

HOUSE TAXATION COMMITTEE MEETING MINUTES

February 12, 1981

A meeting of the House Taxation Committee was held on Thursday, February 12, 1981 at 8:00 a.m. in Room 102 of the State Capitol. All members were present except Rep. Brand, who was excused. HOUSE BILLS 543, 552, and 408 were heard and EXECUTIVE ACTION was taken on HOUSE BILL 550.

The first bill to be heard was HOUSE BILL 408, sponsored by Rep. Chuck Cozzens. He explained that he had introduced the bill at the request of the League of Cities and Towns. Every two years, the date on this law has to be extended. The act is extended each session of the Legislature so as to provide validation to bond issues. The intent of the act is to cure any effect or error that might have occurred. It serves as a statutory limitation. Holders of the bonds as well as insurers are entitled to some reassurance that the bond issue won't be declared invalid. The change this bill is asking for is a change which will cover bonds that were issued since "January 15, 1979" to the "date of the act." The definition of "public body" is also changed. An amendment was distributed; see Exhibit "A." The current definition isn't broad enough to include a commission or a board of a County or a City, and the amendment takes care of this.

Bruce MacKenzie, D. A. Davidson Company, then rose in support of the bill. He submitted a letter he had written to Rep. Cozzens and a letter from Mr. William A. Johnstone to him; see Exhibit "B."

There were no OPPONENTS to HB 408. Questions were then asked. Rep. Nordtvedt wanted to know what it meant to cure a bond. He was told that procedural defects in the bond were covered by the validating act, and that was curing. An example of a procedural defect would be if there were too many words on the ballot description of the bond.

Rep. Cozzens then closed, and the hearing on HB 408 was closed.

HOUSE BILL 543, sponsored by Rep. Glenn Jacobsen, was then heard. He distributed a letter from the City of Plentywood, and one from the County Commissioners of Sheridan County; see Exhibit "C." This bill would take 20% of the oil and gas severance tax and allocate 75% of that amount to County roads and bridges, and 20% to City streets and alleys in the counties producing the oil and gas. The industry has created a need for road work. If the severance tax is raised, the percentage could be lowered in order to derive the same figures.

Rep. Glen Roush rose in support of the bill. This bill will provide an advantage to the city. He added, however, that Great Falls' Judge Hatfield has determined that severance taxes collected by tribal governments don't have to be paid to the State, and this may cause a problem with the bill.

Ed McCaffree, First Vice President of the Montana Association of Counties then rose in support of the bill. 39 Counties are at or near their bonding limits for roads, and 34 are for their bridges.

Rep Vinger also rose in support of the bill. There is a tremendous impact in the counties that have oil production. Seismograph trucks are hard on the roads. This act would put the money back to the counties where it is produced and needed.

Rep. Roth rose in support of the bill. Impact on the roads in her area has been unbelievable, and they have gotten no help other than what they have generated themselves.

Rep. Switzer spoke up as a proponent of the bill. These outfits are very rough on the roads.

Rep. Underdal rose in support of the bill. Pondera and Toole Counties are heavily impacted by drilling operations, and the roads are torn up pretty bad. It takes more than the County can afford to keep the roads in shape.

Rep. Devlin seconded what the other Committee members had said.

Rep. Neuman endorsed the bill.

Don Allen, Rocky Mountain Oil and Gas Association, then rose neither as a PROPONENT nor as an OPPONENT. He pointed out that he had supported 1979's SB 182. At that time, he said he didn't care how the "pie" was divided up, just so the size was not increased. In most cases, they have tried to bridge the gap between abuse and trying to be reasonable. He pointed out that with decontrol, the money generated from the net proceeds tax will at least double in the first year. He submitted that the counties that are the most concerned also have the highest tax rates, and are the least willing to tighten their belts. He expressed concern about a possibly dangerous situation when there is a windfall to the Counties.

Questions were then asked. Rep. Vinger pointed out that only the increment would be staying in the Counties. Mr. Allen replied that in Richland County \$400,000 or more will be generated just from SB 182. Rep. Vinger pointed out that the following year the windfall would have to go above this for the County to get any money. It was clarified that under HB 543, the revenue would go from the General Fund to the Counties.

Rep. Underdal wanted to know, if the oil increased in price and not production, would the money go to the Counties. Mr. Allen said that the Counties would be getting the extra money but under the Senate Bill, production has to increase. How SB 182 works was discussed.

