MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Bob Brown, Chairman, on March 9, 1989, at 8:00 a.m.

ROLL CALL

Members Present: Senator Brown, Senator Hager, Senator Norman, Senator Eck, Senator Halligan, Senator Bishop, Senator Walker, Senator Harp, Senator Gage, Senator Severson, Senator Mazurek, Senator Crippen

Members Excused: None

Members Absent: None

Staff Present: Jill Rohyans, Committee Secretary
Jeff Martin, Legislative Council

Announcements/Discussion: None

HEARING ON SENATE BILL 458

Presentation and Opening Statement by Sponsor:

Senator Eck, District 40, sponsor, said this is a bank tax bill. At present, local governments receive 80% of the bank tax proceeds back to their local area. This bill would eliminate that 80% return and instead allocate 10% of the entire corporation tax back to the local governments on a revenue sharing basis. Proceeds have been down in the bank tax area due to decreased profits and the returns to the local governments based on their local financial institutions contributions have been fluctuating over the last four years. By distributing the proceeds on a statewide basis the instability and volatility can virtually be eliminated and a stable funding base once again can be established.

List of Testifying Proponents and What Group they Represent:

John Cadby, Montana Bankers Association
Linda Stoll-Anderson, Lewis and Clark County Commissioner and Montana County Commissioners
Chuck Stearns, City of Missoula

Alec Hanson, Montana League of Cities and Towns
Shelly Laine, City of Helena
Mary Vant Hull, City Commissioner, Bozeman (This testimony appears following the presentation of SB 455 and SB 456. Ms. Hull was late for the hearing due to an automobile accident and the Chairman allowed her to present her testimony later in the hearing. See Exhibits #8 and #9).

List of Testifying Opponents and What Group They Represent:

None

Testimony:

John Cadby, Montana Bankers Association, presented his testimony in support of the bill (Exhibit #1).

Linda Stoll-Anderson, Lewis and Clark County Commissioner and Montana County Commissioners, expressed support for the bill.

Chuck Stearns, City of Missoula, presented his testimony in support of the bill (Exhibit #2).

Alec Hanson, Montana League of Cities and Towns, said this bill will end ten years of confusion that has existed regarding the bank shares tax. He said the refund situation is very difficult for small towns whose budgets are very delicately balanced. This method of return will return some stability and dependability to the system and local governments will be able to more accurately predict their refund for their budgeting process.

Shelly Laine, Director of Administrative Services, City of Helena, expressed support for the bill.

Questions From Committee Members:

Senator Mazurek asked a representative from the Budget Office to address the problem of refunds from lost carrybacks as noted in the fiscal note. Bill (no last name indicated), Budget Office, said he did not have an answer but would get the information and report back to the committee.

Senator Eck indicated she had spoken to Gordon Morris about this and he had indicated any carrybacks would carry back to the counties for the first two years and the counties would still owe that rebate. However, for at least the next year, if not both, the rebate would come from the assistance fund.

Closing by Sponsor: Senator Eck closed.

HEARING ON SENATE BILLS 455 and 456

Presentation and Opening Statement by Sponsor:

Senator Norman, District 68, sponsor, said certainly the main issue of the session is money. He stated he introduced the two bills to be used is there is no other way to balance the budget. He hoped it would not be necessary to use them, but the financial problem is very difficult and the dissension between the House and Senate as well as the Governor's Office will not just disappear. Senator Norman said there are two ways to balance the budget:

1. Raise revenue by raising property taxes and income taxes, or instituting a sales tax.

2. Cut appropriations. He said this would necessitate cutting where the big money is such as SRS and primary and secondary education.

Senate Bill 455 contains a 40% surcharge on the present income tax structure and it can be coordinated with the sales tax. The bill applies to 1989-1991. Corporations are not taxed in the bill and it terminates January 1, 1992. Senator Norman said the bill would raise about $100 million a year.

Senate Bill 456 is the sales tax bill. He said he did not think a sales tax in any form will pass the legislature and yet it will not go away. If it were passed, Senator Norman felt sure the people would mount an initiative drive to block it. The bill institutes a 3% sales tax and as written will exempt farmers, personal property, construction equipment, and medical services. There is a dispersal mechanism, property tax replacement provisions, and the university system is covered in the bill. He said it could be amended any way the committee sees fit, however, it still is just a matter of which toe you want to have pounded. In answer to those who bring up the issue of unconstitutionality, Senator Norman said that is the last refuge for scoundrels. He said he has had some very prominent legal minds indicate to him that it very probably is not unconstitutional.

Senator Norman reiterated that these bills represent the last chance solution. He does not like them and hopes it will not be necessary to use them. However, even though there is motion on the funding front, no one is going to be happy with happens. Everyone will be impacted somehow with whatever solution is adopted.

List of Testifying Proponents and What Group they Represent:

None

List of Testifying Opponents and What Group They Represent:

Ken Nordtvedt, Director, Department of Revenue
Ron DeYong, Montana Farmers Union
Vera Cahoun, Missoula County Freeholders
Sam Ryan, Helena Taxpayer
Sue Bartlett, Lewis and Clark County Clerk and Recorder
Don Judge, Montana AFL-CIO
Gail Stoltz, Chairman, Democratic Party
Gene Fenderson, Montana State Building and Trades Council
Bob Hieser, United Food and Commercial Workers
Nadine Jensen, County and Municipal Employees
Chuck Stearns, City of Missoula
Bob Walton, General Counsel, Royal Neighbors of America

Testimony:

Ken Nordtvedt, Director, Department of Revenue, said if all the small, inefficient, wasteful, boondoggle programs were identified and eliminated they might add up to enough to make enough of a difference that the voters would not have to make a choice of poisons. He said the voters should have the choice of spending cuts or increased taxes and he hoped whatever ballot issue eventually does come up is not just confined to the revenue side of the equation, but also addresses the spending side.

