

HOUSE TAXATION COMMITTEE

46th Legislature

The meeting was called to order in Room 434, at 8:30 a.m., March 13, 1979, by the vice chairman, Representative E. N. Dassinger. There was a quorum present. Also present was Randy McDonald, staff attorney.

House Bills 427, 477 and 497 were to be heard.

Representative Donaldson, District 29, Lewis and Clark County, presented HB 497 of which he is chief sponsor. Rep. Donaldson explained that the bill was introduced to meet rapidly increasing school enrollments in areas affected by subdivision developments. These areas are facing problems of space and have very small taxable valuation bases. This bill would allow school districts and county high schools to exceed their bonded indebtedness limit in certain situations. The bill also provides that the state would pay the interest on the bonds in certain situations. The interest-payment program would be funded with the interest from the unexpended balance in the Coal impact education trust fund.

HOUSE BILL

497

Representative Donaldson had two reasons for introducing the bill: concern for quality of education and to reduce the burden on property taxes.

Rep. Donaldson presented some proposed amendments to HB 497, because the original bill calls for payment of all interest by the state which was not their intention. There has to be a certain amount of accountability by the school district. Amendments would provide that all the principle be paid by the school district.

There is \$11.9 million in the education trust fund now, and it is growing, which could earn in excess of \$1 million in interest. Based on 1978 school year expenses, the total cost of this program would be about \$150,000, but there is no way to anticipate the cost exactly. It would take only a small portion of that fund, and as time goes on it would take a smaller percentage.

In districts defined as impacted, bonded indebtedness interest payment per student is \$25.30. Impacted districts are at 25-28% of their taxable value. The average is 3.6% statewide of their bonded indebtedness. Payment is \$185 per student in impacted areas or approximately 9 times as much. It is necessary that Montana help all counties with the construction of buildings because the quality of education will suffer otherwise unless this problem is approached.

The educational trust fund is set aside--the impact is there. Rep. Donaldson recognized that this assistance will help many areas not affected by coal.

Rep. Bob Throft, District 92, Ravalli County, spoke in support of the bill saying that many counties have no tax base with which to furnish the facilities needed. Districts with 20% bonded indebtedness can't build the buildings you need for the future, so you wind up with additions and trailer houses, etc. He cited one county with a \$300,000 bonding capacity and another with much trailer park, and others with subdivision development which make great fluctuation in taxable valuation base. Growth in school enrollment has been from 12% to 20% in some of these counties. The counties need the ability

to raise funds to build adequate schools for a reasonable amount of future growth.

Bob Stockton, Office of Public Instruction, testified in support of HB 497. He pointed out that one district (Lincoln) will not be able to build the 8 classrooms needed since the burning of the school because the district has high bonded indebtedness and no money. Assistance for the building of schools is long overdue. He also pointed out that a school finance program adopted by the National Committee on School Finances was identical to Montana's program, but added provisions for aid in construction. Presently, the construction of schools depends entirely on local wealth. The richest districts now collect approximately \$1,000 per student for each mill levied. The poorest collects \$5.46 per student. The impacted districts are left with a feeling of frustration and hopelessness.

Carol Ferguson, Department of Community Affairs, and representing the Clancy school district, testified that the department not only recognizes the adverse effect on rapidly growing communities with low taxable value, but also communities stricken with disasters. They have to provide classrooms but are legally prohibited from raising enough money to do so. This is a bill that recognizes a real need and should work compatibly with HB 866, soon to be heard by this committee. She felt that school districts have acted conservatively in the past and was confident they would continue to do so.

F. W. (Woody) Wright spoke as a citizen in support of the bill. He stated that his own district would soon be faced with the development of two major subdivisions and is going to require outside assistance to provide basic facilities. This bill would provide assistance to similar school districts. He feels this is a fair concept generally for the state in conjunction with the trust fund. He closed, urging a do pass recommendation by the committee.

Bill Willavize, Florence-Carlton Schools, spoke on behalf of his impacted school district which has 15-20 subdivisions. The projection is that district will grow about 16% in enrollment. After completion of subdivisions they will have sufficient tax base to provide bonding capacity for building. He urged a do pass recommendation.

John Smith, Lolo School District, cited one subdivision planned for his area calling for 12 lots with four-plex units, and another that has 23 lots. They will provide modest housing for beginning families. This would have a minimum impact of about 75 school-age children. Their school is full now and they have no more space. Completion of this one subdivision would double present enrollment. The district has an \$80,000 bonding capacity left and this is not enough to meet these needs. Projection of growth in school enrollment is that it will double. There are 550 children in school now. He urged favorable action by the committee.

Bob Stockton presented statistics on the cost of educating one student in relation to funds available. The particular subdivision they are looking at had 5 acres and was bringing in about \$15 in tax revenue--this would bring in about \$800 per year once a house was put on it. \$400 would go to schools--costs \$2,000 per child, so are starting off \$1,600 in the hole. After housing is established, it will pay off.

There were no opponents to HB 497.

Rep. Donaldson closed saying that this session has dealt with a variety of subdivision problems, but has not been very successful. School districts should not have to bear the full responsibility of providing education. It is necessary that the state try to provide some degree of building help. There is no difference where the source of funding comes from. This source just seemed most logical. This bill in no way requests the state pay any of the principle on any of these bonds--just pays the interest until the district gets these improvements on the tax base. He hoped that the committee would act favorably on the bill.

Questions from the committee:

Rep. Reichert asked about a fiscal note. The fiscal note is for \$150,000 and was prepared before the session began. It was based on 1978 expenditures. There is no applicable fiscal note.

Rep. Reichert was concerned that the problems could be temporary and the districts would end up with empty schools, as is the case in Great Falls. It was explained that most of the subdivisions were of a permanent type and the problem would be more than temporary. It was also pointed out that the situation in Great Falls took many years to develop.

Rep. Bertelsen questioned a limit on bonding capacity. It was explained that the limits are fixed by the school boards and the bonding companies. Also, the people in the district ultimately decide how far they will go. The outer limit could go up to 40%.

Rep. Huennekens commented that maybe the cost should be borne by the subdivision developers. Rep. Donaldson agreed that this was the problem but did not think it was accurate to assume the developers were going to contribute. In the past, effort has been made to provide basic education to all people. He hoped this problem would be addressed some day.

Rep. Fagg asked about the possibility of busing. This is being done now in Donaldson's district. Annexation--it was explained that the problem is that most surrounding school districts are also overcrowded, and this is not viewed as a viable solution. Rep. Fabrega also pointed out the possibility of using industrial bonds.

Rep. Dassinger questioned whether the program might be better funded out of the general fund. Rep. Donaldson said it was the general impression that the coal tax money was available for education and for this reason the trust fund was suggested as a possible source of funding. Rep. Dassinger mentioned that in a few years the coal tax money may go to the general fund. Rep. Bertelsen explained there is no place to fund the program that will always have money.

Rep. Johnson asked how this problem related to declining birth rates. It was stated that this bill would only affect areas with rapid growth rates.

Rep. Johnson asked what sort of safeguards were provided to prohibit rapid building. Mr. Stockton stated that the voters were the best safeguard. The voters would not approve a bond that will break them.

The hearing was closed on HB 497.

Chairman Rep. Herb Huennekens took the chair. Representative Daniel Kemmis, District 94, Missoula County, presented HB 427 of which he is chief sponsor.

HOUSE BILL The bill is an attempt to stabilize and improve library facilities by earmarking 1% of the proceeds of the coal severance tax, thru which residents of all counties could participate in certain library networks. This 1% would be earmarked for this purpose and would not go to the general fund.

427

William Conklin, Montana State Library, spoke in support of the bill. The bill provides for basic library service to include interlibrary loan and Continuing Education to all counties and provides for state support to the libraries. Montana is one of only 12 states not providing such support. The bill also provides payment of the costs of participating in a regional network, the Washington Library Network, who shares their expertise and knowledge. Detailed testimony is attached to the day's minutes.

Senator Max Conover, District 36, Yellowstone County, Chairman of Southern Federation of Libraries, Billings, spoke in support of HB 427, citing his involvement with the Federation. His county is a member and enjoys such services as a bookmobile and the mail-a-book program. They have been in the program for three years and presently their bookmobiles are going to have to be replaced at a cost of about \$60,000. Children are able to take advantage of a greater selection of books through this program. The program enables the shuffling of books over a greater area. In conclusion, he stated that the program is working and is working very well. Without state assistance services would have to be cut back. He urged favorable consideration by the committee.

Mary Moore, Coordinator, Golden Plains Library Federation, Glasgow, presented testimony in support of HB 427, as is explained in detail in attached testimony. She urged favorable consideration by the committee.

