

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By DICK SIMPKINS, CHAIRMAN, on February 18, 1993,
at 9:07 a.m.

ROLL CALL

Members Present:

Rep. Dick Simpkins, Chairman (R)
Rep. Wilbur Spring, Vice Chairman (R)
Rep. Ervin Davis, Vice Chairman (D)
Rep. Beverly Barnhart (D)
Rep. Pat Galvin (D)
Rep. Bob Gervais (D)
Rep. Harriet Hayne (R)
Rep. Gary Mason (R)
Rep. Brad Molnar (R)
Rep. Bill Rehbein (R)
Rep. Sheila Rice (D)
Rep. Sam Rose (R)
Rep. Dore Schwinden (D)
Rep. Carolyn Squires (D)
Rep. Jay Stovall (R)
Rep. Norm Wallin (R)

Members Excused: None.

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Council
Dorothy Poulsen, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 634
Executive Action: HJR 9 (tabled); HB 517; HB 552 (tabled);
HB 553 (tabled); HB 586; HB 634 (tabled)

HEARING ON HB 634

Opening Statement by Sponsor:

REP. JIM ELLIOTT, House District 51, Trout Creek, introduced HB
634 which authorizes the governor to choose agencies for a two-

year pilot project to explore and implement new management styles and organizational structures. He said the legislature frequently discusses cutting mid-level management, but actions taken to date have not been effective. He mentioned other states had addressed this issue and explained he had based HB 634 on legislation in Iowa. He maintained the legislature should not try to micro-manage state agencies, partly because most legislators had little administrative experience. He noted, as a part-time legislature, members did not have the time or energy to study the issue thoroughly. He contended management decisions should be left to state administrators, partly because they had a better understanding of state agencies, and partly because changes from within agencies were more likely to be accepted than changes directed externally.

REP. ELLIOTT explained the bill asks the governor to choose two agencies, direct them to implement changes in management methods for a pilot period of two years, and document the changes and their effect. He said the bill also asks the governor to choose at least two agencies for a pilot project examining the efficacy of using different organizational structures. He stated there were a variety of approaches agencies could take in this effort, and they needed to be involved in the planning and implementation of the process. He said by involving the staff and management of state agencies, change may be achieved. He said Linda Hanson, administrator of the Iowa Department of Management, reported similar legislation had resulted in determining priorities among programs, merging programs, and seriously reconsidering their management systems.

Proponents' Testimony: None.

Opponents' Testimony: None.

Informational Testimony:

Dave Lewis, Office of Budget and Program Planning, reviewed the history of the state's efforts toward changing management and organization. He recounted in the 1970's the governor's office had a Government Operations Unit (GOU) whose function was to have an ongoing, reorganization process. He reported GOU became involved in some controversial issues, and it was abolished in 1979. He said the Budget Office was moved from the Department of Administration to the Governor's Office and given responsibility statutorily for oversight of administration. He said until the mid-1980's, the Budget Office included staff whose function was program planning; as staff and budgets were reduced, that function was abolished. Mr. Lewis reported Governor Racicot has clearly indicated his desire to have management styles and organizational structures reviewed over the next four years using available resources. He emphasized resources were limited, and there were no in-house management consultants.

Questions From Committee Members and Responses:

REP. DAVIS asked REP. ELLIOTT whether state government could be enlarged as the result of these efforts. REP. ELLIOTT responded if growth was necessary for greater effectiveness, then increases in state government would be a possibility. He contended, however, that given the budget constraints, no administrator would seriously consider increases in staff.

REP. DAVIS asked REP. ELLIOTT to describe examples of new management methods. REP. ELLIOTT suggested team approaches to problem-solving or moving personnel to staff different functions.

REP. STOVALL asked REP. ELLIOTT whether the governor needed to be "authorized." REP. ELLIOTT agreed the governor did not need authorization to implement new management styles or organizational structures. He noted, however, the former governor did not have a reorganization process, and the state suffered as a consequence. He said he had confidence in Governor Racicot's managerial ability, and he suggested the bill would encourage the process.

REP. ROSE reported he had studied the consolidation of the livestock and agriculture departments and discovered reorganization was very difficult. He asked REP. ELLIOTT which departments should be involved in the pilot projects. REP. ELLIOTT said, if the decision were left to him, he would choose departments with very different functions. He said he would choose a department which provided services and in which productivity would be difficult to measure and a department with an easily quantified product, such as the department of revenue. He noted, however, he would leave the decision entirely to the governor.

REP. RICE suggested to REP. ELLIOTT that passing the bill actually demonstrated legislative support for efforts the governor could already undertake. REP. ELLIOTT agreed and reported he had spoken to administrators who had indicated the bill would be helpful in creating an impetus for change. He noted agency time and money would need to be diverted to this effort.

REP. SIMPKINS expressed his concern that language in the bill, specifically the use of "shall," was directing the governor's actions and violated the constitutional separation of powers. REP. ELLIOTT responded since the bill was drafted by Legislative Council, he did not think the language would violate the Constitution. He stated, however, he would not object to weakening the language by replacing "shall" with "may."

Closing by Sponsor:

REP. ELLIOTT explained he sponsored HB 634 because it was a concept which had not previously been brought to the legislature.

He insisted savings could be made in the administration of state government. He stated he wanted to create a venue to direct the governor to look at organizational restructuring without invoking drastic measures but rather by studying the possible changes which could be effected. He expressed his confidence in the governor and directors and staff of the state agencies. He asserted they would appreciate encouragement from the legislature for making changes, and the bill provides that encouragement.

