



**First Session - Thirty-Seventh Legislature**

**of the**

**Legislative Assembly of Manitoba**

**Standing Committee**

**on**

**Law Amendments**

*Chairperson*

*Mr. Doug Martindale*

*Constituency of Burrows*



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**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Seventh Legislature**

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**LEGISLATIVE ASSEMBLY OF MANITOBA**  
**THE STANDING COMMITTEE ON LAW AMENDMENTS**

**Monday, July 17, 2000**

**TIME -- 10 a.m.**

**LOCATION -- Winnipeg, Manitoba**

**CHAIRPERSON -- Mr. Doug Martindale  
(Burrows)**

**VICE-CHAIRPERSON -- Mr. Jim Rondeau  
(Assiniboia)**

**ATTENDANCE -11-- QUORUM - 6**

*Members of the Committee present:*

Hon. Mr. Lemieux, Hon. Mr. Selinger

Ms. Allan, Mrs. Dacquay, Messrs.  
Jennissen, Loewen, Maloway, Martindale,  
Penner (Steinbach), Rondeau, Stefanson.

**WITNESSES:**

Victor Vrsnik, Canadian Taxpayers  
Federation

**MATTERS UNDER DISCUSSION:**

Bill 41--The Balanced Budget, Debt  
Repayment and Taxpayer Protection  
Amendment and Consequential  
Amendments Act

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**Mr. Chairperson:** Good morning. Will the Standing Committee on Law Amendments please come to order. This morning, the Committee will be considering the following bill, Bill 41, The Balanced Budget, Debt Repayment and Taxpayer Protection Amendment and Consequential Amendments Act; Loi modifiant la Loi sur l'équilibre budgétaire, le remboursement de la dette et la protection des contribuables et modifications corrélatives.

We have two presenters who have registered to make public presentations on Bill 41. It is the custom to hear public presentations before consideration of the Bill. Is it the will of the Committee to hear public presentations on Bill 41 first? *[Agreed]*

There are two presenters registered to make a presentation this morning: Mr. Paul Nielson, private citizen; and Mr. Victor Vrsnik of the Canadian Taxpayers Federation. Is there anybody else in the audience who would like to register or has not registered and would like to make a presentation? Would you please register at the back of the room. Just a reminder that 20 copies of your presentation are required. If you require assistance with photocopying, please see the Clerk of this committee.

Before we proceed with the presentations, is it the will of the Committee to set time limits on presentations?

**An Honourable Member:** Yes.

**Mr. Chairperson:** Do we have an amount of time in mind? Please indicate you want to speak.

**Mr. Gerard Jennissen (Flin Flon):** Mr. Chair, I suggest 10 minutes for a presentation and 5 minutes for questions.

**Mr. Chairperson:** It has been suggested 10 minutes for a presentation and 5 minutes for questions.

**Mrs. Louise Dacquay (Seine River):** I would prefer not to put on time limits. There are only two presenters and we have only one bill before us this morning. I do not anticipate that they will be long, drawn-out presentations.

**Mr. Eric Stefanson (Kirkfield Park):** I concur with my colleague, Mr. Chairman. I know we do put time limits sometimes when we have a

number of presentations, but with two presenters and just the one bill I do not see a need to do that this morning.

**Mr. Jennissen:** I was a little hasty, Mr. Chair. I realize there are just two presenters. I am quite willing to let debate or presentation to go on as long as is needed.

**Mr. Chairperson:** It is agreed there will be no time limits this morning? *[Agreed]*

How does the Committee propose to deal with presenters who are not in attendance today but have their names called? Shall these names be dropped to the bottom of the list? Shall the names be dropped from the list after being called twice? *[Agreed]*

Did the Committee wish to indicate how late it is willing to sit this morning?

**Mr. Jim Rondeau (Assiniboia):** We will sit until noon.

**Mr. Chairperson:** Until 12. Is it agreed we sit till 12 noon? *[Agreed]*

I will now call on Mr. Nielson. Do you have written copies of your brief for distribution to committee members?

**An Honourable Member:** I do not think he is here.

**Mr. Chairperson:** Okay, we will proceed with the next presenter and come back to Mr. Nielson later. Mr. Vrsnik, do you have copies of your presentation? Yes. We will ask the Clerk to distribute them. Mr. Vrsnik, please proceed.

**Mr. Victor Vrsnik (Canadian Taxpayers Federation):** Mr. Chair, members of the Committee, thank you for the opportunity to present on Bill 41.

The Canadian Taxpayers Federation has long demonstrated an interest in taxpayer protection legislation stemming back to its inception in Manitoba five years ago. Prior to the '95 legislation, the CTF made taxpayer protection legislation its main priority. Draft legislation was prepared by the CTF and widely

circulated. The draft was introduced as a private member's bill before the '95 election. The CTF continued to press for passage of the bill by launching a wide media and advertising campaign that involved TV ads and billboards.

As an aside, it goes to show that citizen group advertising can have a positive outcome from an election now that both the Government and the Official Opposition endorse the principles of Manitoba's taxpayer protection law.

The previous government took up the CTF's challenge and ran their election campaign on a taxpayer protection plank. After their victory, the Bill was passed into law. Manitoba's balanced budget law has been widely described as the most effective and comprehensive law in the country, on account of stiff penalties to politicians and the wide scope of the law. Other provinces modelled their balanced budget laws on Manitoba.

Today, we are delighted that the new provincial government is equally committed to the three main tenets of the law: the requirement of annual balanced budgets, regular payments to retire the debt and taxpayer protection through the mechanism of a referendum.

The benefits of the legislation are evident. Not since '94, when the deficit was looming at \$196 million has Manitoba suffered from a deficit. On account of regular debt retirement payments, public debt costs have dropped from \$597 million to \$490 million today. That is \$116 million that otherwise would not have been available for tax relief and spending.

The per capita debt servicing costs were also \$110 higher than today. One can only imagine what would happen to the province's credit rating, ability to attract business investment and employment opportunities if deficits were as commonplace today as in the past.

Lastly, the taxpayer protection act has shielded Manitobans from unaffordable tax increases as other provinces compete to lower the burden of over-taxation. The overall direction of the legislation is encouraging: balanced budgets, debt repayment and taxpayer protection. While the CTF is supportive of many

of the amendments included in Bill 41, we have a few misgivings with the Bill as well.

First of all, we agree with the amendments that provide for the repayment of outstanding pension liabilities and limit the use of proceeds from the sale of Crown corporations to debt retirement only. Revenues from the sale of Crowns have the effects of insulating a government from having to maximize operating efficiencies.

In terms of retiring general purpose debt and the pension liability, the repayment schedule remains to be seen. The previous government outlined a debt retirement schedule in the '95 budget. My question is will the Allocation Committee provide a new schedule as well, and when?

In terms of definitions, I hate to quibble over terms here, but I am not clear on the change in language from deficit and surplus to negative balance and positive balance. In fact, the new terminology comes across as an oxymoron or doublespeak because a balance can never be positive or negative; it is, by definition, equal or in equilibrium, unless these are accepted terms by the general accountants.

The problem, though, is that it leaves one with the impression, in the event there is a deficit and it is called a negative balance, that at least it is balanced. But, in fact, it encompasses a contradiction. If balance, now, according to the amendments, is to be defined as the difference between revenues and expenditures, then a change to the name of the legislation would be required as well. "The Balanced Budget Act" would no longer imply "balance" in the true sense of the word, but calling it "The Positive Balanced Budget Act" borders on absurd. So why not just stick to the old terminology of deficits, surpluses and balanced budgets.

I would also like to make a few other recommendations to the Bill. Number one, to remove section 4(2) of the Act: Application to government change. The balanced budget law was supposed to be an ironclad legislative control to prevent future deficits, save for years affected by natural disasters, wars, or steep revenue dips. But, now, a chink in the balanced

budget law armour has been detected. The law allows for one fatal exemption. Section 4.2 states that after an election, the government is not required to balance the books when a deficit is incurred in a fiscal year of an election. This loophole absolves any government from ever having to balance the books in an election year.

\* (10:10)

This provision led to much confusion and anxiety this past year when Manitobans were told to brace themselves for an end-of-year deficit for '99-2000 of \$262 million to \$417 million. At the end of the day, the Government closed the books with a modest surplus, thereby avoiding the need to exercise section 4(2).

In any case, the obligation to balance the Budget falls squarely on the shoulders of the government in power, whether they are new or have been in power for a number of years. There is no statute of limitation on government responsibility for the Province's finances. The authors of Ontario's new balanced budget law did not find it necessary to include such a loophole. Manitoba should likewise erase section 4(2) from the act.

Second, to extend the scope of the taxpayer protection act. Currently, the Act shields taxpayers from rate hikes in personal income taxes, sales taxes, corporation taxes and payroll taxes. Included in this list should be education taxes, property taxes, gasoline tax and any new tax for that matter. The change would be consistent with Ontario's balanced budget laws. To protect taxpayers from endless property and education tax hikes, the Act should provide accountability in these areas as well by requiring a referendum before the tax increase is approved.

Section 10(1) should also include a provision to protect taxpayers from income tax increases through changes to the tax brackets. Now that the Province will calculate income taxes independently of the federal government, the decision to change the current tax brackets has already been made by the Finance Minister. A change to the brackets could require certain income earners to surrender a greater share of their income in personal income tax and others less, even though total tax revenues may be flat.

A tax increase must be measured at the point of an individual. If a tax reform package required some income earners to pay more income one year over another, then a tax hike was passed regardless of its impact on overall tax revenues. Section 10(1) must include a provision that protects taxpayers from changes to the tax brackets that would effect an income tax increase for any individual Manitoban.

The overall direction of the proposed amendments in Bill 41 is positive. We applaud the Government for embracing balanced budget legislation today, including those provisions that require balancing of the operating fund, penalties for non-compliance and referenda before any new tax increases. In particular, consideration should be given to repealing section 4(2) of the Act in order to weed out any loopholes or excuses for running a deficit and amending section 10(1) to broaden the scope of the taxpayer protection provisions. Thank you.

**Mr. Chairperson:** Thank you for your presentation. Do members of the Committee have questions to address to the presenter?

**Mr. Stefanson:** Thank you, Mr. Vrsnik, for your presentation. Your summary of the origins of this bill back in 1995 are certainly accurate. You are correct in outlining that the Canadian Taxpayers Federation, along with many individuals and organizations, but certainly the Taxpayers Federation, was very supportive and helpful in terms of providing research, suggestions and information. I am pleased to see you acknowledge what has been described, and you note that on page 2 of your brief, that our legislation is well regarded right across Canada and has been used as a model in other jurisdictions.

I just wanted to ask you about the one issue, section 4(2), because my recollection when we dealt with the bill back in 1995, I do not think there were concerns expressed at that particular point in time through representation. The ability to run a deficit is not only in the year of an election but it is if the government does change, as you are aware. So if the incumbent government is re-elected, the provision still applies that you have to run a surplus. It is if there is a change in government. I guess the

thinking at the time was that we do not know when elections are held during a fiscal year. It could be very late in the fiscal year, and how fair was it to an incoming government to be held responsible for decisions of a previous government, depending on the timing of that election?

I guess I would just like any further comments that you could add as to whether or not you are suggesting that section be completely repealed, or whether or not, at some point, consideration should be made to modifying it in some way to address that issue. Is that issue something that you think has an element of fairness or concern?

**Mr. Vrsnik:** Well, to take, for example, last year, the election was about six months before the passage of the Budget, well, roughly six months I believe, correct me if I am mistaken, but we had roughly 50 percent of the year to find about what was then considered 25 percent in savings, I believe, if indeed we had a \$400-million deficit. In other words, I think there was plenty of time to find savings before the books would be balanced.

In the event that there was an election a week before the end of the fiscal year, then I guess latitude should be given to the new government on that election year. But, in the last example, there was about half a year before the books were balanced, and we were given these extraordinary numbers of a \$400-million deficit. There was a lot of anxiety. That may have affected decisions of investors, whether they should come to Manitoba.

At the end of the day, the way the books were balanced was with a modest surplus, so there was no need to exercise that provision. But I do not think it had a positive impact on the political environment over those six months, nor would it have a positive impact on opportunities for business investment if investors were concerned that we were facing this looming deficit. In the end, there was not one. So it allowed for a situation where there was a projected deficit that never really occurred.

I think we would be better off if the government in power during an election simply took responsibility for the books. I say there is

no statute of limitations on responsibility for the finances. One government might inherit a \$5-billion debt or an \$8-billion debt. They are still responsible for that debt. They are not absolved of their responsibility to pay it back. By the same token, they are also responsible for any deficits that may have been incurred in a previous year.

**Mr. Stefanson:** You mentioned the Ontario legislation, and I am wondering whether you have had an opportunity to research any other legislation as to whether or not there are similar provisions in years of election in other jurisdictions.

**Mr. Vrsnik:** I am not familiar with any other legislation that provides this loophole, but I cannot say for certain that it does not exist in any other jurisdiction. Sorry.

**Mr. Rondeau:** Just wondering what your comments are on the idea of looking after the pension liability. Do you believe that is a responsible action?

**Mr. Vrsnik:** Yes, the pension liability exists. It is a liability, and those are costs that have to be covered by the provincial government. I agree that it should be counted with the general purpose debt. We should provide a schedule to repay that debt. I threw out a question. I do not know if I am entitled to an answer or not, but I would like to know whether we will see a debt repayment schedule from this Allocation Committee and when?