Lilly F. Eveland, Liberty County Library, testified in support of HB 427, saying that the bill would give rural children the same advantages afforded children in more highly populated areas. She also asked that the committee consider the distance factors involved with the bookmobile program and the vehicle maintenance costs. She thanked the committee for their consideration and hoped they would vote favorably. Detailed testimony is attached.

Arlo Skari, delegate to the President's Conference on Libraries, testified in support of HB 427. Detailed testimony is attached. He hoped that HB 427 would become law this session and felt there was no better use of the coal tax money than investing in the improvement of the human mind.

Mildred Sullivan, Montana Library Association, addressed the impact on small local libraries of this bill. She supported the bill and also addresses the problem of getting and keeping professionals in small towns. She felt that good county libraries were one way to keep these professionals. Good libraries provided good social and recreational climates. She concluded saying that our people are our greatest resource. Access to good libraries can help to develop this resource.

J. D. Holmes, Montana Institute of the Arts Foundation, stated that the founda-

tion has opposed HB 35 because it did not name a source of funding. This bill provides a way to put it into practice and he supported the bill.

Mary Vant Hull, Friends of Gallatin Libraries, spoke in support of the bill, as is explained in detail in attached testimony.

Bill Snyder, Coordinator, Tamarack Federation of Libraries, spoke in support of HB 427 as is explained in detail in attached testimony. He asked that the committee please support and act favorably on HB 427.

Representative Robbins rose in support of HB 427. He explained that he had introduced HB 35 at the request of his constituents, knowing that it could not pass due to a lack of a funding source.

Rep. Reichert, public library trustee for many years, supported HB 427, based on firsthand experience with the Library Federation and stated she would like to see the program spread statewide, since she has seen how much benefit accrues to small communities.

There were no opponents.

Rep. Kemmis closed by first apologizing to Rep. Nordtvedt for stating that this bill would provide for the purchase of books. Now it appears this is not the case. He felt that the fact that more books, already in the state, would be available took care of the need to buy more books. He was at first reluctant to carry the bill because he served on the coal tax trust fund legislation and doesn't approve of it being used piecemeal, but now felt it was a legitimate concern. It is difficult for libraries to get money and they are always the first to be out. He felt that earmarking this amount provided for a voiceless constituency (which has been well represented here today) searching for an avenue into the world. Children in the rural areas deserve as much exposure as the children in larger cities. Without this assistance the state will continue to discriminate against these children. He asked for the committee's support on this bill, but if it can't be passed, to keep it in mind.

Questions from the committee:

Rep. Fabrega pointed out that the fiscal note was not for \$400,000 but for \$246,000 in 1980 and \$271,000 in 1981. Thus the bill would require more than the 1% requested. It was explained that \$400,000 was what they actually needed, which would require about 1-1/2%.

In response to the statement that the mineral wealth belonged to everyone, Rep. Dassinger asked why the libraries choose to just go after coal tax money. Why not go to general fund to which other mineral revenue goes? Coal tax money was addressed as a source of money because they could not get general fund help. Mr. Conklin explained the general fund support would be welcome, but they have not been able to get support from this source in the past. They tried to identify sources where they might be successful.

Rep. Kemmis was asked by Rep. Dassinger to explain the effort to get the coal tax money before it went into the general fund. It was explained that as a general fund appropriation it was much easier to cut. They felt it was less likely to be cut as an earmarked account.

Rep. Burnett asked the reason why 12 counties did not belong to the Federation. It was explained by Mr. Conklin that some counties did not even have enough money to provide basic services--thus the problem is equalization. Mr. Conklin is to supply information as to how much money is involved in joining each Federation and statistical information on actual expenditures in the counties.

Rep. Nordtvedt asked whether it would be more feasible to appropriate money to individual counties, allowing the counties to determine how much money they wanted to expend locally and how much they wanted to put into the Federation? Rep. Kemmis had never heard this approach discussed. Mr. Conklin explained that the Legislature has established that resources could be shared through the Federation. Appropriating to individual counties would not be sharing resources. The bill would, however, indirectly free up money to be spent locally. It was stated that most libraries would agree with the concepts of this bill.

Rep. Johnson asked how much would go to initial start-up costs. Mr. Conklin explained that the only start-up cost goes to establishing contact with the Washington Library Network. The Federation has made an \$88,000 request to the coal board for start-up equipment for which they expect favorable action. By belonging to the Federation under contract to the state, a county would not have to pay anything but only agree to take the service.

