MINUTES OF THE MEETING
TAXATION COMMITTEE
49TH LEGISLATURE
SPECIAL SESSION III
HOUSE OF REPRESENTATIVES

June 19, 1986

The second meeting of the taxation commitee was called to order by chairman Gerry Devlin in room 312-1 of the capitol at 2:30 p.m.

ROLL CALL: All members were present except Representative Williams, Representative Abrams, and Representative Harrington, who were excused.

CONSIDERATION OF SENATE BILL 3: Senator Himsl, Senate District 3, Kalispell, explained this bill, which was requested by the department of administration, and which removes the limitation on the amount of notes that the board of examiners may issue in anticipation of revenue. He presented the testimony in exhibit 1.

PROPONENTS: Representative Bardanouve, house district 16, advised the committee that he was the one who introduced the original legilation a number of years ago that set this up and it has been very successful. He explained that this has enabled entities to borrow money at quite reasonable terms and he feels that this bill will be helpful.

Marvin Eicholtz, management analyst for the director's office of the department of administration, testified that this is a fine technique that is allowed by the IRS and they allow them to borrow money before it is actually needed. He advised that this may be one of the last years that they will be able to keep the arbitrage and they do support this bill.

OPPONENTS: There were none.

QUESTIONS ON SENATE BILL 3: Represenative Devlin noted that there was a fiscal note that estimated a $458,334.00 increase.

Senator Himsl explained that the reason for that is that at the present rate the ceiling you have now with the amount of the revenue would be $1.1 million and if you remove that ceiling and went to the $70 million, then that would be $1.6 million - in other words, they would have made $458,000.

He further indicated that in the example he made, they did issue $46 million; and, if that ceiling had been removed, they could have issued $80 million and this would have resulted in a figure of $780,000.

Representative Sands asked if this limitation is removed, what will determine the amount of the issue.

Mr. Eicholtz replied that this is determined by the IRS, who project cash flow for the next year; if they are in a deficit situation, where their expenditures are more than revenue and the general fund will go below zero, then the IRS takes the deficit amount, i.e., $20 million, plus the next month's expenditures, i.e. $20 million, and the total would be $40 million.

Representative Sands questioned if they limit the actual number of tax revenue anticipation notes that may be issued, or do they put restrictions on those that are tax free.

Mr. Eicholtz answered that, if they issue TRANS, they will be tax free. He advised that they can issue notes at a taxable rate and they can issue notes at an exempt rate. He continued that they are making money on the difference between a tax exempt rate and a taxable rate.

Representative Sands asked if this law is repealed, then there would be no restrictions whatsoever on the amount of tax revenue anticipation notes that are issued.

Mr. Eicholtz responded that there is a federal restriction.

Representative Sands asked if it were not correct that the federal restriction is not on the issuance of tax revenue anticipation notes but only on whether these notes are tax free.

Mr. Eicholtz replied that is correct.

Representative Ellison noted that they passed a bill last year wherein they could issue these notes for school boards, cities, etc., He asked if they pay tax on that.

Mr. Eicholtz responded that those are handled by the economic development board and that they do.

Representative Sands questioned as to why the restriction was originally put in there and if it were entirely without a limitation in the future, what would prevent the state from getting into the arbitrage investment scheme.

Senator Himsl replied that they understand there is a question as to whether or not this arbitrage is going to be allowed. He explained that these loans can be issued for one year and when they issue them, they issue them for 11/12ths of a year; they are borrowing at 4 1/2% and putting money out for about 7% for the rest of the year, so they try to put it in for the whole year. He advised that the limit on that is based on the schedule they have set out that provides that whatever the deficit is one month is extended to the next month and that is the maximum that is allowed to issue these tax exempt TRANS. He said that the market place will determine what the interest will be and there is no spread in that.

