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WHOSE SLICE OF WHAT PIE?

Understanding the Insurance Premium Tax As a Funding Source for Police and Fire Pension Plans

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What is the insurance premium tax?

Section 30-2-705 of the Montana Code Annotated (MCA), imposes an insurance premium tax on all insurers doing business in Montana. Insurers report to the State Auditor the total amount of insurance premiums paid to the insurer and pay a state tax equal to 2.75% of those total premiums. This 2.75% tax is typically referred to as the "insurance premium tax".

In FY 2004, the 2.75% insurance premium tax raised about $57 million.

The insurance premium tax was first enacted in 1864 by the First Legislative Assembly of the Territory of Montana as a flat rate licensing fee on all corporations doing business in Montana. In 1897, new sections of law were enacted specific to insurance companies and the licensing fee for insurance companies was charged based on the premiums collected the company rather than as a flat rate fee.

What is the "fire" insurance premium tax (a.k.a., the fire marshal's tax)?

Under Section 50-3-109, MCA, certain insurers who are authorized to sell insurance against certain enumerated risks pay an additional tax of 2.5% on the ***fire*** portion of the total premiums they collect. This tax is commonly referred to as the fire marshal's tax. Section 50-3-109, MCA, reads as follows:

> **50-3-109. Tax on fire insurance premiums.** (1) Each insurer authorized to effect insurance on risks enumerated in subsection (2) that is doing business in this state shall pay to the state auditor during the month of February or March in each year, in addition to the taxes on premiums required by law to be paid by it, taxes on the fire portion of the direct premiums on the enumerated risks received during the previous calendar year after deducting cancellations and return premiums. A tax of 2 1/2% must be deposited in the general fund as provided in 33-2-708.
>
> (2) The risks referred to in subsection (1) are:
>
> (a) insurance of houses, buildings, and all other kinds of property against loss or damage by fire or other casualty;
>
> (b) all kinds of insurance on goods, merchandise, or other property in the course of transportation, whether by land, water, or air;
>
> (c) insurance against loss or damage to motor vehicles resulting from accident, collision, or marine and inland navigation and transportation perils;
>
> (d) insurance of growing crops against loss or damage resulting from hail or the elements;
>
> (e) insurance against loss or damage by water to any goods or premises arising from the breakage or leakage of sprinklers, pumps, or other apparatus;
>
> (f) insurance against loss or legal liability for loss because of damage to property caused by the use of teams or vehicles, whether by accident or collision or by explosion of any engine, tank, boiler, pipe, or tire of any vehicle; and
>
> (g) insurance against theft of the whole or any part of a vehicle.

For example, if 30% of a premium for homeowners insurance policies sold by a particular insurance company is to insure the home against a fire risk, then the company must pay a 2.5% tax that is assessed only on 30% of the total premiums collected by that company. The 30% is called the *fire portion* of the premium and the total premium paid for an insurance policy that includes fire coverage is commonly referred to as the *fire-related* premium.

(See the attached tax statement form used by insurance companies when reporting their fire-related premiums. See also the attached EXCEL worksheet showing the actual calculations of the taxes due on the 2003 premiums collected. Source: State Auditor's Office)

In FY 2004, *fire-related* premiums totaled about $1.042 billion. The, the 2.75% insurance premium tax on all insurers totaled $57 million, $28.7 million of which was collected from insurers who collected premiums from insurance policies that included insurance against fire risks. The 2.5% tax on the actual *fire portion* of these *fire-related* premiums generated $ 3 million in state revenue.

What was the original purpose of the fire insurance premium tax?

The 2.5% fire insurance premium tax was once two separate taxes: a 1.5% tax and a 1% tax, each assessed for different purposes. However, both of these taxes were assessed only on the fire portion of all fire-related premiums.

Of the 2.5% fire tax, 1.5% was enacted as a source of dedicated revenue that local governments could use to pay firefighter disability and pension benefits through local fire relief associations. However, this 1.5% tax has gone through several metamorphoses resulting in it being tapped as a funding source for local police relief association benefits, for certain supplemental benefits paid to certain retirees under the Firefighters' Unified Retirement System (FURS) and the Municipal Police Officers' Retirement System (MPORS), and for the funding of the Volunteer Firefighters' Compensation Act (VFCA).

One percent of the 2.5% tax was originally enacted for the sole purpose of funding the State Fire Marshal's office.

Which public pension plans are still funded by insurance premium taxes?