Ron DeYong, Montana Farmers Union, expressed opposition to a sales tax and a preference for a surtax. He said it is not fair to exempt business and tax the consumer, especially when the tax will impact the middle and low income earner the most. He said it will require a new bureaucracy to administer the sales tax when one is already in place for income tax. He also contended the income tax is much simpler to administer than the sales tax would be. He also objected to making businessmen and women tax collectors for the state. Mr. DeYong said a lot of money will be spent if the sales tax is put to a vote and urged the committee not to have a special election and a special session just to reject the idea. He said the income tax surcharge and progressive taxes are politically difficult to adopt but he urged the committee to be courageous and do what needs to be done.

Vera Cahoun, Missoula County Freeholders Association, said it is not fair to ask the voters to choose from two bad choices. They should have the option of voting for spending cuts also.

Sam Ryan, a taxpayer form Helena, said he agreed with the previous testimony and urged the committee to kill both bills.

Sue Bartlett, Lewis and Clark County Clerk and Recorder, presented her testimony in opposition to the bill (Exhibit #3).

Don Judge, Montana AFL-CIO, presented his testimony in opposition to the bill (Exhibit #4).

Gail Stoltz, Chairman, Democratic Party, said we need progressive income tax reform. She expressed opposition to a sales tax as per the Democratic party platform stand.

Gene Fenderson, Montana State Building and Trades Council, expressed opposition to the bill.

Bob Hieser, United Food and Commercial Workers, expressed opposition to the bill saying he felt corporations should pay and wage earners should be exempt.

Nadine Jensen, County and Municipal Employees, said everyone pays their fair share with an income tax. She expressed opposition to the sales tax but said she had no problem with the surcharge.

Chuck Stearn, City of Missoula, said the City Council met and discussed the bills but decided they did not have enough information to take a firm stand on the bills. However, they did recommend the voters should be offered a menu of choices on the ballot.

Robert Walton, Royal Neighbors of America, presented his testimony in opposition to the bill (Exhibit #5).

Questions From Committee Members:

None

Closing by Sponsor:

Senator Norman said the election problems are not insurmountable and tax reform could be put on the ballot. If not, the appropriations committee will have to cut and cut and cut hard and deep until it hurts. He said the voters say we lack the courage to make a decision if we put this on the ballot, yet he felt maybe we need a little less courage and a few more wimps so we could compromise a little more. We will never get anywhere as long as everyone insists on representing their own interests to the exclusion of everything else.

PROPONENT TO SB 458:

Mary Vant Hull, City Commissioner, Bozeman, presented her testimony in support of the bill (Exhibit #8). She was late for the hearing due to an automobile accident and the Chairman allowed her testify at this point. She also presented a letter of support from Bozeman Mayor Robert Hawks (Exhibit #9).

PRESENTATION BY SENATOR SEVERSON:

Senator Severson, saying there is a third option for funding, made a presentation to the committee regarding a massive gas tax. He said we all know we have to find some additional funding and most of us do not like any of the options. He indicated it was his opinion that

Montana would not have a sales tax. He submitted a proposal for a massive gasoline tax which would be for gasoline only, not diesel or work fuel. He said a 25 cent a gallon gas tax would produce $100,000,000 in revenue for the state. There would be no exemptions. Senator Severson said the fuel is used by virtually everyone. It is necessary to tax where there is money and the ability to pay. He said the legislature could adopt the tax immediately and it go right into effect producing revenue with no delay. Senator Severson said it is an idea he has had for some time and he felt this was the time to present it to the committee for their consideration as a possible committee bill and alternative funding source.

EXECUTIVE SESSION

DISPOSITION OF SENATE BILL 410

Discussion:

Senator Beck, sponsor, said he had met with all the parties who asked for amendments and Exhibit #10 is the end result. Exhibit #11 indicates the impacts of the major changes.

Amendments and Votes:

Senator Harp MOVED to adopt the amendments as proposed in Exhibit #10.

Senator Gage asked to segregate amendment #8.

Senator Harp AMENDED HIS MOTION to reflect the segregation of amendment #8. The motion CARRIED unanimously.

Senator Gage MOVED to amend the bill on page 9, line 21 by changing 75% to 63% and line 25, by changing 7% to 14%.

Senator Gage explained the amount going into the RITT is being reduced by about 50% per current law as opposed to this law. If the amount going to general fund is reduced from 7% to 63% and the amount going to RITT is doubled there would still be more generated for the general fund than under current law and the RITT would be kept intact.

Senator Brown asked how much less goes into the general fund as a result of the amendment.

Senator Gage replied it would be about $500,000.

Senator Gage's motion CARRIED unanimously.

Recommendation and Vote:

Senator Harp MOVED SB 410 Do Pass As Amended. The motion CARRIED unanimously with Senator Crippen absent.