**Mr. Chairperson:** It may be addressed later. Any other questions? Thank you, Mr. Vrsnik. Is Mr. Nielson, here? Second call for Mr. Nielson. Last call for Mr. Nielson. His name is now dropped off the list.

Is there anyone else in the room who has registered to make a presentation? No. Then we will proceed with clause by clause.

Before we do, does the Minister responsible for Bill 41 have an opening statement?

**Hon. Greg Selinger (Minister of Finance):** No, I will make my comments as we go along with the clause-by-clause review.

**Mr. Chairperson:** Thank you. Does the critic from the Official Opposition have an opening statement?

**Mr. Stefanson:** Very briefly, Mr. Chairman, I am pleased to see, as outlined actually in the submission from the Canadian Taxpayers Federation, that the fundamentals of the legislation are being maintained by this government. I think the amendments that are being proposed here today are constructive ones.

With that, I just have some questions I will be asking in a couple of areas, but I think the amendments are enhancing what is already recognized as very sound and strong legislation across this country.

\* (10:20)

**Mr. Chairperson:** We thank the Member. During the consideration of a bill, the preamble, the table of contents and the title are postponed until all other clauses have been considered in their proper order.

If there is agreement from the Committee, the Chair will call clauses in blocks that conform to pages with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose. Is that agreed?  
[Agreed]

Shall Clauses 1 to 3 pass?

**Mr. John Loewen (Fort Whyte):** Just questioning, Mr. Chair, the appropriate time to ask about the definitions.

**Mr. Chairperson:** I think I will entertain a question right now, if you like.

**Mr. Loewen:** I would like to ask the Minister for some background information on why the change, as was outlined by the Canadian Taxpayers Federation, why the move to define the word "balance" as opposed to "surplus" and "deficit," as have been traditionally used by governments.

**Mr. Selinger:** I am taking it you have the Bill with the explanatory notes.

**Mr. Loewen:** I do.

**Mr. Selinger:** Okay. The second explanatory note there—*[interjection]* Oh, he does not have this. I will just give you the verbatim, and then I can elaborate if you want. Really, the Provincial Auditor was concerned about the use of the terminology of "surplus" and "deficit" on the narrower side of operating statements, as opposed to the overall summary statements for the government entity. So these changes allow the Auditor to be happy, in the sense that it does not describe a surplus or a deficit on the narrower statements but reserves those terms for the overall operating entity of the government.

On the narrower general operating fund of the government, it describes it as a positive or a negative balance. So that avoids the confusion that might have occurred in the public mind and the non-conforming with the generally accepted accounting principles. That is the rationale behind it.

The note says that, in other terms, because interfund transfers have been used in the past to determine a surplus or a deficit, the use of "surplus" or "deficit" in the Province's financial statements was not consistent with generally accepted accounting principles in the public sector, as reported by the Provincial Auditor. We have substituted "positive" or "negative" balance to describe the amount to which this legislation is applicable. So it allows us to address the Auditor's concerns without removing the accountability for what is happening on the operating statement of the government.

**Mr. Chairperson:** Clauses 1 to 3—pass; Clauses 4 and 5(1)—pass. Shall Clauses 5(2) to 6(1) pass?

**Mr. Stefanson:** Clause 6(1) refers to subsection 4(1), so I am taking it that this would be an appropriate time to ask about one of the issues raised by the presentation, and that is actually section 4(2) of the existing legislation: "Application to government change."

As I said, my recollection, when that clause was put in place back in 1995, it was to recognize that an election could be held at any time during the year and it would be somewhat unfair to hold an incoming new government

accountable in the last week or month or whatever period of time. I am wondering if the Minister has given any thought to this section, whether or not an amendment should be considered that would put potentially a timeline around that change, whether it happened halfway through a year or at some particular point in time.

I have to admit, until it was raised here this morning, when I went through the amendments, I did not think there was a need to change this section, necessarily, although I know there has been some discussion about it in light of the change in government. I am just wondering if it is an issue that the Minister did look at as part of this review and/or whether or not he has any views, one way or another, about potentially amending that to have a timeline tied to it.

**Mr. Selinger:** I did spend some time reflecting on it and discussing it with officials. As you know, in the third quarter operating statement, there was significant overspending that was confirmed this year, but there was also an offsetting revenue transfer, mostly from the federal government, that was not projected in the Budget.

So we were fortunate in being able to balance, but the possibility, for example, of having to reduce expenditures in areas that had just been ramped up before the election in health care might have been an undesirable outcome to balance the books, if there were tighter restrictions in the legislation.

