



Montana Legislative Services Division

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LEGISLATIVE FINANCE AND CLAIMS

EXHIBIT NO. 4

DATE 3-8-04

FILE NO. SB 439

March 7, 2005

TO: Sen. Gephardt
FROM: Sheri Heffelfinger, Research Analyst
RE: Information request about taxes on fire-related insurance premiums and SB 439

This memorandum responds to your request for information on the fire-related insurance premium taxes, which are identified as the funding source for your SB 439.

Under your bill, the language on page 4, line 16 refers to the insurance premium taxes collected under section 33-2-705(2), MCA, which is 2.75% of all the insurance premiums collected by insurance companies. Your bill carves out those insurers who are authorized to effect insurance against certain risks that are enumerated in section 50-3-109, MCA. These insurers are carved out because a portion of each type of insurance policy they write includes some portion that is for a fire risk. For example, subsection (2)(a) of section 50-3-109, MCA, includes homeowners insurance. Insurers who write homeowners insurance report the total homeowner's insurance premium collected that included some portion of insurance for a fire risk. The 2.75% tax is assessed on the total premium amount reported, not just the actual fire portion of the premium.

According to the Office of State Auditor, for FY 04, the total premiums collected by insurers who provide insurance that includes some fire-related risk was \$1,042,958,249. Thus, the 2.75% tax applied on that total (i.e., on all premiums collected by insurers authorized to effect insurance against the risks enumerated in section 50-3-109(2)) raised \$28,681,365 for the general fund.

Under SB 439, the state contribution to the Firefighters' Unified Retirement System (FURS), which is 32.61% of compensation paid to active FURS members, would be taken out of the \$28,681,365 and deposited to a special revenue account and statutorily appropriated to the FURS pension fund **before** the revenue would be deposited to the general fund.

The additional cost created by SB 439 is estimated in the fiscal note to be \$1,077,960 in FY 06 and \$1,123,773 in FY 07. The fiscal note shows that the new costs, when added with current costs plus inflation factors, result in a total cost estimated at \$8,177,424 in FY 06 and \$8,524,964 in FY 07. Again, only \$1,077,960 in FY 06 and \$1,123,773 in FY 07 is a new cost.

Under SB 439 and based on the fiscal note, if the total state contribution required to FURS in FY 2006 is \$8,177,424, then that is the exact amount that will be deposited to the special revenue account created in the bill and then statutorily appropriated to the FURS pension trust fund. The balance of the insurance premium tax collected on fire-related premiums would then be counted as revenue to the general fund. The insurance premium tax collected in FY 2006 will be more than the \$28,681,365 collected in FY 2004, but assuming that this amount was collected, then the balance shown as revenue to the general fund would be \$20,503,941.

2,000,000 and some already comes out of the FURS

Attached is the form used by insurers to report the total of their fire-related premiums and to break out the actual percentage of the total premiums that are specifically for fire. These percentages of the total are used to calculate the Fire Marshall's tax of 2.5% under section 50-3-109(2), MCA. However, the **totals** are used to calculate the 2.75% tax on fire-related premiums under section 33-2-705, MCA. The revenue collected by the 2.75% tax on the total fire-related premium that is the funding source for state contributions to FURS under SB 439. The second attachment is an EXCEL spreadsheet showing actual collections for FY 2004 and the revenue generated (\$28,681,365) by the 2.75% tax on the total of all premiums that have a portion that includes fire coverage

Finally, I have attached copies of the statutes referenced in this memorandum.

In summary, the language in section 3 of SB 439 provides that, if the bill passes, the amount required to fund all state contributions to FURS would be calculated and deposited to a special revenue account **before** the calculation of general fund revenue from the 2.75% insurance premium tax collected under section 33-2-705(2), MCA, from insurers authorized to effect insurance against the risks enumerated in section 50-3-109(2), MCA.

I hope this information is responsive to your request. Please let me know if you have any further questions.

cc.