EXECUTIVE ACTION ON HJR 9

Four items were distributed to committee members with regard to HJR 9: (1) REP. RUSSELL FAGG presented an article from the Great Fall Tribune, dated February 18, 1993, titled "National debt nothing to yawn about" (EXHIBIT 1); (2) REP. SPRING provided copies of a letter from the Montana Shooting Sports Association (EXHIBIT 2); (3) REP. WALLIN distributed copies of a FAX describing a similar resolution in Michigan (EXHIBIT 3); and (4) a letter from Phyllis Schlafly to Betty Babcock (EXHIBIT 4).

Motion: REP. GERVAIS MOVED HJR 9 DO NOT PASS.

Discussion:

REP. SPRING supported the motion.

REP. WALLIN reported he had heard about the amendment REP. MOLNAR planned to present and that various authorities had argued such an amendment would have no legal force. He supported the motion.

REP. MOLNAR argued the resolution was the legislature's one opportunity to have input on an important national issue. He stated not considering the resolution was unreasonable.

Motion: REP. MOLNAR MADE A SUBSTITUTE MOTION THAT HJR 9 DO PASS.

Motion: REP. MOLNAR moved to amend HJR 9. EXHIBIT 5

Discussion:

REP. MOLNAR explained the amendment predicated the validity of the request for a constitutional convention on a ruling by the U.S. Supreme Court that the convention may be limited to the specific and exclusive purpose of a balanced federal budget. He contended a ruling by the supreme court would have sufficient authority to ensure a limited constitutional convention. He predicted that if HJR 9 passed, a court challenge would occur which would be appealed to the supreme court; and thus, the supreme court would rule on the resolution prior to the convening of a constitutional convention.

REP. SIMPKINS asked Ms. Heffelfinger to define "court of competent jurisdiction." She explained "court of competent

jurisdiction" refers to the highest court which has made a ruling. She said the supreme court becomes the "court of competent jurisdiction" only if it hears the issue and rules on it.

REP. REHBEIN recalled two states had rescinded resolutions similar to HJR 9. He differentiated between the supreme court ruling a constitutional convention could be limited to one purpose and whether, in fact, it would be limited to one purpose.

REP. STOVALL asked REP. MOLNAR the reason other states had rescinded their resolutions. REP. MOLNAR responded probably political pressure. REP. STOVALL asked what procedure would be used in Montana to rescind the resolution. REP. SIMPKINS answered the legislature would reconsider their action and vote to rescind.

Ms. Heffelfinger clarified that as long as a court ruling is appealed, the ruling of a lower court is stayed. Thus, if a district court were to rule the constitutional convention could be limited to a single purpose, then that ruling would be valid only if there was no appeal. She said the amendment could be changed to specify the U.S. Supreme Court as the "court of competent jurisdiction," but the U.S. Supreme Court would have the discretion to hear or not hear the case.

REP. SIMPKINS suggested changing the "court of competent jurisdiction" to "the U.S. Supreme Court" in the proposed amendment. The committee concurred.

Vote: HJR 9 BE AMENDED. Motion failed 5 to 11 on a roll call vote with REPS. SIMPKINS, MOLNAR, RICE, SCHWINDEN, and STOVALL voting yes. EXHIBIT 6

Vote: HJR 9 DO PASS. Motion failed 1 to 15 on a roll call vote with REP. MOLNAR voting yes. EXHIBIT 7

Motion/Vote: REP. WALLIN MADE A SUBSTITUTE MOTION THAT HJR 9 BE TABLED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 586

Discussion:

Ms. Heffelfinger reported none of the bills presented in the last session for participants of Operation Desert Storm and Desert Shield passed.

REP. SIMPKINS reported the largest impact of the bill would be on local governments and public schools. He said the general fund impact would be \$7,506; the estimated impact on the local governments and public schools would be \$25,000.

REP. MASON suggested if the legislature wants to acknowledge the service of participants in Desert Storm/Desert Shield, then he considered contributions to retirement the most appropriate action.

REP. SIMPKINS asked Ms. Heffelfinger whether HB 586 was consistent with the intent of the Fifty-second Legislative Session. She recalled three bills related to Desert Storm participants in the last session: (1) to pay their retirement contribution; (2) to give them supplemental pay; and (3) to give them cash compensation. She said she did not recall any specific obligation made by the legislature.

REP. RICE asked whether reservists accrued time toward their military retirement while they served in Desert Storm. REP. SIMPKINS responded they should have. REP. RICE said, while she had great respect for reservists' efforts, passing HB 586 gives them contributions to two retirement systems for the same service. She expressed concern other reservists would be called to active duty in other situations and would seek the same benefit.

Motion: REP. GERVAIS MOVED HB 586 DO PASS.

Discussion:

REP. GERVAIS expressed his willingness to make a sacrifice on behalf of the veterans.

REP. ROSE asked whether all the participants were military reservists. Ms. Heffelfinger responded they were all reservists. She said individuals with specific skills were called up, but they were members of the inactive or active reserve or National Guard.

REP. REHBEIN asked what impact the bill would have on public schools. REP. RICE referred to the fiscal note which stated four members of the teachers' retirement system had been identified; and additional members may be identified if the proposed legislation is enacted.

REP. STOVALL asked whether the bill set a precedent. REP. SIMPKINS noted REP. RICE had expressed that concern. REP. RICE said her concern was that there would continue to be similar skirmishes throughout the world, and participants would ask for the same benefit.

REP. SQUIRES said she considered the number of people affected small and supported the bill. REP. DAVIS agreed.

REP. DAVIS suggested the bill presented a small price to pay for the service.

Vote: HB 586 DO PASS. Motion carried 11 to 5 on a roll call vote with REPS. SIMPKINS, SPRING, REHBEIN, RICE, and SCHWINDEN voting no and REPS. BARNHART and WALLIN voting by proxy.
EXHIBIT 8

EXECUTIVE ACTION ON HB 517

Motion: REP. SCHWINDEN MOVED HB 517 DO PASS.

Motion/Vote: REP. RICE moved HB 517 be amended to change the effective date from July 1 to June 25. Motion carried unanimously. EXHIBIT 9

Motion/Vote: REP. RICE moved HB 517 be amended to tighten language in terms of eligibility and to require employees who take early retirement and return to work for the same jurisdiction to refund the retirement benefit. Motion carried unanimously. EXHIBIT 10

Motion/Vote: REP. SCHWINDEN MOVED HB 517 DO PASS AS AMENDED. Motion carried 15 to 1 with REP. MOLNAR voting no.

EXECUTIVE ACTION ON HB 552

Discussion:

Ms. Heffelfinger explained the bill allows members of the teachers' retirement system to purchase service which would allow them to retire earlier. She explained the costs shown on the fiscal note were due to the actuarial cost of the early retirement benefit.

REP. SCHWINDEN stated he supported the retirement benefit, but this type of legislation would hamstring the retirement study committee.

Motion: REP. MASON MOVED HB 552 BE TABLED.

Discussion:

REP. GERVAIS suggested the committee did not understand the bill. He recalled David Senn, Teachers' Retirement System, had supported the legislation. REP. SCHWINDEN responded that while Mr. Senn supported the bill, the problem was that neither he nor other retirement system administrators had been asked for their highest priority in retirement system enhancements.

Vote: HB 552 BE TABLED. Motion carried 9 to 7 with REPS. GERVAIS, SQUIRES, DAVIS, SCHWINDEN, RICE, GALVIN, and BARNHART voting no and REPS. SQUIRES and BARNHART voting by proxy.

EXECUTIVE ACTION ON HB 553

Motion: REP. GERVAIS MOVED HB 553 DO PASS.

Discussion:

Ms. Heffelfinger reminded the committee HB 553 provided 25-year retirement for members of the public employees' retirement system (PERS).

REP. SPRING commented HB 553 was similar to HB 552 but worse.

REP. SIMPKINS stated the bill demonstrated the problems with the public retirement systems, namely, the inconsistencies between systems and the absence of cost-of-living adjustments. He said solutions to both problems were costly and expressed his hope the proposed statutory retirement committee would establish a long-range plan for implementing benefits. He noted 35 to 40 bills regarding public retirement systems are introduced each session; he suggested a long-range plan would allow the committee to make better decisions on legislation. REP. GALVIN agreed with REP. SIMPKINS' comments and stated the committee was "marking time" until a plan which equalized the systems was developed.

REP. SCHWINDEN recalled the committee had just passed HB 517 which provides an incentive for early retirement to members of PERS. He contended HB 517 was a better bill.

Motion/Vote: REP. ROSE MOVED HB 553 BE TABLED. Motion carried 12 to 4 with REPS. DAVIS, GERVAIS, SQUIRES, and GALVIN voting no.

EXECUTIVE ACTION ON HB 634

Motion: REP. GERVAIS MOVED HB 634 DO PASS.

Discussion:

REP. SPRING suggested the bill was unnecessary because the governor could act without it.

REP. REHBEIN said after listening to Mr. Lewis, he thought the governor should be given some time to reorganize.

Motion: REP. RICE moved to amend HB 634 by striking "shall" and inserting "may."

Discussion:

REP. SIMPKINS stated he considered the amendment a slap in the governor's face; he suggested the bill implied the governor would not carry out his campaign promises. REP. SCHWINDEN suggested a different interpretation. He said "may" was a polite way to ask the governor to act.

REP. RICE reported a conversation she had recently with Jon Noel, Director, Department of Commerce. She said they had discussed total quality management, and she had asked him how the legislature could be helpful. She said Mr. Noel reported speaking to Lt. Governor Rehberg who had said a bill from the legislature would be helpful. REP. RICE contended the message is more powerful when it comes from both the legislature and governor. She said the amendment removed the "shall's" because they were unnecessary. She asserted the importance of showing that the legislature was interested in the same issues, i.e., reinventing government, as the governor.

REP. MASON maintained the message sent from the legislature was not to the governor but to state employees. He suggested the message showed the legislature was uniting with the governor in his efforts. He said he did think the bill insulted the governor, and he hoped the governor would not consider it an insult.

REP. SIMPKINS suggested the bill conflicted with the separation of powers by placing in statute a directive to the governor. REP. RICE responded she thought striking "shall" and replacing it with "may" made the bill acceptable relative to the separation of powers.

Vote: HB 634 BE AMENDED. Motion carried unanimously.

Motion: REP. GERVAIS MOVED HB 634 DO PASS AS AMENDED.

Discussion:

REP. BARNHART asked whether the bill would be more acceptable if it authorized a pilot project rather than authorizing the governor. REP. DAVIS asked who would be authorized to act if the governor is removed. REP. BARNHART asked whether the budget office could be authorized. Ms. Heffelfinger responded any kind of governmental reorganization is implemented by the governor. REP. SCHWINDEN stated the governor is the chief executive and issues orders to the various agencies. He said authorizing the budget office would not be any different than authorizing the governor.

Vote: HB 634 DO PASS AS AMENDED. Motion failed 7 to 9 on a roll call vote with REPS. DAVIS, BARNHART, GALVIN, GERVAIS, RICE, SCHWINDEN, and SQUIRES voting yes. EXHIBIT 11

Discussion:

REP. SIMPKINS asked the committee whether members had any interest in changing the bill to a resolution urging the governor to conduct a pilot project. The committee agreed to drafting a resolution.

