. Brown moved that we amend Senate Bill 15 to remove Section 15, and renumber all subsequent sections. The motion was carried unanimously to so amend. Senator Brown then moved that Senate Bill 15, as amended, be given a DO PASS.

Senator Towe requested that the committee wait a day or two to pass the bill from committee as he had another bill which might affect this one.

Sen. Goodover proposed putting Senate Bill 15 and Sen. Towe's bill into a subcommittee so they could come up with a consensus of opinion. Appointed to serve on the sub-committee were Senators McCallum, Towe, Norman, and Crippen.

The meeting was adjourned at 10:00 a.m.


PAT M. GOODOVER, CHAIRMAN

ROLL CALL

TAXATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2/05/81

NAME	PRESENT	ABSENT	EXCUSED
Goodover, Pat M., Chairman	✓		
McCallum, George, Vice	✓		
Brown, Bob		HHH	✓
Brown, Steve			✓
Crippen, Bruce D.	✓		
Eck, Dorothy	✓		
Elliott, Roger H.	✓		
Hager, Tom	✓		
Healy, John E. "Jack"	✓		
Manley, John E.	✓		
Norman, Bill	✓		
Ochsner, J. Donald	✓		
Severson, Elmer D.	✓		
Towe, Thomas E.	✓		

Each day attach to minutes.

DATE. February 5, 1981

COMMITTEE ON TAXATION

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

MR. CHAIRMAN AND MEMBERS OF THE TAXATION COMM.

I AM SPEAKING IN SUPPORT OF S. B. 255. I HAVE STUDIED THE BILL AND AM IN FAVOR OF IT.

I AM LUCILLE ANDERSON. MY HUSBAND, KERMIT, AND MY BROTHER-IN-LAW CARL AND I OWN AND OPERATE THE K BAR A HEREFORD CATTLE RANCH WEST OF MELVILLE IN THE FOOTHILLS OF THE CRAZY MOUNTAINS. OUR RANCH HAS BEEN IN THE ANDERSON FAMILY SINCE 1883. FOUR GENERATIONS OF ANDERSONS HAVE WORKED TO PUT TOGETHER A WELL BALANCED RANCH.

I HAVE SERVED AS PRESIDENT OF THE MONTANA COW BELLES IN 1973-74 AND I WAS THE COW BELLE REPRESENTATIVE ON THE MONTANA BEEF COUNCIL 1974-75. PRESENTLY I AM SERVING AS VICE-CHAIRMAN FOR REGION V OF THE LEGISLATIVE COMMITTEE OF THE AMERICAN NATIONAL COW BELLES.

THIS IS MY PERSONAL TESTIMONY; BUT I AM SPEAKING IN BEHALF OF 1800 MONTANA COW BELLES, THE AUXILIARY OF THE MONTANA STOCKGROWERS.

WE NEED RELIEF FROM THE CRIPPLING INHERITANCE TAX TO DIRECT DECENDENTS.

INFLATED LAND VALUES HAVE PUT RANCH OWNERS IN AN UNUSUALLY VULNERABLE POSITION ON ALL TAXES. THE INHERITANCE TAX BEING THE FINAL BLOW. INFLATION HAS NOW PLACED MANY PERSONS WHO HAVE REGARDED THEIR WORTH AS VERY MODEST INTO THE CATAGORY WHERE THE TRUST ROUTE OR INCORPORATION IS THE ONLY ROUTE TO CONTINUE AN ECONOMIC UNIT. THE INHERITANCE TAX IS EXTREMELY EXPENSIVE FOR TAXPAYERS WHEN THE COST OF LAWYERS AND ACCOUNTANTS ARE CONSIDERED. AS A REVENUE MEASURE THE STATE INHERITANCE TAX FALLS HEAVILY UPON INDIVIDUALS WHO INHERIT LAND AND CHILDREN WHO INHERIT A FAMILY BUSINESS. DUE TO INFLATED VALUE OF THE LAND THE TAX AFFECTS FARMERS AND RANCHERS MORE.

A LAND OWNER HAS A REAL PROBLEM PASSING LAND ON TO HIS CHILDREN. THEY CANNOT AFFORD TO BUY IT, THEY DON'T DARE INHERIT IT AND WE CANNOT GIVE IT TO THEM WITHOUT PAYING A HUGE GIFT TAX.

MANY INTERESTED, WORTHY, ON-THE-JOB TRAINED YOUNG RANCH HEIRS MUST SEEK OTHER JOBS BECAUSE OF THE FINANCIAL BURDEN IMPOSED BY THE INHERITANCE TAX. THIS OFTEN RESULTS IN THE SELLING OF THE FAMILY RANCH.

IT IS WITH A SENSE OF SADNESS AND LOSS WE WATCH THE DISAPPEARING OF THE SMALL FARM AND RANCH. THE FAMILY RANCH IS A WAY OF LIFE BASED ON FAMILY, AN INVOLVEMENT WITH EVERYTHING FROM THE BEGINNING TO THE END OF LIFE, A PERMANENCY, A PASSING ON OF SOMETHING - A WAY OF LIFE - BASED ON THE LOVE OF THE LAND! THE LAND REMAINS FOR THE BENEFIT OF ANOTHER GENERATION. THE FAMILY RANCH OFFERS THE BEST HOPE FOR RESPONSIBLE STEWARDSHIP OF OUR LAND - IT PROVIDES FOR WIDESPREAD OWNERSHIP OF LAND - ONE OF THE STRONGEST GUARANTEES OF DEMOCRATIC FREEDOM AND RESPONSIBLE AND EFFICIENT WAY OF PRODUCING FOOD FOR USE HERE AND ABROAD.

I SEE MANY ADVANTAGES TO MONTANA IF WE ELIMINATE THE INHERITANCE TAX TO DIRECT DECENDENTS.

I ASK YOUR SUPPORT OF S. B. 255.


NAME Jo Brunner BILL No. S.B. 255
ADDRESS Helena, DATE 2/5
WHOM DO YOU REPRESENT W.I.F.E.
SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: Mr. Chairman, committee memberss. I am priviãiged
to day to speak for Women Involved in Farm Economics concerning
Senate Bill 255.

We were appreciative when this bill exempting inheritance tax for
the surviving spouse was passed. We, along with others had worked
toward the passage of the bill, and while we did not want to seem
unappreciative, we felt at the time it could have gone a step
further and given relief of the same sort to other descendants.
We are glad that you have seen fit to continue on in this manner.
We appreciate your action and we support this bill and ask that
you pass it.

Thank You,



DEPARTMENT OF REVENUE

SENATE BILL NO. 231

SB 231 addresses the problem of corporate liquor licenses. Although the statutes presently contemplate corporate holders of various alcoholic beverage licenses, the general criteria for a holder of license, found in Section 16-4-401, MCA, are phrased in terms of a natural person. This has lead to difficulty in implementing the law and has forced the Department of Revenue to rely on rules in order to consider corporate applicants. SB 231 attempts to provide workable criteria for corporate licenses.

It should be stressed that the Department considers the provisions of SB 231 to be adequate but it does not view the criteria to be "set in cement". Rather, SB 231 is a vehicle to bring this problem before the Legislature and to permit the Legislature to indicate its wishes.

Note that there is a dichotomy between licenses involving on-premise consumption and all other licenses.

Section Analysis

Section 1. Amends 16-4-103, MCA. Subsection (2) is rewritten and Subsection (3) is added to this section. It is intended that the general provisions of Section 16-4-401, MCA, will apply to this class of license (beer wholesalers).

Section 2. Amends 16-4-108, MCA. Subsection (5) is rewritten and Subsection (6) is added to this section. It is intended that the general provisions of Section 16-4-401, MCA, will apply to this class of license (wine distributors).

Section 3. Amends 16-4-401, MCA. The amendments to this section substantially rewrite the section. Subsection (2) applies to licenses permitting on-premises consumption, while Subsection (3) pertains to other licenses. Note that for on-premises consumption residency in Montana and ability to vote are retained while for the other licenses this criteria is changed to nonfelons. The Department believes it can defend a challenge to the constitutionality of a resident-nonresident distinction where on-premises consumption is allowed but is not so confident in the other cases. The corporate requirements are phrased in terms of the stockholders of the corporation with an additional requirement that the corporation is authorized to do business in Montana. The corporate requirements do not apply to common carriers licensed pursuant to Section 16-4-302, MCA.

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AMENDMENTS TO SENATE BILL 231

1. Amend page 5, line 24
Following: " ;"
Strike: "and"
2. Amend page 6, line 1
Following: "Montana"
Strike: ". "
Insert: " ; and"
3. Amend page 6, line 2
Following: line 1
Insert: "(iv) in the case of a corporation
not listed on a national stock
exchange, each owner of stock meets
the requirements of subsection
(2) (a) (i) "