Rep. Underdal was concerned that counties who do not belong would be getting the benefits of the program. It was explained that membership would cost nothing to the county if this bill passed. Currently, counties belong by contracting for services.

Sen. Conover stated that this program could also be beneficial in that books with large print for senior citizens could be used throughout the state. Under the present setup these books are not purchased because they are used by so few people within an area that it is not a justifiable expenditure.

Rep. Sivertsen again asked for an explanation of why some counties chose not to belong. Mr. Conklin explained the problem is one of cost. He had not met with county commissioners who do not belong. He thinks that the concept is one that everyone would support if they were experienced with it. Also, it was felt that if these counties were more familiar with the program, they would support it. Rep. Sivertsen asked and was advised that the libraries retain authority. They just contract to extent of services they want. Each board runs its own library. It was also stated that maybe it is the commissioners that choose not to contract; that if the librarians were consulted they would choose to join the Federation.

Rep. Fabrega stated that in fact this bill would make a big library available to small counties, thus making the small libraries equal to the larger ones.

Rep. Dassinger stated that he liked the concept but did not like the funding to come from coal tax trust fund interest. He thinks it should come from the general fund. He asked if they had tried going to the people with an initiative. Mr. Conklin stated that, yes, they had, and the initiative had been defeated. They felt that this was because they did not have the time nor the money to educate the people on the benefits of such a program.

Executive Session.

The view of the coal companies is that their goal is actually somewhere between

30 and 17% tax and that the matter of impoundment of all coal tax funds and the new element which attorneys for the coal companies introduced is that if the suit should be won by the coal companies, all coal taxes paid would have to be returned to the coal companies. In the opinion of some folks, this is in essence a convincing argument that should persuade the state to negotiate for a lower figure.

There has been no attorney general's opinion and the state statutes do not provide for impoundment of any taxes raised by the state. Statutes do not presently provide for impoundment of taxes paid under protest. After talking to Turnage for a long time, it was decided to introduce a bill which will clarify the intention of the legislature on the impoundment of funds. A Statement of Intent will convey the idea that the legislature has and continues to maintain the position that taxes paid under protest to the state shall be available for use. This will require a change in wording of the statute to make this completely clear. This goes back to 1905 statutes which say that the counties cannot spend money paid under protest to them, but makes no mention of the state not being able to use funds paid under protest.

Senator Turnage agrees that it is a matter of importance and that it is time to get this bill through, so he proposes to the committee that we accept a committee bill which will state that it has been and that it is the intention of the legislature, the state be able to use impounded funds. He asked that the committee approve such a bill to be introduced in the House.

Rep. Bertelsen asked Sen. Turnage about acceptance of such a bill. Sen. Turnage doesn't think there is a man in the Senate who wouldn't vote for it. It is more appropriate for revenue bills to originate in the House.

The attorney general's position now is that all the funds would have to be returned and start all over with a new figure of some sort - 25-29.5% - and then start collecting all over again.

Rep. Burnett feels the state could set a tax in any amount they want to.

Rep. Huennekens said the statutes do not provide for impoundment of taxes paid to the state under protest.

Rep. Lien thinks it is quite important that such a bill carries as unanimously as possible.

Rep. Bertelsen asked if there is no feeling that by institution of this bill there is no feeling of shakiness in regard to the suit.

Rep. Huennekens explained this is only clarifying existing statutes.

Rep. Harrington mentioned that a negotiated settlement is out of the question.

Rep. Huennekens said they are only stating the intent of the statute that the state shall not have protested taxes impounded.

Rep. Fabrega said the state evidently has a different ability to raising taxes and spending them.

Rep. Nordtvedt asked if you are telling us that the attorney general is ready to negotiate? Rep. Huennekens said No. This would apply to taxes paid to the state under protest. Counties have a limited sovereignty. The state really should not have sovereign immunity. If it causes somebody trouble, they should have to pay.

Rep. Huennekens moved that the committee approve a committee bill stating that the state does not have to impound taxes paid to the state under protest. A roll call vote was taken. 18 members voted Yes - Rep. Fagg was absent.

Hearing resumed.

Representative Hand, District 82, Beaverhead County, introduced HB 477 of which he is chief sponsor. The bill would allocate 1% of the proceeds of the coal severance tax to the Montana College of Mineral Science and Technology for research and information services in minerals, mineral fuels, ground water and geologic hazards. Rep. Hand stated that it is time that we have a more appropriate understanding of Montana's mineral resources in order to make decisions as to our future. He felt that it is only fair that we make some return to the land. There are many uses for the coal tax money, but no effort to put the money back from where it came. Montana needs to evaluate quality and quantity of its resources. Rep. Hand felt that the Montana College of Mineral Science and Technology has the expertise and the resources to conduct such a study.