Motion/Vote: REP. SPRING MOVED HB 634 BE TABLED. Motion carried 9 to 7 with REPS. DAVIS, BARNHART, GALVIN, GERVAIS, RICE, SCHWINDEN, and SQUIRES voting no.

ADJOURNMENT

Adjournment: 11:13 a.m.


DICK SIMPKINS, Chair


DOROTHY POULSEN, Secretary

DS/DP

STATE ADMINISTRATION

COMMITTEE

ROLL CALL

DATE _____

2/18/93

[illegible]

HOUSE STANDING COMMITTEE REPORT

February 18, 1993

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that House Bill 517 (first reading copy -- white) do pass as amended .

Signed: Dick Simpkins
Dick Simpkins, Chair

And, that such amendments read:

1. Page 2, line 22.

Strike: "July 1"

Insert: "June 25"

2. Page 3, line 3.

Strike: "eligible"

Insert: "qualified"

3. Page 3, lines 4 through 9.

Strike: "whose" on line 4 through "section" on line 9.

Insert: "is entitled to a refund for that portion of previously purchased additional service that would otherwise cause the member to be unqualified to receive all or part of the additional service provided in this section"

4. Page 3, lines 13 and 14.

Strike: "policy" on line 13 through "employees" on line 14

Insert: "written notice of election on or before June 1, 1993, and complying with rules adopted pursuant to subsection (4)"

5. Page 3.

Following: line 19

Insert: "(5) A member who has received additional service under this section and who returns to employment for the same jurisdiction for 600 or more hours in a calendar year shall forfeit the additional service. The employer's contributions to purchase that member's additional service, minus any retirement benefits already paid, must be refunded to the employer. For purposes of this subsection, all agencies of the state, including the university system, are considered the same jurisdiction and other public employers contracting with the retirement system are each considered separate jurisdictions."

HOUSE STANDING COMMITTEE REPORT

February 18, 1993

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that House Bill 586 (first reading copy -- white) do pass .

Signed: *Dick Simpkins*
Dick Simpkins, Chair

MARKETPLACE

Questions or suggestions? Call business reporter James E. Larcombe, at 791-1463, or 1-800-438-6600.

National debt nothing to yawn about

Job security, taxes hinge on mind-boggling deficit

By SUSAN TOMPOR
The Detroit News

It's difficult to get excited about \$4.087 trillion.

Many of us know that's the size of the national debt. Most of us know the number gets bigger each year as the government runs short. Most of us know — by now, at least — that we're supposed to be scared as hell.

But it's still \$4,087,000,000,000. Thirteen figures in a world where most people are thrilled to talk about six.

It's so big that it means absolutely nothing. But it means a great deal to our pocketbooks.

Mortgage rates. Property taxes. Job security. You name it. All are what they are today in large part because the federal government consistently spends more than it takes in — and is spending at a faster rate than the economy is growing.

Consider a concept economists call "crowding out."

Any economy can only sum up so much in savings. Only so much for an endless list of wants and needs — better roads, fancier schools, bigger factories.

But the government steps in and spends more than it generates in taxes and other revenues. It creates an annual deficit. The deficit is added onto the debt — a sticky build-up of several generations of deficits.

Last year, the government paid \$199 billion in interest payments on the federal debt. That was about 14 percent of the total U.S. budget. The result: the deficit "crowds out" money that could be used in other areas.

"It's a drag on economic growth," said Audrey Freedman, a New York-based management consultant and economist. Here's a snapshot of the deficit's impact on the economy.

As the deficit grows, the government's ability to pay for its obligations is squeezed. The deficit is a drag on economic growth, said Audrey Freedman, a New York-based management consultant and economist. Here's a snapshot of the deficit's impact on the economy.

cantly as part of the economic slowdown, economists contend the rates could be even more attractive if it weren't for the demon deficit. David Sowerby, an economist for Comerica in Detroit, said rates could be as much as 1 to 2 percentage points lower.

Such rates remain high because the government is borrowing big time and competing for funds.

In recent weeks, long-term rates have started falling. Part of that is because interest rates in Germany are dropping. But another major influence has been the hope that President Clinton is committed to reducing the deficit.

Any hint that Clinton isn't serious could drive long-term rates up quickly.

Property taxes: One of the legacies of the 80s is a certainty of higher taxes in the '90s. That doesn't just mean higher taxes out of Washington. As the federal government cuts costs, it will toss more programs onto state and local government. Hence, the possibility of higher state taxes, property taxes, sales taxes.

Paycheck security: "A real consequence of deficits, to some extent, is our inability to generate jobs today," said Diane Swork, senior regional economist for First National of Chicago.

The debt holds down the economy's ability to grow quickly. The weak economy keeps employers holding down payrolls as much as they can.

Then, there's "crowding out."

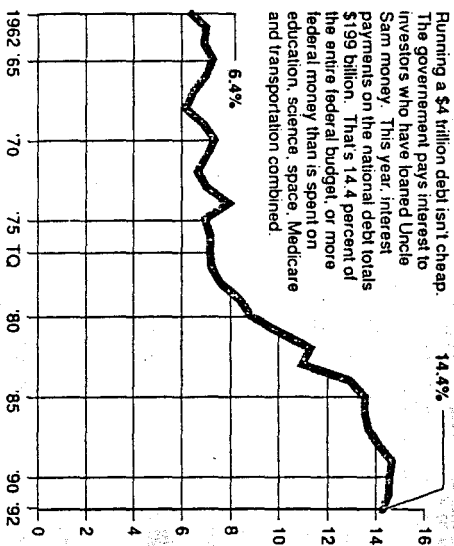
Because of the deficit, "there are a lot less of our resources devoted to building up our industrial base," said Edward Gramlich, University of Michigan professor of economics and public policy.

Long term, many say, the benefits of running huge deficits fall far short of the costs.

Jobs, Taxes, Paychecks: Interest rates, which will add to the deficit, are expected to rise after the election. The deficit is a drag on economic growth, said Audrey Freedman, a New York-based management consultant and economist. Here's a snapshot of the deficit's impact on the economy.

Interest paid on the debt

Running a \$4 trillion debt isn't cheap. The government pays interest to investors who have loaned Uncle Sam money. This year, interest payments on the national debt total \$199 billion. That's 14.4 percent of the entire federal budget, or more federal money than is spent on education, science, space, Medicare and transportation combined.

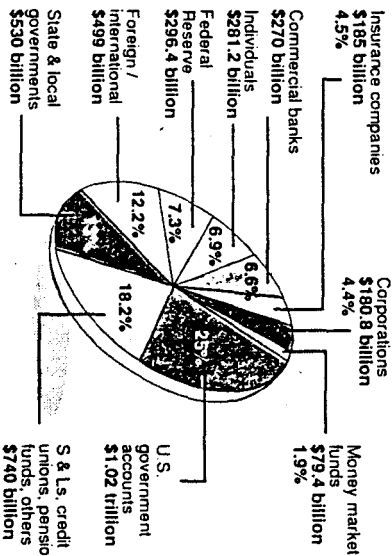


Source: Budget Baselines, Historical Data and Alternatives for the Future, January 1993

The Detroit News

Who does Uncle Sam owe?

The U.S. Government owes more than half of its debt to financial institutions. Foreign investors hold 12.2 percent of the debt, down from 13.8 in 1988.



Politics of cutting the deficit

By JAMES P. GANNON
The Detroit News

Of all the promises made by President Bill Clinton, the toughest to keep will be slashing the federal deficit — by as much as half — in four years.

No matter which way the president turns to raise taxes or cut government spending, he will collide with active and influential interest groups determined to shelter their members from paying the price for cutting the deficit.

Public opinion polls suggest that most Americans want Clinton to attack the deficit. But they also want the attack to hit somebody else.

President Clinton, who promised in his campaign to halve the deficit during his first term, no longer speaks of such an ambitious goal. The deficit is much larger than he thought last year, Clinton says.

The president faces this dilemma: To be credible, his program must propose stern measures, including tax increases and real spending cuts, that promise to deeply cut the deficit. But to pass Congress, the program must not include taxes that could raise the most revenue, nor the kind of cuts that promise big savings from popular programs.

Clinton's Democrats control both houses of Congress, which theoretically gives him a better chance than presidents Reagan or Bush had in reaching a deficit-cutting deal. Unfortunately, few truly expect the Democrats to become deficit-slashers.

But with both branches of government in their hands, the Democrats bear full responsibility for whatever happens. "We are put in a position where the line is drawn," said House Speaker Thomas Luken.

DATE 2/18/93
HB HJR 9



Montana Shooting Sports Association

P.O. Box 4924 • Missoula, Montana 59806 • (406 549-1252)

Supporting the Rights of Gun Owners in Montana

*Marshall - "FYI", this was
forwarded to most members of the State
Admin. Committee this morning.*

Officers

Gary S. Marbut
President
Roger Koopman
Vice President
James M. McDonald
Secretary
Ronald E. Preston
Treasurer

Directors

Paul Beckstrom
Columbia Falls
Robert L. Davies
Bozeman
Jerome C. Glimm
Conrad
Roger Koopman
Bozeman
Gary S. Marbut
Missoula
James M. McDonald
Missoula
John M. Mercer
Sidney
Ronald E. Preston
Missoula
Judy Woolley
Plains

February 16, 1993

Rep. Wilbur Spring
Montana State House
Capitol Station, Helena, MT

Dear Wilbur:

This afternoon, I had an extended discussion with distinguished University of Montana law professor Rob Natelson, concerning the potential risks of HJR 9. Natelson's conclusions were very much the same as those I had expressed before your committee last Thursday, when I testified in behalf of 7 prominent pro-gun groups. Prof. Natelson stated that, in his opinion, it would be virtually impossible to restrict a constitutional convention to one stated issue, regardless of the wording of the "call" resolutions.

Perhaps even more pertinent to your current deliberations, Natelson also believes strongly that a proviso (in the form of an amendment) making the Montana call contingent upon a Supreme Court ruling "limiting" the convention "would be of no lasting effect, given that it is doubtful the Supreme Court could bind anything on a constitutional convention, once called."

For these reasons, the MSSA and the other organizations for which I speak, continue to go a record strongly opposed to the passage of HJR 9 in any form, amended or otherwise. Please don't let the con-con genie out of the bottle -- vote against HJR 9.

Thank you for your consideration and, we hope, your valuable support in defeating HJR 9.

Sincerely,

Roger Koopman
Director, MSSA

EXHIBIT 2
DATE 2/18/93
HB HJR 9

Post-It™ brand fax transmittal memo 7671		# of pages <u>1</u>
To <u>Marshall Peters</u>	From <u>Roger Koopman</u>	
Co.	Co.	
Dept.	Phone #	
Fax # <u>406-357-5629</u>	Fax # <u>406-586-1233</u>	

NOTE ON THE AMENDMENT TO HJR 9

REPRESENTATIVE RUSSELL FAGG'S PROPOSED HJR 9 AMENDMENT INVOLVING THE SUPREME COURT HAS BEEN OFFERED AND REJECTED IN A NUMBER OF STATES. SEE ATTACHED SJR "G" LINE 16-20, WHICH WAS REJECTED BY THE MICHIGAN SENATE FLOOR LAST TUESDAY, FEB. 9TH, 1993. (SEE MICHIGAN REPRESENTATIVE DICK ALLEN'S ATTACHED MEMO FOR DETAILS.)

"AUTOMATIC RESCISSIONS" BASED ON FUTURE CONTINGENCIES HAVE NO FORCE AND EFFECT AND ARE TERMED "SURPLUSAGE". (SEE ATTACHED QUOTATION BY PROFESSOR WALTER DELLINGER'S TESTIMONY BEFORE CONGRESS.)

PLEASE FOLLOW MICHIGAN'S ACTION OF LAST WEEK AND DENY YOUR SUPPORT TO THIS UNENFORCEABLE RESOLUTION.

EXHIBIT 3
DATE 2/18/93
HB HJR 9

Jan: 29 1993 14:29 03:22 PM
2687 SENATOR DINELLO

TEL 517-373-3126

P 0 3

THE SENATE



STATE OF MICHIGAN

GILBERT J. DINELLO
STATE SENATOR
24TH DISTRICT
P.O. BOX 9900
LANSING, MICHIGAN 48209-7900
(517) 373-3126
FAX (517) 373-3129
SENATE DISTRICT OFFICE
(517) 268-1177

COMMITTEES

CHAIRMAN
STATE AFFAIRS AND MILITARY/VETERAN AFFAIRS
HOUSE COMMITTEE TO STUDY MICHIGAN MODEL
VICE CHAIRMAN
COMMERCE COMMITTEE
MENTAL HEALTH, HUMAN RESOURCES, AND
SCHOOL CHILDREN
MINORITIES
LOCAL GOVERNMENT AND URBAN DEVELOPMENT
SELECT COMMITTEE ON RESIST AND TERROR
SELECT COMMITTEE ON BUDGETING AND REVENUE

Senator Gil DiNello
Capitol Office Lansing, Michigan

FACSIMILE TRANSMISSION COVER LETTER

Originator: Kathy Date: 1-29-93

To: Marshall Peters

Office: _____

Address: _____

FAX Number: 410-357-5629

This FAX contains 3 pages including this cover sheet. Please call us at (517) 373-7916 if you do not receive all of the pages, or if you have a question. Our FAX number at Senator DiNello's Lansing office is: (517) 373-3126. Thank you.

Additional Notes or Comments: See pg. 2 for
Supreme Court Amendment



EXHIBIT 3
DATE 2/8/93
B HJR 9

01.29.93 01:27 PM P 0

Jan: 29 1993 03:22 PM
2687 SENATOR DINELLO

TEL 517-373-3126

P 0 4
F

EXHIBIT 3DATE 2/18/93B HJR 9

Constitutional amendments; federal; balanced budget; require.

CONSTITUTIONAL AMENDMENTS: Federal; APPROPRIATIONS: Other

SJR "G"

A joint resolution to petition the congress of the United States to call a convention for the sole, specific, and exclusive purpose of proposing an amendment to the constitution of the United States, for submission to the states, to require, with certain exceptions, that the total of all federal appropriations not exceed the total of all estimated federal revenues in any fiscal year.

1 Resolved by the Senate and House of Representatives of the
2 state of Michigan, That pursuant to article V of the constitution
3 of the United States, the legislature of the state of Michigan
4 petitions the congress of the United States of America, at its
5 session, to call a convention for the purpose of proposing an
6 amendment to the constitution of the United States, requiring, in
7 the absence of a national emergency, that the total of all
8 federal appropriations made by the congress for any fiscal year

00860'93 *

TJS

JUN 29 1993 01:27 PM P02

2

1 not exceed the total of all estimated federal revenues for that
2 fiscal year. This amendment shall include all of the following:

3 (a) Require that, with certain exceptions, each fiscal year
4 the president of the United States shall submit and the congress
5 of the United States shall adopt a balanced federal budget.

6 (b) Restrict federal debt, tax increases and the growth of
7 total federal government revenue and spending.

8 (c) Prohibit the federal government from taking any action
9 that will have the effect of requiring any state or local govern-
10 ment to incur any net cost increase, unless the federal govern-
11 ment pays for the entire net cost increase.

12 This resolution shall be deemed null and void, rescinded,
13 and of no effect if a convention called pursuant to this resolu-
14 tion is not limited to the sole, specific, and exclusive purpose
15 set forth in this resolution.

16 This resolution for a limited constitutional convention
17 shall be automatically rescinded if the supreme court of the
18 United States holds that the congress of the United States cannot
19 call a constitutional convention limited solely and exclusively
20 to the subject requested by two-thirds of the several states.

21 Resolved further, That certified copies of this joint reso-
22 lution be transmitted by the secretary of state to the president
23 of the United States Senate, to the speaker of the United States
24 House of Representatives, and to each member of this state's del-
25 egation to the congress and that printed copies be sent to each
26 house of each state legislature in the United States.

00860'93 *

Final page.

TJS

01.29.93 01:27 PM P03

02 JUN 1993 14:02:08

P06

EXHIBIT 3
DATE 2/18/93
TB HJR 9

HOUSE OF REPRESENTATIVES
LANSING, MICHIGAN

DICK ALLEN
STATE CAPITOL
LANSING, MICHIGAN 48913
(517) 373 0478

APPROPRIATIONS
SUBCOMMITTEES
AGRICULTURE
COMPUTER OVERSIGHT
FEDERAL/STATE/LOCAL
GOVERNMENT
MENTAL HEALTH
NATURAL RESOURCES AND
ENVIRONMENT
STATE POLICE

February 11, 1993

MEMORANDUM

To: All Interested State Legislators

From: Representative Dick Allen
84th House District
Michigan House of Representatives

Re: Balanced Budget Amendment - Constitutional Convention

On February 3, 1993, the Michigan Senate State Affairs Committee passed Senate Joint Resolution (SJR) "G", petitioning Congress to call a constitutional convention for the limited purpose of drafting a U.S. constitutional amendment mandating a balanced federal budget.

After receiving documentation from the U.S. Senate Judiciary Committee that S-214, The Constitutional Convention Implementation Act of 1991, died in that committee in December and had not be enacted, as Michigan State Senators had been told by lobbyists, enough support was withdrawn, on the Senate floor, from SJR "G" that the sponsor withdrew it and is expected to offer a substitute resolution without a constitutional convention provision.

If you would care to verify that neither S-214 nor any other bill prohibiting an unlimited constitutional convention has been enacted, Congressional Legislative Services, at telephone number (202) 224-1772, will provide this information as well as a copy of S-214.

DA:cls

PROFESSOR DELLINGER'S
WRITTEN TESTIMONY DOCUMENTS THAT
CATO INSTITUTE
HAS PUBLISHED
THAT PROVISIONS TO CANCEL CON CON
CALLS IF THE CONVENTION DOES NOT LIMIT
ITSELF TO A BALANCED BUDGET AMENDMENT
"IS MERE OPINION, NOT A PART OF ITS CALL,
AND IT MUST BE DISREGARDED".
" LEGISLATIVE OPINION WITHOUT BINDING
FORCE".

"MERE SURPLUSAGE"
PRESUMABLY THIS WOULD INCLUDE 60 DAY
RESCIND CLAUSES WHICH HAVE EXISTED
SINCE 1977 IN CON CON CALLS.

this assurance to chance, the Delaware legislature included in the actual text of its resolution its understanding that:

if two-thirds of the states make application for a convention to propose an identical amendment to the Constitution for ratification with a limitation that such amendment be the only matter before it, that such ----- convention would have power only to propose the specified amendment and would be limited to such proposal and would not have power to propose other amendments on the same or different propositions.

How could anyone possibly "count" Delaware as applying for a convention that will have (even under the pending Senate legislation) the power to propose any amendment pertaining in some way to the budget or fiscal matters, and that would have the authority to propose amendments on abortion funding and guidelines for federal fund recipients? An incredible answer was given by a recent Cato Institutes publication. It says of the Delaware provision:

This statement by the legislature is mere opinion, not a part of its call, and it must be disregarded since the nature of any Convention is such as to require deliberation and drafting. It is a statement which is surplusage, not a condition invalidating the call by Delaware." (emphasis added)

The similar but less explicit language of other states, the author goes on, "must be regarded" as "legislative opinion without binding force." Noonan, "The Balanced Budget-- The States Call for a Convention" in Wagner, Tollison, Rabushka and Noonan, Balanced Budgets, Fiscal Responsibility and the Constitution, 1982, page 103. In other words, Congress is to call, in the name of the States, a constitutional convention of a kind that the states clearly oppose. Those who speak so warmly of the states' role would have Congress flatly ignore the state

PHYLLIS SCHLAFLY
ATTORNEY AT LAW
68 FAIRMOUNT
ALTON, ILLINOIS 62002

EXHIBIT 4
DATE 2/18/93
HB HJR 9

TELEPHONE
010 / 402-5415

February 15, 1993

Dear Betty,

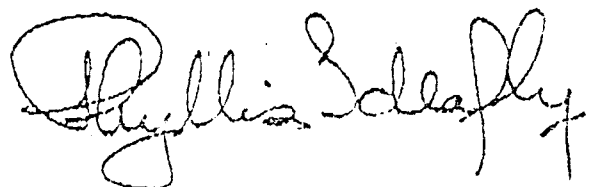
I am happy to respond to your inquiry about the effectiveness of a proposed amendment to the Resolution calling for a Constitutional Convention now being considered by your Legislature's State Administration Committee. I understand that this amendment would attempt to stipulate that the call for a Constitutional Convention would be effective only if the U.S. Supreme Court rules ahead of time that a Constitutional Convention will be limited to one issue.

It is laughable to think that the Montana State Legislature can tell the U.S. Supreme Court what to do or when to do it. The Supreme Court will make its own decisions whenever it wants to. The notion that your Legislature can insist that the Supreme Court make some binding rule *before* a Convention takes place is an excursion into fantasyland.

Let me remind you that two constitutional issues of tremendous importance were involved in the shenanigans that surrounded the ratification of the Equal Rights Amendment. The court case was supposedly put on a fast track to get a speedy decision from the U.S. Supreme Court. But the Supreme Court did a cop out — it decided to leave the decision to the political process, and it refused to render any decision until it was too late to matter.

I would never presume to predict what the Supreme Court would do about any case, and it is the height of presumption for the advocates of a Constitutional Convention to try to assure you that the Supreme Court will respect Montana's resolution. Their alleged "safeguard" is just smoke and mirrors.

Sincerely,



Amendments to House Joint Resolution No. 9
First Reading Copy

Requested by Representative Fagg
For the Committee on Judiciary

Prepared by Greg Petesch
February 16, 1993

1. Page 2, line 8.

Following: "amendments"

Insert: "; and

WHEREAS, the application for a constitutional convention contained in this Joint Resolution is limited to calling a constitutional convention for the exclusive purpose of proposing an amendment to the Constitution of the United States requiring, with certain exceptions, a balanced federal budget"

2. Page 3, line 14.

Following: line 13

Insert: "(3) That this application and request be valid if it is judicially determined by a court of competent jurisdiction that a constitutional convention may be limited to the specific and exclusive purpose contained in this Joint Resolution."

Following: "application"

Strike: "constitutes"

Insert: "constitute"

Renumber: subsequent subsection

EXHIBIT 5
DATE 2/18/93
HB HJR 9

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION

COMMITTEE

ROLL CALL VOTE

DATE 2/18/93 BILL NO. HJR 9 NUMBER _____

MOTION: To amend HJR 9

NAME	AYE	NO
REP. DICK SIMPKINS, CHAIR	✓	
REP. WILBUR SPRING, VICE CHAIR		✓
REP. ERVIN DAVIS, VICE CHAIR		✓
REP. BEVERLY BARNHART		✓
REP. PAT GALVIN		✓
REP. BOB GERVAIS		✓
REP. HARRIET HAYNE		✓
REP. GARY MASON		✓
REP. BRAD MOLNAR	✓	
REP. BILL REHBEIN		✓
REP. SHEILA RICE	✓	
REP. SAM ROSE		✓
REP. DORE SCHWINDEN	✓	
REP. CAROLYN SQUIRES		✓
REP. JAY STOVALL	✓	
REP. NORM WALLIN		✓
TOTAL	5	11

EXHIBIT 6
DATE 2/18/93
HB HJR 9

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION

COMMITTEE

ROLL CALL VOTE

DATE 2/18/93 BILL NO. HJR 9 NUMBER _____

MOTION: Do Pass HJR 9

NAME	AYE	NO
REP. DICK SIMPKINS, CHAIR		✓
REP. WILBUR SPRING, VICE CHAIR		✓
REP. ERVIN DAVIS, VICE CHAIR		✓
REP. BEVERLY BARNHART		✓
REP. PAT GALVIN		✓
REP. BOB GERVAIS		✓
REP. HARRIET HAYNE		✓
REP. GARY MASON		✓
REP. BRAD MOLNAR	✓	
REP. BILL REHBEIN		✓
REP. SHEILA RICE		✓
REP. SAM ROSE		✓
REP. DORE SCHWINDEN		✓
REP. CAROLYN SQUIRES		✓
REP. JAY STOVALL		✓
REP. NORM WALLIN		✓
TOTAL	1	15

EXHIBIT 7
DATE 2/18/93
HB HJR 9

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION

COMMITTEE

ROLL CALL VOTE

DATE 2/18/93 BILL NO. HB 586 NUMBER _____

MOTION: Do Pass HB 586

NAME	AYE	NO
REP. DICK SIMPKINS, CHAIR		✓
REP. WILBUR SPRING, VICE CHAIR		✓
REP. ERVIN DAVIS, VICE CHAIR	✓	
REP. BEVERLY BARNHART	✓	
REP. PAT GALVIN	✓	
REP. BOB GERVAIS	✓	
REP. HARRIET HAYNE	✓	
REP. GARY MASON	✓	
REP. BRAD MOLNAR	✓	
REP. BILL REHBEIN		✓
REP. SHEILA RICE		✓
REP. SAM ROSE	✓	
REP. DORE SCHWINDEN		✓
REP. CAROLYN SQUIRES	✓	
REP. JAY STOVALL	✓	
REP. NORM WALLIN	✓	
TOTAL	11	5

EXHIBIT 8
 DATE 2/18/93
 HB HB 586

Amendments to House Bill No. 517
First Reading Copy

Requested by Rep. Hal Harper
For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger
February 17, 1993

1. Page 2, line 22.
Strike: "July 1"
Insert: "June 25"

EXHIBIT 9
DATE 2/18/93
HB HB 517

Amendments to House Bill No. 517
First Reading Copy

Requested by Rep. Sheila Rice
For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger
February 16, 1993

1. Page 3, line 3.
Strike: "eligible"
Insert: "qualified"

2. Page 3, lines 4 through 9.
Strike: "whose" on line 4 through "section" on line 9
Insert: "is entitled to a refund for that portion of previously purchased additional service that would otherwise cause the member to be unqualified to receive all or part of the additional service provided in this section"

3. Page 3, lines 13 and 14.
Strike: "policy" on line 13 through "employees" on line 14
Insert: "written notice of election on or before June 1, 1993, and complying with rules adopted pursuant to subsection (4)"

4. Page 3.
Following: line 19
Insert: "(5) A member who has received additional service under this section and who returns to employment for the same jurisdiction for 600 or more hours in a calendar year shall forfeit the additional service. The employer's contributions to purchase that member's additional service, minus any retirement benefits already paid, must be refunded to the employer. For purposes of this subsection, all agencies of the state, including the university system, are considered the same jurisdiction and other public employers contracting with the retirement system are each considered separate jurisdictions."

EXHIBIT 10
DATE 2/18/93
HB HB 517

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION

COMMITTEE

ROLL CALL VOTE

DATE 2/18/93 BILL NO. HB 634 NUMBER _____

MOTION: Move HB 634 as amended.

NAME	AYE	NO
REP. DICK SIMPKINS, CHAIR		✓
REP. WILBUR SPRING, VICE CHAIR		✓
REP. ERVIN DAVIS, VICE CHAIR	✓	
REP. BEVERLY BARNHART	✓	
REP. PAT GALVIN	✓	
REP. BOB GERVAIS	✓	
REP. HARRIET HAYNE		✓
REP. GARY MASON		✓
REP. BRAD MOLNAR		✓
REP. BILL REHBEIN		✓
REP. SHEILA RICE	✓	
REP. SAM ROSE		✓
REP. DORE SCHWINDEN	✓	
REP. CAROLYN SQUIRES	✓	
REP. JAY STOVALL		✓
REP. NORM WALLIN		✓
TOTAL	7	9

EXHIBIT 11
DATE 2/18/93
HB HB 634

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

State Administration

COMMITTEE

BILL NO.

HB 634

DATE 2/18/93

SPONSOR(S)

Rep. Elliott

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.