Although all insurance premium taxes collected by the State Auditor are now deposited to the state general fund, the statutes still require the Public Employees' Retirement Board to certifies to the State Auditor the amounts of funding required by law to be taken from the general fund and deposited in certain pension trust funds to fund retirement benefits. Thus, the State Auditor still makes payments to the following pension plans, although the payments are made from the general fund:

- the Municipal Police Officers' Retirement System (MPORS), under Section 19-9-702, MCA;
- the Firefighters' Unified Retirement System (FURS), under Section 19-13-604, MCA;
- the Volunteer Fighters' Compensation Act (VFCA), under Section 19-17-301, MCA;
- local fire department relief associations, under Section 19-18-512, MCA;
- local police department trust funds, under Section 19-19-305, MCA; and
- local police pension funds for a supplemental benefit, under 19-19-506, MCA.

STATE OF MONTANA COMMISSIONER OF INSURANCE 840 HELENA AVENUE HELENA, MONTANA 59601 (406) 444-2040	***2004*** ***ANNUAL PREMIUM TAX STATEMENT*** ***FIRE COMPANIES*** ***CASUALTY COMPANIES***

Insurer Name	**NAIC Number**

Mailing Address	**City**	**State**	**Zip Code**

State of Domicile	**Tax & Fee Contact Person**	**Contact Person Telephone Number**

Administrative Office Fax Telephone Number	**Toll Free Telephone Number for Policyholder Inquiries**

SCHEDULE A - PREMIUM TAX CALCULATION

1. Total Direct premium income (Ann. Stmt. page 20, line 34, column 1) $__________ [1]
2. Finance and service charges (Ann. Stmt. page 20 footnote a) $__________ [2]
3. TOTAL PREMIUMS COLLECTED (add lines 1 and 2) $__________ [3]
4. Dividends refunded or credited to policyholders (Ann. Stmt. page 20, line 34, column 3) $__________ [4]
5. NET PREMIUMS per 33-2-705(1), MCA (line 3 less line 4) $__________ [5]
6. PREMIUM TAX per 33-2-705(2), MCA (2.75% of line 5) $__________ [6]

SCHEDULE B - FIRE INSURANCE PREMIUM TAX CALCULATION

Taxes are due and payable on the fire portion of the net direct premiums on risks resident, situated or located in Montana. Dollar amount and percentages must be used so that the calculation can be traced to the annual statement. References to rating organizations are not acceptable. Amounts in column IV are to be derived by multiplying amounts in column II by percentages in column III.

	I	II	III	IV	
	LINE OF BUSINESS	**ANNUAL STMT. PG. 20, COL. 1 DIRECT PREMIUM**	**% ALLOCATION OF FIRE RISK**	**DOLLAR AMOUNT OF FIRE PREMIUMS**	
7.	Fire		100%		[7]
8.	Allied Lines				[8]
9.	Farmowners Multi Peril				[9]
10.	Homeowners Multi Peril				[10]
11.	Commercial Multi Peril				[11]
12.	Ocean Marine				[12]
13.	Inland Marine				[13]
14.	Other Private Passenger Auto Liability				[14]
15.	Other Commercial Auto Liability				[15]
16.	Private Passenger Auto Physical Damage				[16]
17.	Commercial Auto Physical Damage				[17]
18.	Aircraft				[18]
19.	Burglary & Theft				[19]
20.	Boiler & Machinery				[20]

21. Total Net Fire Premiums (add lines 7 thru 20, column IV) $__________ [21]
22. Tax on Fire Insurance Premiums per 50-3-109(1), MCA **(2.5% of line 21)** $__________ [22]

2003 PREMIUM TAX CALCULATION (ON SELECTED LINES) (FY2004)

LINES OF BUSINESS	2003 PREMIUMS WRITTEN (PER NAIC)
FIRE	$15,684,904
ALLIED LINES	$28,336,096
MULTIPLE PERIL CROP	$61,674,527
FEDERAL FLOOD	$1,214,184
FARMOWNERS MULTIPLE PERIL	$38,189,173
HOMEOWNERS MULTIPLE PERIL	$145,050,921
COMMERCIAL MULTIPLE PERIL FIRE	$60,603,499
COMMERCIAL MULTIPLE PERIL LIAB	$42,921,269
OCEAN MARINE	$1,158,027
INLAND MARINE	$25,189,660
EARTHQUAKE	$1,882,996
AUTO LIABILITY (19.2 + 19.4)	$338,019,431
AUTO PHYSICAL DAMAGE (21.1 + 21.2)	$257,686,046
AIRCRAFT	$9,577,035
BURGLARY & THEFT	$257,011
BOILER & MACHINERY	$3,686,395
AGGREGATE WRITE-IN	$11,827,571
TOTAL FIRE RELATED PREMIUMS	$1,042,958,745

FIRE RELATED PREMIUMS (Line 23)	$1,042,958,745
MT PREMIUM TAX RATE	2.75%
PREMIUM TAXES DUE	$28,681,365

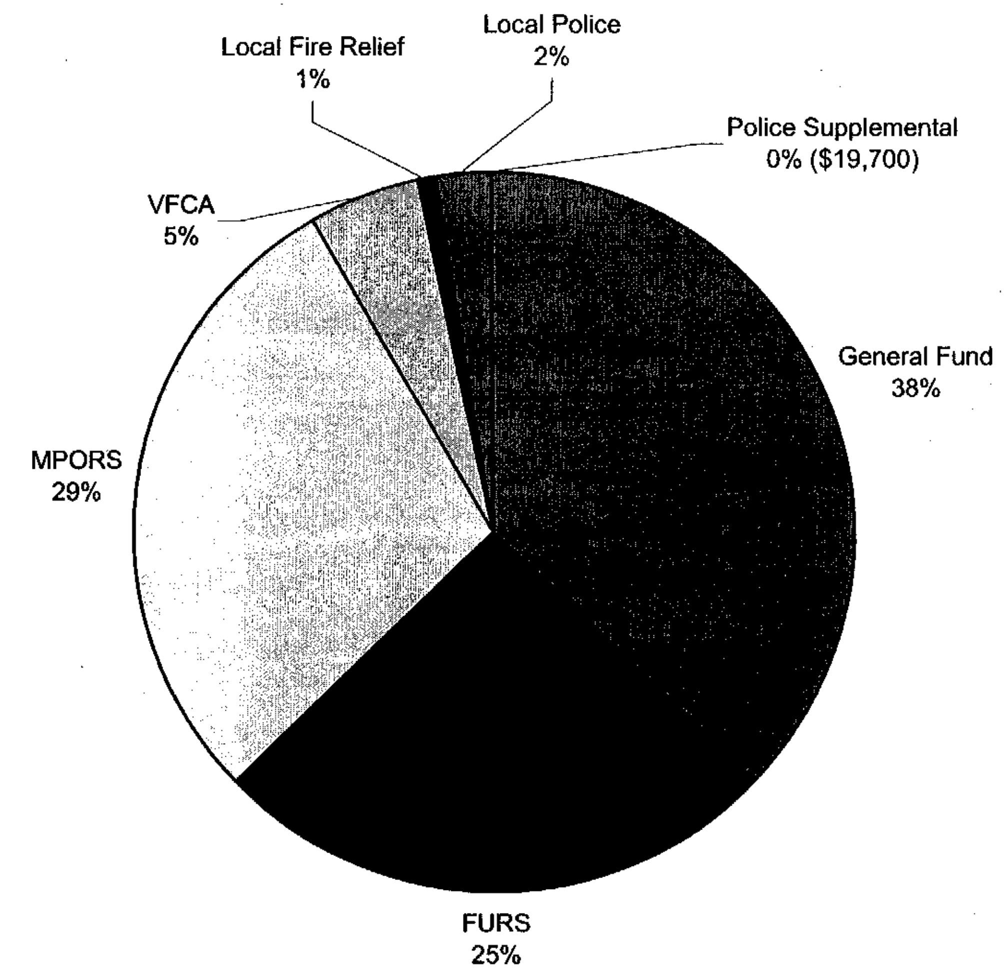
PREMIUM TAXES DUE	$28,681,365
% PER SECTION 19-17-301, MCA	5%
PAYMENT DUE PER 19-17-301, MCA	$1,434,068

Figure 1: State Contributions
Traditionally Associated with the Fire and Other Insurance Premium Taxes

Retirement System	State Contribution	Dollar Amount Paid in FY 2004	Statutory MCA Section	% of total "slice"
MPORS	29.37% of salaries	$7.2 million	19-9-702	46%
FURS	32.61% of salaries	$6.5 million	19-13-604	42%
VFCA	5% (of the 2.75% tax)	$1.4 million	19-17-301	9%
Local Fire	1.5 mills or $100	$164,000	19-18-512	1%
Local Police	1.5 mills or $100	$266,000	19-19-305	2%
Police Supplemental	minimum benefit adjustment for certain pension recipients	$17,000	19-19-506	0.1%
TOTAL		$15.5 million		100% (rounded)

See the attached pie charts to see whose slice is of what pie.

Pieces of the Pie: FY2002
2.75% Insurance Premium Tax for Enumerated Risks



Appendix A: Statutory Extracts

MPORS Statute

19-9-702. State contribution. The state of Montana shall make its contributions from the general fund. The general fund contributions must be made annually after the end of each fiscal year but no later than November 1. The board shall notify the state auditor by September 1 of each fiscal year of the annual compensation paid to all active members during the preceding fiscal year. The state's contribution is ***29.37% of compensation*** paid to members. The contributions are statutorily appropriated as provided in 17-7-502.

