

Senate leaders brokered tobacco decision

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By: [Janell Cole](#),

BISMARCK – A pending crisis cast a pall over the Legislature as it limped to a close Monday night: Would the session adjourn without appropriating money for a tobacco program voters had mandated? And would that send the issue to court?

In the end, a meeting between Senate Majority Leader Bob Stenehjem, R-Bismarck, and Measure 3 Chairwoman Heidi Heitkamp ended the weeklong stalemate and the threat of a court fight.

“The broker here was Bob,” Heitkamp said Tuesday. “I don’t know how you could say it any other way.”

Stenehjem asked Heitkamp and other Measure 3 supporters to a meeting in his office Monday evening. They agreed on bill language stating the tobacco control program wouldn’t be able to tap into the state Water Resources Trust Fund for its money – a possibility skeptical lawmakers said lurked in the measure.

In return, legislators would appropriate money for the tobacco program just as voters directed in November. Money had been in limbo since the House killed a bill April 9. The Senate approved it unanimously in February.

After Stenehjem and Heitkamp reached agreement, he made sure his Republican senators were on board to pass tobacco funding again.

“It’s the prudent thing to do. It is the law,” he told them in a caucus meeting. “This addresses our concerns.”

The Senate met, and for the second time in less than three months, passed the tobacco funding 46-0.

But Stenehjem expected the House to reject it and that the session would extend into Tuesday, its 80th day.

But the House accepted it.

House Majority Leader Al Carlson called Republican House members together about 10:30 p.m. after he met with Gov. John Hoeven, Attorney General Wayne Stenehjem and Bob Stenehjem.

Carlson asked them to support the new amendment and that worries about water funds being used for tobacco programs were taken care of.

Even so, he told them, "This isn't something that's easy to swallow after three weeks of trying to fix it. We fixed it a little bit."

Some House members still resisted.

"I'd like to see them (Measure 3 officials) come down here and see us face to face," demanded Rep. Jim Kasper, R-Fargo.

Rep. Jon Nelson, R-Rugby, said, "The Senate passed this amendment without any opposition, on a voice vote. From a practical standpoint, we can turn it down, but then, what's our next step?"

Though Carlson resisted passing the tobacco funding as dictated by Measure 3 and even said voters didn't know what they were voting on, he warned his caucus members that they risked political death to adjourn without funding a program voters had approved.

"I don't know how you're going to respond to the voters when they say, 'You didn't listen to us,' " he told them.

Hoeven said he warned Carlson of the same threat.

"The Legislature has to pass something to appropriate the funds to get the initiated measure into effect because that's what the people voted for," Hoeven said after the session adjourned.

Heitkamp, a former attorney general and one-time candidate for governor, credits Hoeven for stepping in.

"I think the governor's intervention finally got their attention that this was not good public policy and not particularly good politics (to not fund Measure 3)," she said of the man who had bested her in the 2000 governor's race.

But Carlson said Tuesday that wasn't the case, "not a bit." He said assurances from Wayne Stenehjem made the difference, not Hoeven's entreaties.

The attorney general, who is Bob Stenehjem's brother, assured Carlson the tobacco program couldn't use water funds if the House passed the Heitkamp-Bob Stenehjem amendment and that the tobacco program must abide by other accountability requirements.

Wayne Stenehjem said Tuesday that he warned Carlson "it would be hard to sell to a court if the Legislature did nothing."

The attorney general said he had been as pessimistic as anyone that time would run out to fund the tobacco measure.