You could hypothetically imagine other situations where a new government would want some choices as to what they were able to do. The matter of provisions, for example, when and how should they be dealt with? Issues that had maybe been outstanding and not dealt with coming into an election. If the government changes, there might be some provision issues that have to be dealt with under a new government. I think the original drafters of the legislation were probably wise in providing for that flexibility and then letting public debate ensue as to whether or not a deficit was properly, or appropriately, or necessarily incurred in that year.



So I think the original provision, I decided not to make any changes to it because I thought it was a prudent provision at the time and I still think it is a prudent provision. It is not really just the time; it is the magnitude of the overexpenditure or the deficit that counts as well.

Let us take, for example, this year. Six months. Let us assume that the deficit might have been \$300 million. You would have had to cut or reduce \$600-million worth of expenditures in the last six months to make up \$300 million for a year. That would be a fairly huge amount of money on a \$6-billion budget. So that could have been like a 10% reduction. I am not sure that we should trap any new government into that kind of a scenario after just coming into office. So I would think that this provision is reasonable. I think the original intent behind it was probably well considered and any changes would only be just tinkering. I think there is more than enough public protection there.

**Mr. Chairperson:** Clauses 5(2) to 6(1)—pass; Clauses 6(2) to 7(2)—pass; Clause 8(1)—pass; Clause 8(2)—pass.

**Mr. Stefanson:** Mr. Chairman, again, this is probably the appropriate area to ask about the whole issue of a debt retirement schedule. Is that something that the Minister sees the Debt Retirement Fund Allocation Committee providing or returning with?

**Mr. Selinger:** Yes. Even though that will change over time, as per the triannual evaluations that are done on pension liabilities. We have a proposed one to get the ball rolling that I would be happy to table today, just to give you an idea of what it might look like.

**Mr. Stefanson:** Mr. Chairman, again, the Debt Retirement Fund Allocation Committee, I know it will be chaired by the Deputy Minister of Finance, and then will consist of at least four other individuals appointed by Lieutenant-Governor-in-Council. It refers, in this section: to demonstrate financial expertise and competence, and so on. Does the Minister have any types of professions in mind at this time and/or even individuals in mind that he would be prepared to share with the committee?

**Mr. Selinger:** I do not have individuals. I will wait for my deputy to make suggestions. Obviously, we would want people who had expertise in the area of both debt retirement and managing general purpose debt, but also in the area of dealing with pensions, pension liabilities and management of pension funds. So we would look for a mix of expertise in those two areas. I am sure the former minister will recognize that some of that expertise would reside within the Government, particularly at the ADM level, at the treasury level.

So those types of individuals would be looked at, but we would be looking wider as well for people. For example, the Civil Service Superannuation Board and the Teachers' Retirement Fund board both have people from outside the Government entity, people with expertise in the private sector or with other funds. We would look widely to bring in people that have a positive contribution to make to this committee.

**Mr. Stefanson:** I note the duties of the Allocation Committee are touched on as basically dealing with the allocation between general purpose debt and pension liability, and it refers to their earnings from investments.

Can the Minister provide any further details around what all of the duties and responsibilities of this committee would be?

\* (10:30)

**Mr. Selinger:** Well, I think it is as explained in the legislation. Essentially, the Committee would give advice to the Government on how to get the most value out of the resources that have been allocated to the retirement of the overall liability of government.

Presumably, they would be looking at the experience of pension funds and the current interest rates that are in effect and making a prudent judgment and recommendation as to how we would get the most value from those resources in any given year and going forward, so that the scarce tax dollars we have in Manitoba would get the maximum benefit in terms of retiring all the liabilities of government.

**Mr. Stefanson:** I also note, Mr. Chairman, that there will be minimum payments, but there is continued flexibility provided in the legislation if the Government has the desire and wherewithal to enhance payments, that there is obviously nothing precluding that being done.

**Mr. Selinger:** No, that is correct.

**Mr. Stefanson:** My last question: The reference to the proceeds from the sale of Crown corporations, by not including them now as a form of revenue from the disposition of an asset, effectively if there were any proceeds from the sale of a Crown corporation, those proceeds end

up being applied to the debt of the Province of Manitoba. Is that correct?

**Mr. Selinger:** Yes.

**Mr. Chairperson:** Clause 8(2)–pass; Clauses 8(3) and 9(1)–pass; Clauses 9(2) to 12(3)–pass; Clauses 12(4) to 13(3)–pass; Clauses 13(4) to 14–pass; preamble–pass; title–pass. Bill be reported.

That concludes the business before the Committee. Committee rise.

**COMMITTEE ROSE AT:** 10:33 a.m.