HOUSE BILL
477

Rep. Hand then reviewed the college's appropriations for 1980 and 1981, based on the LFA recommendations. He realized that this bill would provide an additional \$145,000 for 1980 and \$171,000 for 1981, but felt this would be money well spent. Rep. Hand requested a favorable recommendation by the committee.

Dr. S. L. Groff, State Geologist and Director testified in support of HB 477 as is explained in detail in attached statement. He agreed that mineral revenue should be shared by all, but also felt that some of the revenue needs to be put back into the land in an effort to plan for the future. In conclusion he stated that it is about time to be looking ahead, otherwise the state is headed for trouble. He urged a do pass recommendation by the committee.

Rep. Bertelsen spoke in support of the bill saying that we have to put some money back into the land.

Dr. Groff was also concerned about water and mineral resource problems in the state. We need to know the facts and then we can use them wisely.

Opponents:

Steve Dougherty, Montana State University, spoke in opposition to the bill. The main opposition was in the increase in funding to this one source. He felt that the increase should be shared by all the institutions of higher learning in the state. He urged a do not pass on HB 477.

Bill Bronson, Associated Students, University of Montana, also spoke in opposition to the bill. He also felt that the increase in funding should

be shared. There are many programs at the U of M that would appreciate such grants. He also stated that the major thrust in legislation this year has been toward equalization. HB 477 does not afford the UM or MSU this increase. If the legislature wanted parity, he urged that this bill receive a do pass recommendation unless other institutions were given the same favorable consideration.

In closing Rep. Hand stated that the first reclamation work in the state was done by the Bureau of Mines. He felt the quarter of a million dollars requested was very limited, but that the program would be flexible enough to go to the areas that really needed it. Currently there are no MHD funds going to the Bureau of Mines. He urged a do pass by the committee.

Questions from the committee:

Rep. Sivertsen questioned what seemed to be a duplication of effort in research. It was stated that reclamation has been the priority for research at MSU. Coal tax money is to be used to offset impact in the areas affected. Some money has been put into independent research.

Mr. Bronson stated that there are programs at the UM that would like to do this kind of research. There are private companies that would like to do their own exploratory work--maybe they should pay for it.

Rep. Sivertsen suggested pooling funds and giving them to one source.

Dr. Groff stated the problem is an effort to evaluate deposits as to where they are, the effect of mining on the economy and the environment, and placing mines where the greatest number of people can be employed. Ground water is their priority. Dr. Groff suggested contracting with the professors at MSU and UM who are interested in a particular area. They would have to look at the total picture.

The hearing was closed on HB 477.

Rep. Barbara Spilker, District 32, Lewis and Clark County, presented HB 651, of which she is chief sponsor. This bill has been passed from Local Government Committee to this committee because it does address a tax issue. Rep. Spilker did not feel that a hearing was necessary. The bill would give back to cities the ability to assess property taxes on aircraft in their local airport. This would effect four airports in the state: Billings, Helena, Laurel and Kalispell.

HOUSE BILL
651
The issue is a matter of tax equity. Rep. Spilker felt that property tax is a first obligation tax and did not feel that aircraft in these few airports should be exempt. The tax is levied in all other subdivisions in the state.

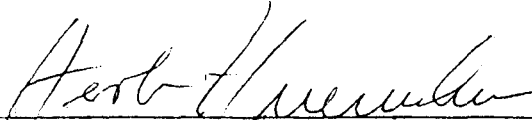
The argument has been made that the airports provide all their facilities. However, Rep. Spilker pointed to Helena citizens who pay 2 mills to support

the Helena airport and are now paying for a bond for the new airport. HB 651 will eliminate an unfair advantage. Rep. Spilker urged a do pass by the committee.

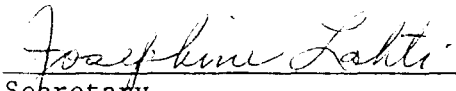
Rep. Williams asked how municipality was determined. This covers only airports that are within city limits.

Rep. Robbins stated that he would have brought the bill before the Taxation Committee first instead of being heard in Local Government.

Meeting was adjourned at 11:30 a.m.



REPRESENTATIVE HERB HUENNEKENS, Chairman



Secretary