Rep. Jacobsen then closed. The figures in the bill are estimates of what the impact would be but the Legislature will always have the option of readjusting the figures. The hearing on HOUSE BILL 543 was then closed.

HOUSE BILL 552, sponsored by Rep. Glen Roush, was then heard. This

original act has been in effect since 1976. Montana needs its own gas reserve to ensure low-cost supplies of gas in the future, and any incentive in this direction is good. Since enactment of the original bill, six wells have been drilled in Glacier County, so the impact hasn't been that great at this point, but the cost of drilling has gone up dramatically and the intent of the bill is to provide an incentive to explore and drill for natural gas for production so dependence on importing will be reduced.

Pete Madison, Manager of Gas Supply for Montana Power, rose in support of the bill. His responsibility is to acquire, purchase, or find enough gas to serve the Montana market of his Company, and he supports any incentives the Legislature can give the oil industry to find natural gas in Montana. He displayed several charts stating his point of view on the matter. In 1950 Montana started importing gas from Canada, and this supply is just now becoming less available and more expensive, and in addition the Anaconda company has pulled out. Montana's Canadian permits will be expiring and will be all done by 1993. They would like to fill the void in the coming years with Montana gas. It costs ten times as much to drill a 10,000 foot well as it does to drill a 3,000 foot well; this bill will provide an incentive for the drillers to go deeper. He added that the Montana portion of the Overthrust belt is virtually unexplored; however, in Canada, production is prolific from Overthrust.

Rep. Jacobsen wished to go on record as a PROPONENT of HB 552. He was in support of building up Montana's reserve.

Mr. Ed McCaffree, Montana Association of Counties, also wished to go on record in support of the bill.

There were no OPPONENTS to HB 552. Questions were then asked. Rep. Williams wanted to know if enactment of the original act had produced more activity for gas production in Montana. Mr. Madison replied that he doubted if it had provided much in the past since it isn't a great incentive, but help is needed with the deeper more expensive holes.

It was explained that Montana has a "take or pay" option with Canada, and that is why our dependence hasn't been reduced yet.

Rep. Dozier wanted to know how much of Montana Power's gas is exported out of the State. Mr. Madison replied that none of the gas on his charts was. They do serve a few Canadian towns, but with Canadian gas, and one company ships into Canada and then to Illinois; the company's name is Northern Natural.

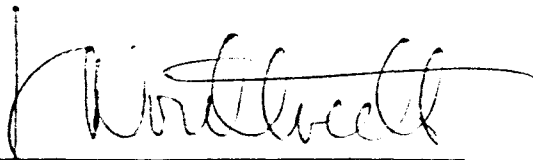
Rep. Underdal wanted to know if more gas could be produced in Montana and Mr. Madison replied that this could be done for a short time, but if it was used any faster, our reserve would be quickly used up. The "extra deliverability" in Montana is short-term.

Rep. Roush then closed. The bill only asks to delete the termination date of the act. He sees no problem with the existing language in the bill.

The Committee then went into EXECUTIVE SESSION.

Rep. Neuman presented some amendments for HOUSE BILL 550; see Exhibit "D." He moved that they be adopted; Rep. Asay seconded the motion. Motion carried, with Reps. Oberg and Dozier opposed. Rep. Devlin then moved that the bill DO PASS AS AMENDED; motion carried unanimously.

The meeting was adjourned.

A handwritten signature in cursive script, appearing to read "Nordtvedt", written over a horizontal line.

Rep. Ken Nordtvedt, Chairman

da

Amendment to HB 408

1. Page 1, line 16.

Following: "state"

Insert: "or any commission, authority, or agency of a political
or governmental subdivision,"

EXHIBIT 10
DORSEY, WINDHORST, HANNAFORD, WHITNEY & HALLADAY

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ROCHESTER, MINNESOTA 55901
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WILLIAM A. JOHNSTONE
(612) 340-2815

February 4, 1981

Mr. Bruce A. MacKenzie
Vice President and General Counsel
D. A. Davidson and Co., Inc.
P.O. Box 5015
Davidson Building
Great Falls, Montana 59403

Dear Mr. MacKenzie:

You have inquired as to certain amendments to Section 17-5-202, Montana Code Annotated, which is a part of the Bond Validating Act. We have reviewed the proposed amendments and it would appear that the amendments as drafted do not incorporate our suggestions concerning desirable amendments to this Section. Our concern was that the definitions of "public body" might not include certain agencies of a political subdivision such as a city parking commission or a city or county housing and redevelopment authority. Accordingly, we would recommend the insertion of the following language after the word "state" in the third line of paragraph (1) of Section 17-5-202: "or any commission, authority or agency of a political or governmental subdivision."

If you have any questions or comments, please do not hesitate to contact me.

Very truly yours,


William A. Johnstone

WAJ/mg



Because you want your money to do more.

January 12, 1981

Representative Chuck Cozzens
Montana House of Representatives
Helena, Montana 59601

Re: 1981 Bond Validating Act

Dear Representative Cozzens:

This letter is in response to City Manager Al Thelan's request that you be provided with a short legislative history and a background into the rationale of a bond validating act.

The following represents a legislative history of bond validating acts since 1935: Chapter 6, Laws 1937; Chapter 164, Laws 1939; Chapter 45, Laws 1941; Chapter 117, Laws 1943; Chapter 196, Laws 1945; Chapter 81, Laws 1947; Chapter 2, Laws 1949; Chapter 18, Laws 1951; Chapter 2, Laws 1953; Chapter 5, Laws 1955; Chapter 4, Laws 1957; Chapter 16, Laws 1959; Chapter 19, Laws 1961; Chapter 100, Laws 1963; Chapter 75, Laws 1965; Chapter 96, Laws 1967; Chapter 43, Laws 1969; Chapter 208, Laws 1971; Chapter 145, Laws 1973; Chapter 265, Laws 1975; Chapter 564, Laws 1977; Chapter 2, Laws 1979. As you can see, the Bond Validating Act has a long history within the state of Montana and the Bond Validating Act which you have introduced is similar to each of these laws. The law basically extends the Act each session so as to provide validation to bond issues which were authorized and issued subsequent to the previous legislative session.

The intent of the Validating Act is to cure any defect or minor error (other than constitutional defects or errors) that may have occurred during the authorization and issuance of all types of governmental bonds. The Act works as a statute of limitations by barring any suit to declare the bonds invalid, except for constitutional defects, on the basis of an alleged defect in the authorization and issuance proceedings. The rationale for the Act is that the holders of the bonds, as well as the issuers, are entitled to some assurance that a bond issue will not be declared invalid for a minor defect in proceedings at some point in time long after the bonds have actually been issued. For an example of a typical defect cured, see the case of Nordquist vs. Ford, 112 Montana Reports 278, 282 Pacific 2nd 1071, in which the Mon-

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& Co.**

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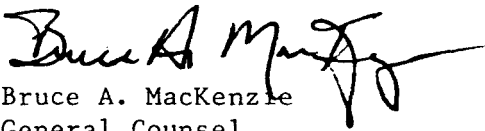
Representative Cozzens
January 12, 1981

tana Supreme Court ruled that the fact a title of an act authorizing a bond issue had exceeded a 100-word maximum was a procedural defect insufficient to invalidate the bond issue and was cured by the Bond Validating Act.

If you have any questions or if this office can be of any further assistance, please do not hesitate to contact us.

With best regards.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce A. MacKenzie", with a long, sweeping horizontal line extending to the right.

Bruce A. MacKenzie
General Counsel

BAM:als

cc: Al Thelan

VISITORS' REGISTER

HOUSE Taxation

COMMITTEE

BILL 1354

Date 2/14/21

SPONSOR Jacobson

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

ROBERT T. MARLENEE
MAYOR

Taxation 2/12/81
EXHIBIT "C"
C. L. OLSON
CLERK

ALDERMEN
JON MEHL
HANS LARSEN
BRAD JOHNSON
GAL RUBY

CITY OF PLENTYWOOD

JERRY L. WIEDEBUSH
TREASURER

PHONE 765-1700

PLENTYWOOD, MONTANA 59254

In considering our budget for the last two years, we felt the oil impact would increase our street expense in our city as follows. We have approximately 26.82 miles of streets and alleys to maintain in 1980-1981. We will have an increase of 1.6 miles in 1981-1982 due to the oil impact at a cost of approximately 26,000.00 dollars. By 1981-1982 we felt our oiled streets would require around \$56,000.00 for maintenance and repair due to oil impact. Street equipment and repairs for this added maintenance would be about \$16,000.00.

Street repairs	\$56,000.00
New streets	26,000.00
Equipment	16,000.00
Total	<u>\$98,000.00</u>

Other Incorporated cities
Shinshon County
Medicine Lake
outland
westly

OFFICE OF THE

County Commissioners

SHERIDAN COUNTY

PLENTYWOOD, MONTANA
59254

12/16/80

Glenn -

In considering additional money necessary to maintain county roads as a result of oil impact, we would like you to consider the following. This ofcourse does not cover all of the impact, but with money sources already available , we feel that with this additional revenue we could provide adequate maintenance.

We have approximately 1400 miles of county road that we maintain. Of this 1400 miles we feel that we have about 500 miles that are severely impacted. We think that most of the impacted roads will need major shaping and additional base at about 450 yards of crushed gravel per mile. We think at todays prices we can put this in place for about \$5 per yard. With this in mind we should try to do about 125 miles per year on an ongoing basis as long as the impact is with us. We also have more bridge problems than we can cope with. We think that 2 additonal bridges beside the ones we would normally be replacing is a conservative estimate. The average bridge now costs about \$50,000. We think impacted roads would require an additional 6 passes with maintainers. We figure 6miles per maintainer day at \$200 per day. If the above is logical thinking the following costs would result.

450 yards x \$5 = \$2250 per mile x 125 miles	=	\$281,250.00
500 impacted miles x 500 maintainer days @200=		\$100,000.00
2 additional bridges @ \$50,000.00	=	<u>\$100,000.00</u>
Total	=	\$481,250.00

We think the above costs are conservative and ofcourse would move up with inflation.

Secondary roads not included
abridge Rd 15 M, another Rd 6 M s/ Sheridan County Commissioners *58 miles*

VISITORS' REGISTER

HOUSE

COMMITTEE

BILL 147 552

Date 2/12/81

SPONSOR Reuben

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

AMENDMENT TO HOUSE BILL 550

1. Page 1, line 5.
Following: "LAWS;"
Strike: "INCREASING THE EXEMPTION TO \$40,000;"
2. Page 2, line 11.
Following: "exceeding"
Strike: "5 acres"
Insert: "1 acre"
3. Page 2, line 15.
Following: "an"
Strike: "1"
Insert: "1/4"
4. Page 2, line 19.
Following: "\$20,000"
Strike: "\$40,000."
Insert: "\$20,000."
5. Page 5, line 14.
Following: "than"
Strike: "\$300"
Insert: "\$1,000"

STANDING COMMITTEE REPORT

February 14, 1981

MR. **SPEAKER**

TAXATION

We, your committee on

having had under consideration **HOUSE** Bill No. **408**

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXTEND AND AMEND THE
BOND VALIDATING ACT; AMENDING SECTIONS 17-5-202 AND 17-5-205,
MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That **HOUSE** Bill No. **408**,

introduced (white), be amended as follows:

1. Page 1, line 16.

Following: "state"

Insert: "or any commission, authority, or agency of a political or
governmental subdivision,"

2. Page 1, line 20.

Following: "governmental"

Strike: "board, commission, or"

Insert: "governmental"

AND AS AMENDED

DO PASS

STANDING COMMITTEE REPORT

March 7, 1921

MR. SPEAKER

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 543

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOCATE A PORTION OF THE OIL AND GAS SEVERANCE TAX PROCEEDS DIRECTLY TO PRODUCING COUNTIES FOR ROAD IMPROVEMENTS; AMENDING SECTION 15-36-112, MCA."

Respectfully report as follows: That HOUSE Bill No. 543, introduced (white), be amended as follows:

1. Page 1, line 24.

Following: "(b)"

Strike: "20%

Insert: "5%"

2. Page 3.

Following: line 3

Insert: "Section 2. Coordination. If Senate Bill No. 356 is passed and approved, section 1 (2) (b) of this act shall read:

(b) 5% of the amount collected from production within each county is allocated to the general fund of the respective county for use as prescribed in subsection (4);"

AND AS AMENDED

DO PASS

STANDING COMMITTEE REPORT

February 14, 1981

SPEAKER

MR.

TAXATION

We, your committee on

HOUSE

552

having had under consideration Bill No.

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR A 3-YEAR EXEMPTION FROM THE SEVERANCE TAX ON OIL AND GAS FOR NATURAL GAS PRODUCED FROM A WELL 5,000 FEET DEEP OR DEEPER; AMENDING SECTION 15-36-121, MCA; AND PROVIDING AN EFFECTIVE DATE."

HOUSE

552,

Respectfully report as follows: That
introduced (white), be amended as follows:

1. Title, line 4.

Following: "TO"

Strike: "PROVIDE"

Insert: "EXTEND"

Following: "FOR A"

Insert: "2-YEAR PERIOD THE"

2. Page 1, line 18.

Following: "19807"

Insert: "but before December 31, 1982,"

AND AS AMENDED

DO PASS