ADJOURNMENT

Adjournment At: 10:00 a.m.

Bob Brown

SENATOR BOB BROWN, Chairman

BB/jdr

MIN309.jdr

ROLL CALL

TAXATION COMMITTEE

51st LEGISLATIVE SESSION -- 1989 Date 3/9/89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BROWN	X		
SENATOR BISHOP	X		
SENATOR CRIPPEN	X		
SENATOR ECK	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR HALLIGAN	X		
SENATOR HARP	X		
SENATOR MAZUREK	X		
SENATOR NORMAN	X		
SENATOR SEVERSON	X		
SENATOR WALKER	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

March 9, 1989

MR. PRESIDENT:
We, your committee on Taxation, having had under consideration SB 410 (first reading copy -- white), respectfully report that SB 410 be amended and as so amended do pass:

1. Title, line 12.
Strike: "AND THE RESOURCE INDEMNITY TRUST TAX"

2. Title, line 14.
Following: ";"
Insert: "ESTABLISHING A MINE DEVELOPMENT RESERVE ACCOUNT FOR COUNTY GOVERNMENTS AND LOCAL SCHOOL DISTRICTS;"

3. Title, line 16.
Strike: "15-38-105 THROUGH 15-38-107,"

4. Page 2.
Following: line 16
Insert: "(5) "Receipts received" means the monetary payment of refined metal received by the mining company from the metal trader, smelter, roaster, or refinery, determined by multiplying the quantity of metal received by the metal trader, smelter, roaster, or refinery by the quoted price for the metal and then subtracting basic treatment and refinery charges, quantity deductions, price deductions, interest and penalty metal, impurity, and moisture deductions as specified by contract between the mining company and the receiving metal trader, smelter, roaster, or refinery. Deductions are not allowed, either directly or indirectly as an offset to payments, for the cost of transportation from the mine or mill to the smelter, roaster, or refinery. Demurrage, [illegible], interest, or any other miscellaneous costs related to transporting the mineral product are considered transportation and are not deductible."

5. Page 2, line 22.
Following: "received"
Insert: ", as defined in 15-23-801,"

6. Page 4, line 11.
Strike: "1.65%"
Insert: "1.8%"

7. Page 6, lines 13 through 19
Strike: subsection (4) in its entirety

continued

8. Page 9, line 21.
Strike: "75%"
Insert: "63%"

9. Page 9, line 25.
Strike: "7%"
Insert: "14%"

10. Page 10, line 3.
Strike: "10%"
Insert: "15%"

11. Page 10, line 12 through page 14, line 7.
Strike: sections 9 through 11 in their entirety
Renumber: subsequent sections

12. Page 14, line 9.
Strike: "(1)"

13. Page 14, line 13 through 15.
Strike: subsection (2) in its entirety

14. Page 16.
Following: line 18
Insert: "<u>NEW SECTION.</u> Section 11. Mine development reserve account. (1) The governing body of a county receiving tax collections under 15-37-117(1)(d) may establish a mine development reserve account to be used to hold the collections. The governing body may hold money in the account for any time period deemed appropriate by the governing body. Money held in the account may not be considered as cash balance for the purpose of reducing mill levies.

(2) Money may be expended from the account for any purpose provided by law.

(3) Money in the account must be invested as provided by law. Interest and income from the investment of the mine development reserve account must be credited to the account.

<u>NEW SECTION.</u> Section 12. Mine development reserve account. (1) The governing body of a local school district receiving tax collections under 15-37-117(1)(d) may establish a mine development reserve account to be used to hold the collections. The governing body may hold money in the account for any time period deemed appropriate by the governing body. Money held in the account may not be considered as cash balance for the purpose of reducing mill levies.

(2) Money may be expended from the account for any purpose provided by law.

continued

(3) Money in the account must be invested as provided by law. Interest and income from the investment of the mine development reserve account must be credited to the account.
Renumber: subsequent sections

15. Page 16, line 23.
Following: "instruction."
Insert: "(1)"

16. Page 16, line 24.
Strike: "12"
Insert: "9"

17. Page 17, line 1.
Strike: "12"
Insert: "9"

18. Page 17.
Following: line 1
Insert: "(2) [Section 11] is intended to be codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [section 11].
(3) [Section 12] is intended to be codified as an integral part of Title 20, chapter 9, and the provisions of Title 20, chapter 9, apply to [section 12]."

AND AS AMENDED DO PASS

Signed: ____________________
Bob Brown, Chairman

SENATE TAXATION
EXHIBIT NO. 1 21
DATE 3/9/89
BILL NO. SB 458

MONTANA BANKERS ASSOCIATION

TESTIMONY ON SB-458

Senate Taxation Committee March 9, 1989

Mr. Chairman and Members of the Committee:

Senate Bill 458 creates equity where none exists today, nor has it existed since 1979.

In 1979, the Montana Legislature enhanced the amount of state income tax paid by banks and savings & loans by adding federal bond income. They also decided to send 80% of the tax collected back to local government to replace the lost property tax formerly paid on a bank's capital stock. This was in response to a Montana Supreme Court Ruling in 1978, which invalidated the archaic bankshare tax, and was subsequently upheld by the U.S. Supreme Court in 1983.

When the Montana Legislature repealed the merchants inventory tax, solvent credits tax, household goods tax, livestock tax, and other personal property taxes, they did not replace the lost tax revenue to local government. Only in the case of banks and S&L's was it decided to send 80% of the income taxes paid back to local government.