FURS Statute

19-13-604. State contribution. The state shall make its contributions from the general fund. The general fund contributions must be made annually after the end of each fiscal year but no later than November 1. The board shall notify the state auditor by September 1 of each fiscal year of the annual compensation, excluding overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid to all active members during the preceding fiscal year. The state's contribution ***is 32.61% of this total compensation***. The contributions are statutorily appropriated, as provided in 17-7-502. ***[emphasis added]***

VFCA Statute

19-17-301. Fire insurance premium tax to be paid into pension trust fund. The state auditor shall annually pay from the general fund to the pension trust fund ***a sum equivalent to 5% of the premium taxes collected from insurers authorized to effect insurance against risks enumerated in 50-3-109***. The sum must be computed ***before*** the amounts provided for by 19-13-604, and 19-18-512 are deducted. The money must be used for the payment of claims, benefits, and administrative costs as provided in this chapter. The money is statutorily appropriated as provided in 17-7-502. ***[emphasis added]***

Local Fire Relief Associations Statute

19-18-512. State auditor -- payment to association. (1) After the end of the fiscal year, the state auditor shall issue and deliver the warrant described in this subsection to the treasurer of each city or town that has a fire department relief association entitled by law to receive payments. The warrant must be for the use and benefit of the association. The warrant must be for ***an amount equal to 1 1/2 mills*** of the total taxable value of the city or town and must be paid out of the general fund. The payment is statutorily appropriated as provided in 17-7-502.

(2) The payment provided for in subsection (1) must be for at least $100. ***[emphasis added]***

Local Police Fund Statute

19-19-305. Annual state payments to municipality with police department. (1) After the end of each fiscal year, the state auditor shall issue and deliver to the treasurer of each city and town in Montana that has a police department and that is not a participant in the municipal police officers' retirement system a warrant for an amount computed in the ***same manner as*** the amount paid (or that would be paid if an existing relief association met the legal requirements for payment) to cities and towns for fire department relief associations pursuant to ***19-18-512***. The payment from the general fund is statutorily appropriated as provided in 17-7-502.

(2) Each city or town that has a police retirement fund shall deposit the payment to the credit of its police retirement fund.

(3) Payments provided for in 19-19-205 and subsection (1) of this section are in addition to those provided for in 19-19-301.

Local Police, Supplemental, Statute

19-19-506. Supplement to certain pensions. (1) The payment for each fiscal year to the police officers, spouses, or minor children described in subsections (2)(a) through (2)(c) may not be less than one-half of the salary paid in that fiscal year in the appropriate city or town to newly confirmed police officers.

(2) On or before April 1 of each year, the board of trustees shall make a report to the state auditor including the following information:

(a) the names of all police officers who are receiving payments from the police retirement fund of the city or town as of the date of the report and who were receiving the payments prior to July 1, 1975;

(b) the names of all spouses or minor children who are receiving payments from the police retirement fund because of the death of a police officer who was receiving payments prior to July 1, 1975;

(c) the names of all spouses or minor children who are receiving payments from the police retirement fund and who were receiving payments prior to July 1, 1975, or in the case of minor children, whose parent, the spouse of a police officer, was receiving payments prior to July 1, 1975;

(d) for the purpose of determining the base figure for the computations set forth in subsection (4), the following information relating to the base fiscal year commencing July 1, 1976:

(i) the amount of the payments made in the base fiscal year to each police officer described in subsection (2)(a);

(ii) the amount of the payments made in the base fiscal year to each spouse or minor child described in subsection (2)(b) or (2)(c);

(iii) upon the death after April 18, 1977, of any police officer on the retired list who was receiving payments from the police retirement fund prior to July 1, 1975, and who is survived by a spouse or minor child entitled to receive payments from the police retirement fund, the amount that would have been paid to an eligible spouse of the police officer if that spouse had been receiving payments in the base fiscal year.

(3) Each fiscal year immediately after the adoption by a city or town having a police retirement fund of its budget for that fiscal year, the city or town shall report to the state auditor the salary for that fiscal year of a newly confirmed police officer of that city or town.

(4) The state auditor shall, upon receipt of the reports referred to in subsections (2) and (3), compute the difference between each amount reported under subsections (2)(d)(i) through (2)(d)(iii) and one-half the salary for the current fiscal year of a newly confirmed police officer of the appropriate city or town. The difference must be paid by the state auditor out of the general fund to the treasurer of the appropriate city or town at the same time as and in addition to the payment to be made by the state auditor under 19-19-305(1). The payment is statutorily appropriated as provided in 17-7-502.

(5) The treasurer of each city or town receiving funds under subsection (4) shall immediately deposit them to the credit of the city or town's police retirement fund. The board of trustees of the fund shall use the funds to supplement the monthly payments to persons described in subsections (2)(a) through (2)(c) so that the requirements of subsection (1) are met.

(6) If more than one minor child is entitled to supplementary payments under this section by virtue of the death of a common parent police officer, the minimum payment to the minor children under this section must be determined as if there were one minor child and the supplementary payment must be made to the minor children collectively.