

HOUSE TAXATION COMMITTEE

46th Legislature

The meeting was called to order on March 21, 1979, by Chairman Herb Huennekens, in Room 434, Capitol Building, Helena. All committee members were present, as was Staff Attorney, Randy McDonald.

This was an executive meeting. Bill Groff, Special Legislative Adviser for the Department of Revenue, and John Oitzinger, bonding attorney with Wilkie, Farr, and Gallagher of New York, were asked to explain the proposed committee bill on bond anticipation financing.

Bill Groff, chairman of the appropriations committee and Rep. Huennekens, discussed the problem the state has when school funds have to be distributed each quarter and the state does not have actual cash in that school foundation fund and has to borrow from some other state fund until the foundation fund has received money with which they can reimburse the fund from which they had borrowed.

At times the state is roughly \$40 million in the red. Even if a tight budget is run, and the state doesn't overspend, the state will be short approximately \$40 million for a period because of the way the money comes in. He presented a disbursement sheet showing how money comes in. They have the power to borrow from one fund and fund another. \$11-12 million in the red now and if things tighten up, it gets worse.

They want to write a tax anticipation bond, but do not want a rollover procedure. The state has to pay all debts each year as a constitutional provision. All advantages are there in this. You can pick up on today's market \$800,000 or more by using state anticipation bonds, if you maintain it so they cannot be rolled over. If the bond market goes to hell, can't do this any more and then will have to go back to the old method.

Mr. Oitzinger said Bill asked him to get involved in this and write a brief and straightforward piece of legislation limited to a 2-year limitation. All debt has to be paid each year according to the constitutional limitations. This bill is intended to operate within the constitutional limitation. That would be against an appropriated amount. It is necessary that it be adopted by a 2/3 vote of the House, would be readopted and reapproved by a 2/3 vote every biennium. There might be a couple of minor changes.

Dave Lewis, Department of Administration, explained the chart showing the general fund. Since 1972 have covered this shortage period with general fund surplus. We could liquidate investments from other funds or go out with these anticipation bonds.

Rep. Nordtvedt asked how much of a negative cash flow could be eliminated if people's wages and salaries were withheld properly. Could collect some under withholding.

Mr. Groff explained withholding is on a 90-day basis. January, February, March with the school foundation funds is where the problem arises.

John LaFaver, Fiscal Analyst for the Legislature, said there is not a liquidity cash problem in operating the state. During the last 4 years, the lowest cash balance that the state had was about \$125 million so it isn't a cash problem for the state. The issue is should we borrow from outside sources or borrow from cash within the general funds. At today's interest rates, the state would receive about \$800,000 more for the state. Today's short-term rates are at around 10%, but a year ago they were at 6%. Over the long haul, we would have to have short-term interest rates 1 1/2% above the money that we borrow. Short-term rates should be about 1 1/2% over long-term rates. It doesn't make sense to base a projection, from an income standpoint, on uncertain rates.

This is the second highest short-term rate in our history going back a long, long time. If this is to speak only to a liquidity program in the general fund, it should say that. It does not refer to the general fund. The only limit in the bill is that the issue can't exceed \$50 million. It must stay within the amounts of appropriations. That language essentially states the limit we are going to have is \$50 million - it is a flat \$50 million, and there isn't any qualifier in order to authorize \$50 million. A point of a no roll-over procedure is made.

There would have to be some safeguards, operationally and constructively, written. There would be a rollover, otherwise would have to borrow from funds and then issue bonds again and pay them off by borrowing from within again. There are several technical aspects that would have to be taken in order to get it to do what the committee wants it to do.

Rep. Sivertsen asked if any language clear enough to define what would not allow rollover was available. Mr. LaFaver said he hasn't worked out any amendments yet.

Mr. Oitzinger said the taxes and revenues are pledged to pay off the bonds and notes. It wouldn't be expected that other funds would be used to pay off the notes.

Mr. LaFaver said the pledge here is on the estimated revenues. There isn't anything that says there is an estimate. If somebody wants to float \$50 million worth of bonds, they can. I think we will have the necessary revenue to pay them off. Pledging anticipated revenues is not like pledging cash on hand.

Mr. Groff said \$50 million is the limit, but have also limited it back to the appropriation level. You cannot exceed the appropriated level that is left. Have a two-year authorization, and has to be reapproved every two years. This should never exceed two years and should be mandated every two years by a mandated vote. Don't think you can write a continuing authorization.

Rep. Fabrega suggested stating that this applies only to the general fund. Thinks in agreement with Mr. LaFaver that rates will get closer. Tax-exempt bonds are usually always lower than regular bond rates.

Mr. LaFaver said returns are 50/50 at long-term and on short-term you will make money. If you do not have \$50 million to invest, some of it will be used to tide you over. The way the bill is estimated here, based on the cash flow that is projected, you need 1 1/2% higher rate. If that does not happen, over the long haul you might not make money.

Mr. Lewis explained the point of the bill is that we simply make a recommendation to the Board of Examiners, and want accountable people to put their name on this. It simply isn't up to us. There will be a builtin resistance to any wild money managing.

Rep. Dozier asked what if we find \$50 million bonds are not producing enough revenue - are we going to have to go back and pay them off with other funds?

Mr. Groff explained money is brought in. You don't put \$50 million out all at once; and should any indication that the money market would be going backwards, the bonds would not have to be bought.

Rep. Sivertsen thinks there is some safeguard built in when some top officials make the decisions - like in New York, it could snowball. He thinks some other safeguards should be built in.

Mr. Lewis said there is a potential for rollover here. We would go to other funds and borrow and pay it back next year. Borrowing from other funds has to be repaid by the end of the year.

Mr. Groff said this would be with a 2-year authorization. Say something happens and we are all broke - they would have to account to the legislature every two years.

Rep. Reichert asked how short can short-term be, and how long is long-term? Mr. Groff said up to one year is considered short-term. Has to be paid back every fiscal year and has to be paid back every year.

Mr. Oitzinger advised that in a period of rising interest rates, prices of long-term bonds tend to go down and can lose 10% of your money. To avoid a situation where they would be forced to liquidate long-term, could put into short-term. Don't know what structure of earmarked funds is, but there are permitted yields on certain investments. If you start playing around, that would be defeating your purpose in that respect.

Rep. Fabrega asked if tax anticipation bonds are written with a date certain. Mr. Groff said they would have to have a date certain. Rep. Fabrega asked what would happen if there were an abrupt change in the market. Mr. Groff said you would then buy them back at a discount.

Rep. Fabrega asked about the chart which shows there will be a negative effect. Mr. Lewis said based on past figures, they had to borrow \$54 million. Mr. Crosser had to borrow about \$2-3 million. Mr. Lewis had to borrow \$7 million for the long-range building fund in 1979. \$45 million will have to be borrowed for the next biennium.

HOUSE BILL 213 - Rep. Williams recommended a DO PASS motion. Rep. Lien moved to amend so that feedlot cattle are in Class V. Rep. Huennekens asked if he had any idea of cattle numbers that would fall into this category. Rep. Williams asked how long do cattle ordinarily stay in the feedlot? Rep. Burnett advised 90 to 120 days, less than 6 months. Rep. Williams said owners are only paying on those cattle for 6 months and pay only for 6 months and that would be only about 4% rate.

Rep. Sivertsen said livestock in feedlots are there for only 6 months. Businesses reduce their inventories at tax time and then restock.

Rep. Williams remarked you are paying on less than 6 months for all livestock that is in the feedlot.

Rep. Huennekens said you are on dangerous ground here. Don't know what effect it would have on local governments.

Rep. Sivertsen said he believes this amendment is to only include those cattle that are feeder cattle or only reproduction livestock. A lot of taxes will be realized from livestock this year because of increased value of cattle. Livestockmen have never tried to evade paying taxes and have always paid their fair share. Should give this some consideration.

Rep. Huennekens thought that if we are to treat cattle similar to inventory and capital investment in other industries, then other animals would have to be lifted to another level and by splitting the difference between the two categories, could reach a middle value.

Rep. Williams said it was agreed two years ago that livestock were being taxed too heavily and gave them a 60% reduction. It would be a mistake to try to tax cattle in two different classifications. Don't think the committee can make this decision without more information. Recommends the revenue oversight committee study this during the interim.

Dean Zinnecker said we are looking at approximately \$150 million of assessed valuation. Rep. Huennekens figured that using 200 mills, there would be about a \$15 million loss to local governments.

Rep. Lien said two years/they did not allow cattle a 60% reduction - they gave them a 40% reduction.

Rep. Lien made a motion to amend HB 213 and drop feeder cattle down into the 4% classification as the bill did read. After a bit of discussion, the motion failed by a roll call vote of 7-11.

Rep. Lien then moved that business inventories be raised from 4% to 8% classification. This motion also failed on a roll call vote of 6-12.

Rep. Fabrega moved to amend to include unprocessed agricultural products as business inventories from 4% to 8%. This would include grain. Motion failed on a roll call vote of 7-11.

Rep. Williams made a motion to DO PASS AS AMENDED HB 213. Motion was adopted unanimously. Rep. Harrington was absent.

Rep. Les Hirsch reported as chairman of the subcommittee on energy bills, that the subcommittee recommended tabling HB 216, HB 314, and HB 344. HB 884 was to be amended by taking the definition of solar energy out of this bill and placing it in HB 534 and then recommending HB 534 be passed. Rep. McBride asked that her bill go through in case HB 884 is not accepted in the Senate.