Representative Bardanouve clarified why there were some restrictions put on, stating that the legislature wasn't sure how the program would work and they were concerned if there were an unlimited amount, that Montana might become involved in financial problems and he felt that the legislature never quite trusted the administration in that they might get carried away. He informed the committee that in some places, they have been abused.

Representative Sands asked if Senator Himsl would be opposed to an amendment that said that the new limit would be whatever qualified under the rules of the IRS.

Senator Himsl replied that he would have no objection, but he thought it would be redundant.

Representative Sands asked if it were possible that the state could issue these notes even if they didn't qualify, if the state got into some problems.

Senator Himsl answered that tax revenue anticipation notes are backed fully by the general obligations of the state and they may not be used to cover any deficits such as those we have now - that is in current law and it is pretty well protected.

There were no further questions.

Senator Himsl closed.

EXECUTIVE SESSION:

DISPOSITION OF SENATE BILL 3: Representative Ream moved that this bill BE CONCURRED IN. The motion passed unanimously.

ADJOURNMENT: There being no further business, the meeting adjourned at 2:52 p.m.

Gerry Devlin
GERRY DEVLIN, Chairman

Alice Omang
Alice Omang, Secretary

DAILY ROLL CALL

TAXATION COMMITTEE

49th LEGISLATIVE SESSION -- 1986
Second Special

Date June 19, 1986

NAME	PRESENT	ABSENT	EXCUSED
DEVLIN, Gerry, Chairman	✓		
WILLIAMS, Mel, Vice-Chairman		✓	
ABRAMS, Hugh		✓	
ASAY, Tom	✓		
COHEN, Ben	✓		
ELLISON, Orval	✓		
GILBERT, Bob	✓		
HANSON, Marian	✓		
HARRINGTON, Dan			✓
HARP, John			
IVERSON, Dennis	✓		
KEENAN, Nancy	✓		
KOEHNKE, Francis	✓		
PATTERSON, John	✓		
RANEY, Bob	✓		
REAM, Bob	✓		
SANDS, Jack	✓		
SCHYE, Ted	✓		
SWITZER, Dean	✓		
ZABROCKI, Carl	✓		

STANDING COMMITTEE REPORT

June 19, 1986

Mr. Speaker: We, the committee on TAXATION

report SENATE BILL 3

- [ ] do pass
- [ ] do not pass
- [x] be concurred in
- [ ] ~~be not concurred in~~
- [ ] as amended
- [ ] statement of intent attached

GERRY DEVLIN, Chairman

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EXHIBIT 1
SB-3
June 19, 1986
Sen. Himsl

Senate Bill # 3 Himsl

Senate Bill # 3 is a proposal to remove the limitation on the amount of Tax Revenue Anticipation Notes (TRANS) that the Board of Examiners may issue at any time.

The 1979 legislature authorized the borrowing on these notes primarily to use the state's good credit and to invest the borrowed money for a short term interest difference, thereby covering any cash shortage and producing income to the general fund.

Subsequently, the legislature put a limit on the amount providing
(17-1-202) that no more than $50 million notes could be outstanding at any time.

The Internal Revenue Service has come to recognize that these tax-free anticipation revenue notes serve a convenience for government entities to cover cash deficits pending the collection of taxes, but they now limit the amount that can be issued, to a maximum of one month's projected general fund deficit PLUS the next month's projected general fund expenditure---so the IRS actually sets the limit---along with the judgment of the Board of Examiners.

This fiscal year the state money managers issued $46 million in TRANS, without the state's arbitrary ceiling they could have issued $80 million and with a short term investment spread of 2½%, could have generated about an additional $780,000. The department figures each $1 million would generate $22,917 for the general fund.

These tax-free short term notes back by the taxing power of the state have a ready acceptance in the money market and serves the state in covering cash deficits and also allows the state to generate some general fund income by way of the interest spread.

This may be the last year that the IRS will allow arbitrage---the practice of the state making and keeping the money made on the interest spread.

This bill is at the request of the Department of Administration and I urge your vote and support for Senate Bill # 3.

(1)