Regrettably, this has caused inequities and sorrow for everyone. The amount of tax generated is based entirely upon the profitability of the local bank or S&L. If it does not make money or suffers a loss, not only are no taxes paid for up to seven years forward, but local government has to refund back three years. This is exactly what happened in 1985, 1986 and 1987, when banks and

S&L's suffered major losses throughout the state. Counties have had to come up with millions for tax refunds that they do not have and were spent the previous four years.

HB-458 would take a percentage of the total corporate income tax pie and share it with local government on a population basis. Obviously, some counties and cities may gain a bit and others may lose a bit, but the overall result will be a much more stable source of revenue for local government. The total corporate income tax pie will not fluctuate nearly as drastically as the single industry.

In addition, banks and S&L's have steadily lost market share and earnings since deregulation in 1980. Credit unions, on the other hand, who do not pay any income tax, have doubled their market share in the last five years. Other providers of financial services like D.A. Davidson, Merrill Lynch, Sears, finance companies, insurance companies, realtors, insurance agents and others pay a state corporate income tax if they are incorporated, but none of their taxes are shared with local government. The fact is, <u>local government is continually getting less money out of their local banks and S&L's because the competition is claiming a larger share of the financial market and local government derives nothing from our competitors</u>.

Some counties have previously argued it was better to take a chance on their local bank and S&L than it was to take a share of the total pie because they might get a few thousand dollars less taxes. These same counties would have been delighted to have this law in effect for the past four years because they would not only

SENATE TAXATION
EXHIBIT NO. 1 p.3
DATE 3/9/89
BILL NO. SB 458

have derived a steady flow of tax income, they would not have had to refund millions of dollars in taxes paid previously. Local government has taken it in the shorts because of the losses sustained by banks and S&Ls.

There are 2 counties that do not have any financial institutions and therefore, do not receive any income taxes paid by banks and S&L's. They too would share under the provisions of SB-458.

Out-of-state financial institutions who solicit savings and credit card business from Montanan's such as Citi Corp, etc., would likewise share a portion of their income taxes with local government under HB-458.

In conclusion, HB-458 provides a more stable source of revenue for local government. It is more likely future tax revenues would increase as the total economy grows and more corporations are doing business in Montana. Finally, it is more equitable to distribute a portion of all corporate income taxes to all local government rather than some counties and cities getting nothing and others suffering the consequences of tax refunds.

<u>Either all of the state income tax paid by banks and S&L's should be placed in the general fund like all other corporations, or all other corporations should share in the cost of local government</u>.

EXHIBIT NO. #2
DATE 3/9/89
BILL NO. SB 458

(This sheet to be used by those testifying on a bill.)

NAME: Chuck Stearns DATE: 3/9/89

ADDRESS: 201 W. Spruce

PHONE: 721-4700

REPRESENTING WHOM? City of Missoula

APPEARING ON WHICH PROPOSAL: SB 458

DO YOU: SUPPORT? ✓ AMEND? ______ OPPOSE? ______

COMMENT: Would not provide a whole lot of money for local governments, but would be a more stable source of revenue. There is no major re-distribution of revenue or Revenue losses which will help lessen impact on other interests. Will help lessen Revenue losses enacted so far at the 1989 Legislature.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE TAXATION
EXHIBIT NO. 3
DATE 3/9/89
BILL NO. SB456

(This sheet to be used by those testifying on a bill.)

NAME: Sue Bartlett DATE: 3/9/89

ADDRESS: P.O. Box 1721, Helena, MT 59624

PHONE: 443-1010, ext. 334

REPRESENTING WHOM? MT Assoc. of Clerks & Recorders

APPEARING ON WHICH PROPOSAL: SB456

DO YOU: SUPPORT? ______ AMEND? X OPPOSE? ______

COMMENT: The Association has no position on the tax issues addressed in this bill. We do oppose the provision for a special election in June 1989. The election would cost at least $500,000 statewide. The counties do not have those funds, particularly since the election would occur in the last month of the current fiscal year. In addition, this bill would not allow the Secretary of State and the Election Administrators to comply with the current statutory election deadlines. Ballot certification would have to occur by March 30 and it is most unlikely this bill will have been finally acted on by that date. The State has an obligation to fund the full costs of the election, if there is to be a June election and to amend SB456 to allow exceptions to current statutory election deadlines. Preferably, this bill would be amended to delete the June 1989

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

election and to allow the election to be held in conjunction with the regularly scheduled primary or general election in 1990.

MONTANA STATE AFL-CIO
AFL CIO
APRIL 29 1956

Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59624
406/442-1708

Testimony of Don Judge before the Senate Taxation Committee on Senate Bills 455 and 456, March 9, 1989

Mr. Chairman and members of the Committee, for the record, I am Don Judge representing the Montana State AFL-CIO in opposition to Senate Bills 455 and 456 which would place a 3 percent sales tax and a 40 percent income tax surcharge referendum before the voters.

We oppose this legislation because we are adamantly opposed to a sales tax in Montana. Working men and women who comprise the membership of our organization remain opposed to a sales tax for a very simple reason: a sales tax is a regressive tax.

Make no mistake about it: a sales tax would raise needed revenue for public services. However, a sales tax does so while benefiting corporations and businesses at the expense of those least able to afford it.

The sales tax is always viewed as the quick fix to a state's economic difficulties. That is precisely why 45 of 50 states have sales taxes. The problem with this quick fix is that the opening percentage -- three percent in this case -- has a history of going up and up and up over the years.

One of the myths about this year's tax debate is that the sales tax is Montana's only alternative for raising much needed revenue. That's absolutely not true.

Among the dozen or so other, more progressive, alternatives are placing a cap on federal income tax deductions, continuation of an income tax surcharge, establishing an alternative minimum tax for the wealthy, reform of our current tax system by broadening the base, reducing the exemptions and closing the loopholes and by applying a larger statewide levy for public school funding, equalizing costs for property tax payers throughout the state. There are more, and better alternatives available than those proposed in these two bills.

The name of the game with a sales tax is shifting the burden from those who don't want to pay their fair share to those who can't afford more than their fair share. For decades, Montanans have fought the corporate interests that have tried to saddle us with a sales tax. Montanans' sentiments on this subject have not changed -- we're still dead set against a statewide sales tax. As a practical matter, we believe that the sales tax is not going to be available to help balance the state's budget because the people will not vote for it.

Mr. Chairman, members of the committee, we understand Senator Norman's efforts to provide for revenue alternatives to resolve state and local government funding problems. However,we would encourage this committee to reject these proposals and reform our current tax system to make it more progressive and raise needed revenues.

We urge your opposition to Senate Bills 455 and 456.

Thank you.

SENATE TAXATION
EXHIBIT NO 5
DATE 3/9/89
BILL NO. SB 456

(This sheet to be used by those testifying on a bill.)

NAME: ROBERT W. WALTON DATE: MARCH 9, 1989

ADDRESS: 4041 - 25th Ave, ROCK ISLAND, ILLINOIS 61201

PHONE: 309 788 4561 309 788 5193

REPRESENTING WHOM? NATIONAL FRATERNAL CONGRESS of AMERICA
ROYAL neighbors of AMERICA

APPEARING ON WHICH PROPOSAL: S.B. 456

DO YOU: SUPPORT? ______ AMEND? ✓ OPPOSE? ______

COMMENT: Oppose SB 456 unless Amended to STRIKE OUT Section 131, lines 1 thru 10 on page 146x

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

#5

SENATE TAXATION
EXHIBIT NO. 5 p2
DATE 3/9/89
BILL NO. SB 456

TESTIMONY PRESENTED BY

ROBERT WALTON

General Counsel
Royal Neighbors of America

Before the Montana Senate Taxation Committee

Relative to Senate Bill 456

As a matter of record, I am Robert W. Walton, General Counsel of Royal Neighbors of America, an Illinois domiciled fraternal benefit society authorized to operate as such in Montana, and am also a member of the Law Committee, National Fraternal Congress of America, an organization composed of over 100 fraternal benefit societies of which about 38 have nearly 50,000 members in Montana.

My remarks to Senate Bill 456 are directed only to the provisions of the bill contained in section 131 on page 146 of the bill, which modify the present exemption from taxation of fraternal benefit societies and specifically subject such societies to taxes on gross receipts taxable under the sales tax and use tax.

Fraternal benefit societies are exempt from premium taxes under the laws of every one of the fifty states, the District of Columbia, and Puerto Rico. Fraternal benefit societies are, and always have been, exempt from income taxes under the laws of the United States of America. The present federal income tax exemption of federal societies is found in Internal Revenue Code Section 501(c)(8).

A fraternal benefit society may be organized for any lawful, social, intellectual, educational, charitable, benevolent, moral, or religious purposes and must:

1. Be organized without capital stock and operated not for profit;

2. Be conducted solely for the benefit of its members and their beneficiaries;

3. Be operated on the lodge system with a ritualistic form of work;

4. Have a representative form of government (proxy voting prohibited);

SENATE TAXATION
EXHIBIT NO. 5 p3
DATE 3/9/89
BILL NO. SB 456

Mr. Robert Walton (cont.)

5. Provide for the payment of insurance benefits as authorized and limited by law.

Fraternal benefit societies may be classified within four groups. There are the religious oriented societies, such as Aid Association for Lutherans, Knights of Columbus and Lutheran brotherhood. There are the ethnic or nationalistic societies, such as Croatian Fraternal Union of America, Polish National Alliance, Slovene National Benefit Society, Sons of Norway and Western Slavonic Association. There are those societies which may be classified as occupational, for example, Order of United Commercial Travellers of America, and United Transportation Union Insurance Association. Finally, there are those which can be classified as general, such as Royal Neighbors of America, Degree of Honor Protective Association and Modern Woodmen of America.

Fraternal benefit societies have always been exempt from taxation for the same reason that churches and other eleemosynary organizations have not been taxed. All fraternal benefit societies are organized and operate without profit and engage in activities which promote the general welfare but differ, one from another, as to the types of activities in which they engage. Some societies, such as the Royal Neighbors, maintain homes for aged members, some maintain homes for orphans, some maintain schools or provide scholarships for the religious or secular education of children, some make available certain fraternal benefits to their members who may become afflicted with dread diseases or whose homes may be damaged or destroyed by flood, fire, or wind; some provide summer camps and recreational activities for children, some have child safety programs; some have programs to aid the deaf; programs to combat drug abuse; some publish newspapers in foreign languages for recently arrived immigrants; some conduct citizenship classes; some engage in refugee resettlement programs. But, as previously indicated, every society engages in programs and community service projects which promote the general welfare.

During the year 1987, the last year for which statistics are readily available, fraternal benefit societies expended nearly $300,000,000 for fraternal, benevolent and charitable activities and programs. Through the lodge system, aid is extended to needy persons; communities are benefited by promotion of civic activities; the sick and unfortunate are visited and assisted; burial services are conducted; blood donations are encouraged; and through the lodge meetings, character, patriotism, fellowship and goodwill are nurtured.

SENATE TAXATION
EXHIBIT NO. 5 p4
DATE 3/9/89
BILL NO. SB 456

Mr. Robert Walton (cont.)

During the year 1987, the local lodges in Montana expended nearly $700,000 for fraternal, benevolent and charitable activities and expenses, held 5,847 events, devoted over 249,000 hours in community service and performed over 48,000 fraternal acts, such as blood donations and calls on the sick and disabled. These figures are most significant when compared with an estimated amount of $500,000 per year which would be paid on gross receipts taxable under the sales and use taxes if the tax were imposed upon such societies operating in Montana.

The monetary expenditures for charitable, benevolent and fraternal purposes are substantial enough alone to justify the tax exemption of our societies but, in fact, they only indicate to a small extent the value of the work done by fraternal benefit societies in the areas that cannot be measured in dollars -- ideals of fraternalism that make the community, state, and nation a better place in which to live.

There probably is no larger factor in Americanization today than fraternal benefit societies. In the lodge room, patriotism and loyalty to American ideals are taught, and the Bible has its part in all rituals. The spirit of fraternalism, fellowship, service and leadership developed through the lodge system is of inestimable value to the State and Nation.

At a time in history when volunteerism and self-help are being emphasized and encouraged to a greater extent that probably ever before, it seems particularly justified that a tax exemption granted fraternal benefit societies should be continued.

A fraternal benefit society, by statute in all states, is required to operate and be carried on <u>for the sole benefit of its members and their beneficiaries and not for profit</u>. It must have a lodge system, a truly representativ4e representative form of government, and, unless its membership is confined to one religious denomination, a ritualistic form of work. It cannot issue group insurance or credit life insurance or issue contracts to or insure the lives of other than dependents. The foregoing restrictions are not imposed upon life insurance companies and assure continuance of the inherent and essential differences between such companies and fraternal benefit societies.

The by-laws of the Royal Neighbors of America, like the by-laws of other fraternal benefit societies, provide that if any state should levy a tax on the premiums collected by the Society in that state such tax may be collected by the Society from the members residing in that state. Accordingly, the Montana members would have to pay the tax. This provision is just, proper and fair, because it would not be right to pay the tax from funds collected from members residing in other states where no such tax is collected.

SENATE TAXATION
EXHIBIT NO. 5 p5
DATE 3/9/89
BILL NO. SB 456

Mr. Robert Walton (cont.)

In event of passage of Senate Bill 456 in its present form, it would lead toward the destruction or serious curtailment of the fraternal and beneficient activities of all fraternal benefit societies.

You are respectfully urged that the provisions subjecting gross receipts of premiums from Montana members of fraternal benefit societies to the sales and use tax be deleted.

The amendment requested is to strike out lines 1 through 10 on page 146, which contains all of section 131 of SB 456 and to renumber succeeding lines and sections accordingly.

Respectfully submitted,

Robert W. Walton
National Fraternal Congress of America

SENATE TAXATION
EXHIBIT NO. 6 p1
DATE 3/9/89
BILL NO. SB 456

Helena
INDEPENDENT RECORD
317 Cruse Avenue P.O. Box 4249 Helena, Montana 59604 (406) 442-7190

March 9, 1989

Mr. Chairman, members of the committee: For the record my name is Jim Crane. I'm publisher of the Independent Record in Helena and I'm representing the Lee Newspapers of Montana.

I'm not here to endorse or oppose Sen. Norman's sales tax bill, but to ask your support to exempt newspaper circulation from this sales tax.

If a sales tax is enacted the Lee Newspapers, and all of the newspapers in Montana, will pay their share of this tax and it will amount to thousands and thousands of dollars in sales taxes on the office supplies and equipment, computer supplies, and other things we buy.

We do object, however, to placing a tax - a premium if you will - on information of interest to Montanans regarding the activites of their communites, counties, state, nation and world that is of interest to them and/or will have an impact on their lives.

The First Amendment to the U.S. Constitution clearly states the founding fathers' intentions to allow free and unregulated speech. A sales tax on circulation conflicts with those intentions.

An element of fairness also is involved. Senate Bill 456 proposes to tax newspaper sales, but will not tax information disseminated by radio and television. The state will find it extremely difficult to collect a sales tax on newspaper sales from the Spokane Spokesman-Review, which is distribued in western and northwestern Montana; USA Today, which is sold by vending machines and mail subscriptions; the Wall Street Journal, New York Times and other newspapers that Montanans can subscribe to by mail.

We are not asking to be declared exempt from paying a sales tax - we will pay it. We are asking that Montanans not be taxed for the right to be informed.

I hope you will adopt the amendment we seek.

SENATE TAXATION
EXHIBIT NO. 6 p 2
DATE 3/9/89
BILL NO. SB 456

Proposed amendment to SB 456

1. Page 20, line 14

NEW SECTION. Section 26. Exemption - newspapers.

GROSS RECEIPTS FROM SALES OF NEWSPAPERS AND ADVERTISING SUPPLEMENTS AND ANY OTHER PRINTED MATTER ULTIMATELY DISTRIBUTED WITH OR AS A PART OF SUCH NEWSPAPERS.

Renumber subsequent sections.

SENATE TAXATION
EXHIBIT NO. 7
DATE 3/9/89
BILL NO. SB 456

ORAL TESTIMONY OF CHARLES W. WALK, EXECUTUTIVE DIRECTOR OF MONTANA NEWSPAPER ASSOCIATION ON SB 456 BEFORE THE SENATE TAXATION COMMITTEE MARCH 9, 1989.

Mr. Chairman, members of the committee, for the record my name is Charles W. Walk. I am executive director of the Montana Newspaper Association, which includes in its membership all 11 daily newspapers and 65 of the weekly newspapers in Montana.

I am here today to support the amendment to SB 456 which would add the exemption of newspaper circulation revenue to the bill.

The exemption from tax for sales of newspapers is rooted in the First Amendment, and the distain its framers had for taxing the acquisition of knowledge.

These framers of the Constitution believed such "knowledge taxes" placed too much power in the hands of government because the acqusition of news and information is a right, not a taxable priviledge.

There is little question from a strictly practical point that such a sales tax on newspapers would, in fact, restrict information...and restrict it from the less affluent population, those people who need the information best provided by newspapers.

Those framers of the Constitution saw this as one of their greatest concerns in the area of taxation. They regarded as an anathema any action by government which put the price of a newspapers beyond the reach of the lowest economic classes.

The addition of a sales tax to the prices of Montana newspapers may bring this 200-year-old fear to reality.

There are at least two other practical reasons why newspaper sales should be exempted from any Montana sales tax legislation.

First, we believe it is inherently unfair to tax one form of information distribution while not taxing other competing modes, such as radio and television and free distribution shoppers.

Second, we also believe it is just as unfair to place a sales tax on our own Montana newspapers while an identical tax can not be levied against out-of-state publications which distribute through the mails. This means, obviously, that such a taxing system would be placing an unfair burden on our own newspapers in their competition with not only newspapers from surrounding states, but with regional and national newspapers and news magazines.

The final practical reason for exempting newspaper circulation revenue from the sales tax deals with the inherent unfairness of placing the tax on all newspapers in the state without regard to their ability to survive the economic impact.

(over)

The smaller, less profitable newspapers would, without question, be the hardest hit by this approach to taxation.

The result could well be fewer newspapers in our rural areas. This would mean economic repercussions up and down the already beleaguered main streets of those affected communities.

It also would mean the further reduction of the dissemination of information at this very basic level of our society.

Circulation revenue tax could be applied in 47 states and the District of Columbia. Thirty-six of those states have chosen not to include circulation revenue in their sales tax plans.

We hope it is obvious why and we hope this committee will adopt the amendment to SB 456 which would place Montana in this lopsided majority if the sales tax is finally implemented here.

Thank you and I would be glad to answer any questions from the committee.

CHARLES W. WALK
MONTANA NEWSPAPER ASSOCIATION

SENATE TAXATION

EXHIBIT NO. 8

DATE 3/9/89

BILL NO. SB 458

March 9, 1989

To the Members of the Senate Taxation Committee:

As you veteran legislators know, local governments over the years have faced constant loss of revenue. Some of the large ones were: the rollback in taxable value of commercial property, the abolition of the business inventory tax, and then the drastic drop in oil severance taxes which were supposed to make up the loss of the revenue from the business inventory tax.

In addition, every legislative session has seen numerous bill passed that have also nibbled away at local government revenues or which have raised the cost of our doing business.

SB 458 gives you a chance to redress a part of that nibbling away. Here is an opportunity -- instead of reducing our badly needed revenue sources -- to increase them a little bit.

Please vote for SB 458.

Thank you.

Mary Vant Hull

Mary Vant Hull
City Commissioner,
416 E. Story
Bozeman 59715

THE CITY OF BOZEMAN
411 E. MAIN ST. P.O. BOX 640 PHONE (406) 586-3321
BOZEMAN, MONTANA 59771-0640

SENATE TAXATION
EXHIBIT NO. 9
DATE 3/9/89
BILL NO. SB 458

March 8, 1989

Senator Bob Brown, Chairman
Senate Taxation Committee
Capitol Station
Helena, Montana 59620

Dear Senator Brown:

Please accept this as a letter of support for SB458, which provides revenues for local governments.

The City of Bozeman understands that replacement of Section 15-31-702, M.C.A. with this bill will result in some increase in proceeds to cities and counties.

Thank you for your favorable consideration of this bill.

Sincerely,

RL Hawks

ROBERT L. HAWKS
Mayor Pro Tempore

RLH:rs

cc: Members of the
Senate Taxation Committee

SENATE TAXATION
EXHIBIT NO. 10
DATE 3/9/89
BILL NO. SB 410

Amendments to Senate Bill No. 410
First Reading Copy

Requested by Senator Beck
For the Committee on Taxation

Prepared by Jeff Martin
March 6, 1989

1. Title, line 12.
Strike: "AND THE RESOURCE INDEMNITY TRUST TAX"

2. Title, line 14.
Following: ";"
Insert: "ESTABLISHING A MINE DEVELOPMENT RESERVE ACCOUNT FOR COUNTY GOVERNMENTS AND LOCAL SCHOOL DISTRICTS;"

3. Title, line 16.
Strike: "15-38-105 THROUGH 15-38-107,"

4. Page 2.
Following: line 16
Insert: "(5) "Receipts received" means the monetary payment or refined metal received by the mining company from the metal trader, smelter, roaster, or refinery, determined by multiplying the quantity of metal received by the metal trader, smelter, roaster, or refinery by the quoted price for the metal and then subtracting basic treatment and refinery charges, quantity deductions, price deductions, interest, and penalty metal, impurity, and moisture deductions as specified by contract between the mining company and the receiving metal trader, smelter, roaster, or refinery. Deductions are not allowed, either directly or indirectly as an offset to payments, for the cost of transportation from the mine or mill to the smelter, roaster, or refinery. Demurrage, storage, interest, or any other miscellaneous costs related to transporting the mineral product are considered transportation and are not deductible."

5. Page 2, line 22.
Following: "received"
Insert: ", as defined in 15-23-801,"

6. Page 4, line 11.
Strike: "1.65%"
Insert: "1.8%"

7. Page 6, lines 13 through 19.
Strike: subsection (4) in its entirety

8. Page 9, line 21.
Strike: "75%"
Insert: "70%"

SENATE TAXATION
EXHIBIT NO. 10
DATE 3/9/89
BILL NO. SB 410

9. Page 10, line 3.
Strike: "10%"
Insert: "15%"

10. Page 10, line 12 through page 14, line 7.
Strike: sections 9 through 11 in their entirety
Renumber: subsequent sections

11. Page 14, line 9.
Strike: "(1)"

12. Page 14, line 13 through 15.
Strike: subsection (2) in its entirety

13. Page 16.
Following: line 18
Insert: "NEW SECTION. **Section 11. Mine development reserve account.** (1) The governing body of a county receiving tax collections under 15-37-117(1)(d) may establish a mine development reserve account to be used to hold the collections. The governing body may hold money in the account for any time period deemed appropriate by the governing body. Money held in the account may not be considered as cash balance for the purpose of reducing mill levies.

(2) Money may be expended from the account for any purpose provided by law.

(3) Money in the account must be invested as provided by law. Interest and income from the investment of the mine development reserve account must be credited to the account.

NEW SECTION. **Section 12. Mine development reserve account.** (1) The governing body of a local school district receiving tax collections under 15-37-117(1)(d) may establish a mine development reserve account to be used to hold the collections. The governing body may hold money in the account for any time period deemed appropriate by the governing body. Money held in the account may not be considered as cash balance for the purpose of reducing mill levies.

(2) Money may be expended from the account for any purpose provided by law.

(3) Money in the account must be invested as provided by law. Interest and income from the investment of the mine development reserve account must be credited to the account.

Renumber: subsequent sections

14. Page 16, line 23.
Following: "instruction."
Insert: "(1)"

15. Page 16, line 24.
Strike: "12"

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EXHIBIT NO. 10
DATE 3/9/89
BILL NO. SB 410

Insert: "9"

16. Page 17, line 1.
Strike: "12"
Insert: "9"

17. Page 17.
Following: line 1
Insert: "(2) [Section 11] is intended to be codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [section 11].
(3) [Section 12] is intended to be codified as an integral part of Title 20, chapter 9, and the provisions of Title 20, chapter 9, apply to [section 12]."

EFFECT OF SB 410 ON METALIFEROUS MINES AND RIT TAXES[1]

	Current Law	Proposal Law
Metal Mines	$ 6,224,154	$ 7,250,000
RITT	1,040,596	allocation
Total	$ 7,264,750	$ 7,250,000

	Current Law	Proposal Law
General Fund	$ 4,170,184	$ 5,075,000
Hard Rock Impact Account	2,053,970	580,000
RITT	1,040,596	507,500
Local Govt.	-0-	1,087,500
Total	$ 7,264,750	$ 7,250,000

1. Based on 1988 production levels

DATE 3/9/89

COMMITTEE ON Taxation

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Robert W. Walton	National Fraternal Congress of America	456		✓
Raymond West	UTU	—		
Ron De Yong	Mt. Farmers Union	456		✓
Sue Bartlett	MT Assoc of Clerks & Recorders	456		✓
Don Judge	MT State AFL-CIO	SB456		X
Shelly Laine	City of Helena	SB458	✓	
Charles W. Walk	Mt. Newspaper Assn	SB456		
Mike Voeller	Lee Newspapers	"		
John Cadby	MT. Bankers Assn	SB458	✓	
Chuck Stearns	City of Missoula	SB458	✓	
Chuck Stearns	City of Missoula	SB456		✓
Sam		SB 455 456		✓
Jim Cleary	IR, Lee Enterprises	456		
Dennis Burr	Montax	SB 455/456		✓
F.H. Buck Boles	Montana Chamber	SB458	✓	
Mary Vant Hull	City of Bozeman	SB 458	X	
Nadiean Jensen	AFSCME	SB456		X
Gene Fenderson	Building Trades	SB456		X
Bob Heiser	UFCW	SB456		X
Krystin Deschamps	Assoc. Students of UM	455 56		✓

(Please leave prepared statement with Secretary)