Rep. Lien made a motion that HB 216 BE TABLED. Motion was adopted unanimously. Rep. Harrington was absent.

Rep. Reichert, sponsor of HB 314, recommend the bill BE TABLED. Unanimously adopted. Rep. Harrington was absent.

HOUSE BILL 344 - Rep. Fagg moved that HB 344 BE TABLED. Unanimously adopted. Rep. Harrington absent.

HOUSE BILL 299 - Rep. Fagg moved HB 299 DO PASS. He then moved proposed amendments do pass. Amendments were adopted unanimously. Reps. Harrington and Lien were absent. Rep. Nordtvedt voted No on the motion of Do Pass. Motion of DO PASS AS AMENDED HB 299 was adopted.

HOUSE BILL 884 - Rep. Fagg moved HB 884 DO PASS AS AMENDED. He then moved proposed amendments be adopted. Rep. Nordtvedt moved adoption of a proposed amendment on page 10, lines 4,5,6 be deleted following "systems" on line 4. This motion was later withdrawn. Rep. Lien proposed a substitute motion on page 10, line 4, following "systems," insert "not". This motion failed after a great deal of discussion (some of which follows) on a roll call vote of 6-10.

There is a new type of fireplace which seems to be very efficient.

Rep. Nordtvedt's problem with burning wood and coal is that they produce fine particulate matter which causes pollution and he considers this a serious health problem.

Rep. Reichert questioned whether earth berms were included under this. The committee felt this type of energy conservation would be included.

Rep. Sivertsen thinks the tax incentive being created will be the economics of heating a home. Because of the cost of energy going up, people are automatically going to the cheapest way. He thinks we are creating more and more rules and regulations and we will look back and say why did we do this. We should allow people to spend their own money the way they see fit.

Rep. Nordtvedt thinks some of the energy schemes today are not economically viable and when we say it is a less desirable way to accomplish a goal we may be wrong. He sincerely believes we will regret this when we come to the 80s. We may or may not move naturally - people are making decisions on the merits of ways of heating their homes.

Rep. Dozier feels we are trying to pioneer developments in order to force costs down. This is a means of incentives to do some pioneering in this field.

The motion by Rep. Fagg to DO PASS AS AMENDED was accepted with Reps. Dassinger, Nordtvedt, Lien, Sivertsen, Vinger, Burnett voting No.

Rep. Burnett moved that the Statement of Intent be adopted. There were no Noes. Rep. Harrington was absent.

HOUSE BILL 534 - Rep. Hirsch moved HB 534 DO PASS. Rep. Hirsch moved amendments. There were no Noes. Motion of DO PASS AS AMENDED was adopted unanimously. Rep. Harrington was absent. Rep. Reichert moved the Statement of Intent be adopted. She then asked the committee if they thought the Statement of Intent might not be accepted because it may not be necessary because of the new

definitions adopted. She later withdrew this motion.

Mr. Pogue recommends elimination of the IRS regulations since California and New Mexico have very good rules and standards which could be used in Montana.

Rep. Fabrega feels "adapt" should be used rather than "adopt". There were no Noes.

INHERITANCE TAX

The subcommittee studying inheritance bills recommended tabling all the bills except Rep. Yardley's HB 269. An amendment to add "or issue" to the title and body of the bill is recommended.

Tom Stohl, Inheritance Division of the Department of Revenue, told the committee the 1977 legislature amended section 4405 to permit only a spouse to exclude a portion of jointly held property. Anyone else had to pay on 100%. This would include children of a decedent. This would leave it at one-half or other fraction. If property held by the parent and two children, it is brought in at one-third. If decedent and two brothers owned property, it would be brought in at 100%.

The subcommittee recommends tabling HB 637, HB 814, HB 830, HB 510. Senate Bill 265 is coming that pertains to inheritance matters.

It was recommended that Rep. Lien's bill be deleted of the estate taxes so that he could take it to the floor on an adverse report.

Rep. Fabrega feels very strongly that a mistake made in 1977 should be corrected even if it has a one-half million dollar impact.

Rep. Fabrega moved that House Bill 269 DO PASS AS AMENDED. He then moved that HB 269 be amended to add "or issue" or "one who is an issue". Amendment was adopted unanimously. All members were present. The motion to DO PASS AS AMENDED was adopted unanimously also.

HOUSE BILL 830 - Rep. Burnett moved that HB 830 Do Pass. Rep. Nordtvedt recommends that spouses pay no inheritance tax. Rep. Burnett feels family farms fail because of the necessity of paying inheritance taxes when a man dies. No decision was made today on HB 830.

COMMITTEE BILL - Acceptance of a committee bill to fund the cancer registry was adopted with No Noes - all present.

The meeting adjourned at 11:00 a.m.



REP. HERB HUENNEKENS, Chairman



Secretary