Marilyn Daumiller, LFD
Mike O'Connor, MPERA
John Huth, Office of State Auditor
Dee Glowacki, Office of State Auditor
Christi Moyer, OBBP



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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)

<u>LINES OF BUSINESS</u>	<u>2003 PREMIUMS WRITTEN (PER NAIC)</u>
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	 <u>\$1,042,958,745</u>
 FIRE RELATED PREMIUMS (Line 23)	 <u>\$1,042,958,745</u>
MT PREMIUM TAX RATE	<u>2.75%</u>
 PREMIUM TAXES DUE	 <u>\$28,681,365</u>
 PREMIUM TAXES DUE	 <u>\$28,681,365</u>
% PER SECTION 19-17-301, MCA	<u>5%</u>
 PAYMENT DUE PER 19-17-301, MCA	 <u>\$1,434,068</u>

33-2-705. Report on premiums and other consideration -- tax. (1) Each authorized insurer and each formerly authorized insurer with respect to premiums received while an authorized insurer in this state shall file with the commissioner, on or before March 1 each year, a report in a form prescribed by the commissioner showing total direct premium income, including policy, membership, and other fees, premiums paid by application of dividends, refunds, savings, savings coupons, and similar returns or credits to payment of premiums for new or additional or extended or renewed insurance, charges for payment of premium in installments, and all other consideration for insurance from all kinds and classes of insurance, whether designated as a premium or otherwise, received by a life insurer or written by an insurer other than a life insurer during the preceding calendar year on account of policies covering property, subjects, or risks located, resident, or to be performed in Montana, with proper proportionate allocation of premium as to property, subjects, or risks in Montana insured under policies or contracts covering property, subjects, or risks located or resident in more than one state, after deducting from the total direct premium income applicable cancellations, returned premiums, the unabsorbed portion of any deposit premium, the amount of reduction in or refund of premiums allowed to industrial life policyholders for payment of premiums direct to an office of the insurer, all policy dividends, refunds, savings, savings coupons, and other similar returns paid or credited to policyholders with respect to the policies. As to title insurance, "premium" includes the total charge for the insurance. A deduction may not be made of the cash surrender values of policies. Considerations received on annuity contracts may not be included in total direct premium income and are not subject to tax.

(2) Coincident with the filing of the tax report referred to in subsection (1), each insurer shall pay to the commissioner a tax upon the net premiums computed at the rate of 2 3/4%.

(3) That portion of the tax paid under this section by an insurer on account of premiums received for fire insurance must be separately specified in the report as required by the commissioner, for apportionment as provided by law. When insurance against fire is included with insurance of property against other perils at an undivided premium, the insurer shall make a reasonable allocation from the entire premium to the fire portion of the coverage as must be stated in the report and as may be approved or accepted by the commissioner.

(4) With respect to authorized insurers, the premium tax provided by this section must be payment in full and in lieu of all other demands for any and all state, county, city, district, municipal, and school taxes, licenses, fees, and excises of whatever kind or character, excepting only those prescribed by this code, taxes on real and tangible personal property located in this state, and taxes payable under 50-3-109.

(5) The commissioner may suspend or revoke the certificate of authority of any insurer

that fails to pay its taxes as required under this section.

(6) In addition to the penalty provided for in subsection (5), the commissioner may impose upon an insurer who fails to pay the tax required under this section a fine of \$100 plus interest on the delinquent amount at the annual interest rate of 12%.

(7) The commissioner may by rule provide a quarterly schedule for payment of portions of the premium tax under this section during the year in which tax liability is accrued.

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.

Legislative Fiscal Division

Revenue Estimate Profile

Insurance Tax & License Fees

Revenue Description: The insurance premiums tax is levied on the net premiums or gross underwriting profit for each insurance company operating in Montana. Gross underwriting profit is essentially insurance premium income. In addition, various insurance fees and licenses are also collected.

Applicable Tax Rate(s): The current tax rate is 2.75% of net premiums on policies sold in Montana. In addition, for each Montana resident insured under any individual or group disability or health insurance policy, all insurers are required to pay \$0.70 to the State's Insurance Commissioner. This fee is used to fund the voluntary statewide genetics program established in statute (50-19-211, MCA).

Senate Bill 132 (passed by the 1999 legislature) eliminated many disparate fees on insurance companies, which had partially been deposited into the general fund, and replaced them with a single company annual fee of \$1,900. Revenue from this fee is deposited to the state special revenue fund for administration of insurance activities.

Distribution: The majority of insurance tax and license fee proceeds are deposited into the general fund.

Summary of Legislative Action: The 58th Legislature did not enact legislation that impacted this general fund revenue source.

Statute: Title 33, Chapter 2 and Chapter 14, MCA

% of Total FY 2002 General Fund Revenue: 3.74%

Revenue Projection:

