STATE ADMINISTRAT

Exhibit No. 3

Date 4-1-2015

Bill No. HB 483

Senate State Administration
March 31, 2015
HB 483 – Increase VFCA Base Retirement Benefit

VFCA Amortization Periods	Funding %
2014 – 5.1 years	82.00%
2013 – 8.5 years	74.79%
2012 – 9.3 years	73.40%
2011 – 8.8 years	74.39%
2010 – 7.7 years	77.01%
2009 – 6.9 years	81.16%
2008 – 5.0 years	84.14%
2007 – 5.1 years	81.84%
2006 – 9.6 years	72.89%
2005 – 11.9 years	69.25%
2004 – 11.3 years	69.94%
2003 –	no valuation
2002 –	71.82%
2001 –	no valuation
2000	106.07%

Amortization Periods were not calculated in a comparable manner prior to 2004.

History of Relevant Legislative and Actuarial Changes:

*2003 – Credited service used to calculate monthly benefit increased from 20 to 30 years at age 55 for all VFCA members

*2005 – Eliminated requirement that member be 55 years of age to be eligible for a retirement benefit based on more than 20 years of service

*2011 – Provides for a benefit based on more than 30 years of service provided system can be amortized in 20 years or less

*2010 – Actuarial Assumed Rate of Return decreased from 8% to 7.75%

*2010 – Experience Study changing several related factors including inflation and mortality rates

Spencer, Nadine

From: Weiss, Rachel
Sent: Tuesday, March 31, 2015 8:42 AM
To: senatordee@yahoo.com; 'Roger Webb'; robyn@robyndriscoll.com; hinklesenate32@gmail.com; Kary, Doug (Sen); 'Sue Malek'; Whitford, Lea (Sen)
Cc: Spencer, Nadine
Subject: FW: Fire insurance premium tax question

Hello Senate State Administration Committee members,
You requested information about how much the state receives from the fire insurance premium tax (aka the Fire Marshal's Tax). Cynthia Hollimon with the Legislative Fiscal Division ran the following numbers for the past five fiscal years. All of the money is placed in the general fund. I've also attached a report by Sheri Scurr that looks at the origin of the tax in case you want an in-depth discussion of that tax and its relationship to various retirement funds.
Let me know if you have additional questions.
Sincerely,

Rachel Weiss
Legislative Research Analyst
406-444-5367

saic_final_report...

Fund Type	Account	Fiscal Year	Revenue Amt
01 General			20,886,678.96
	512013 Fire Marshall Taxes		20,886,678.96
		2010	4,023,249.32
		2011	4,006,350.06
		2012	4,060,908.47
		2013	4,249,018.43
		2014	4,547,152.68
Grand Total			20,886,678.96

WHOSE SLICE OF WHICH PIE?

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

Prepared by
Sheri S. Heffelfinger, Research Analyst

For the
State Administration and Veterans' Affairs Interim Committee

November 2002

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INTRODUCTION

Purpose

This paper responds to a request by the State Administration and Veterans' Affairs Interim Committee, 2001-2002 interim, for a statutory analysis, including a legislative history, of the insurance premium tax and its use to fund pension and disability benefits for firefighters. The Committee also requested that the statutory analysis be compared against the actual practice of calculating the amounts paid to the various pension trust funds. The context of this request was a request by a representative of the volunteer firefighters' association, whose membership has concerns about the funding of the Volunteer Firefighters' Compensation Act (VFCA).[1]

Organization

This paper is presented in the following parts:

- a current law overview;
- a comparison of present practice to past history;
- a nutshell history; and
- a conclusion.

Appendices

The following Appendices offer additional information, but include unedited staff notes:

Appendix A - full text of the relevant statutes
Appendix B - short legislative history of the key statutes
Appendix C - a detailed chronological history of the VFCA funding statute

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[1] This paper is a research report and analysis, not a legal brief, legal analysis, or legal opinion.

CURRENT LAW

Overview

The State Auditor makes annual payments from the state general fund to the following pension and disability trust funds:

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

Although the payments made today by the State Auditor are drawn directly from the general fund, these payments were historically made from various earmarked accounts into which the insurance premium taxes were directly deposited.

The general insurance premium tax

The statute requiring all insurers doing business in Montana to report the premiums they collect and that imposes an insurance premium tax of 2.75% on premiums is Section 33-2-705, MCA. This paper refers to this tax as the "general insurance premium tax".

The fire insurance premium tax

Insurers authorized to sell insurance against certain enumerated risks pay an additional tax of 2.5% on the fire portion of the premiums paid against those enumerated risks. This 2.5% tax has historically been called the Fire Marshal's Tax because it was first enacted in 1911 for the sole purpose of funding the State Fire Marshal's Office. Today, the tax is deposited to the state general fund and is often referred to as the fire insurance premium tax. Subsection (1) of Section 50-3-109, MCA, provides for the tax, while Subsection (2) of Section 50-3-109, MCA, enumerates the risks against which certain insures write premiums. The fire insurance premium is imposed on the fire portion of the total premiums paid against the enumerated risks.

Unlocking the complexities

The key to unlocking the complex statutory relationships and determining which insurance premium taxes were used to pay for what benefits is to keep in mind that there are two distinct taxes: the general insurance premium tax of 2.75% and an additional tax imposed only on the fire portion of premiums paid against certain enumerated risks. *(See text box at right.)*

- ☞ The primary funding source for certain fire and police pension benefits has historically been the general insurance premium tax of 2.75% under Section 33-2-705, MCA, but calculated only on the premiums paid against the risks enumerated in Section 50-3-109(2), MCA.
- ☞ The 2.5% Fire Marshal's Tax is imposed only on the fire portion of the premiums paid against the risks enumerated in Section 50-3-109(2) and is paid in addition to the 2.75% general insurance premium tax.

CURRENT PRACTICE
COMPARED TO PAST HISTORY

Current collections

Figure 1 presents a table showing the revenue collected in FY 2002 from the 2.75% general insurance premium taxes under Section 33-2-705, MCA, on the risks enumerated in Section 50-3-109(2), MCA.

Figure 1:
Insurance Premium Tax Collections: FY 2002

Source: State Auditor's Office
** All numbers are rounded*

	Total premiums written by insurers	**Section *33-2-705*, MCA, 2.75% tax**	**Section 50-3-109, MCA, 2.5% tax (additional tax)**
All insurers covered by Section 33-2-705, MCA.	$1.6 billion	$44 million	See below
Insurers of risks enumerated in Section 50-3-109(2), MCA.	$825 million *(part of the $1.6 billion above)*	$22.7 million *(part of the $44 million above)*	See below
Fire portion of polices written by insurers of risks enumerated in Section 50-3-109, MCA. Traditionally called the **FIRE MARSHAL'S TAX.**	$95 million *(part of the $825 million above)*	See above *(part of the $22.7 million above)*	$2.3 million *In ADDITION to the $44 million

Thus, for FY 2002, the total tax revenue from the both the 2.75% general insurance premium tax and the 2.5% fire insurance premium tax was approximately **$46.3 million,** all of which was deposited to the state general fund.

Calculations past and present

Figure 2 shows the payments made by the State Auditor in FY 2002 to certain fire and police pension trust funds and how the amounts are calculated and were calculated historically.

Figure 2:

Payments by the State Auditor from the General Fund to the Police and Fire Pension Trust Funds

Source: State Auditor's Office and Montana Code Annotated

** All numbers are rounded*

MCA Section	Pension Fund	FY 2002 Payment	Current statutory language on calculation	Historical statutory language on calculation
19-9-702	MPORS	$6.5 million	State auditor must pay from the general fund 29.37% of the compensation of active members.	Enacted in 1977: Calculated as a percentage of compensation of active members but paid directly from an earmarked account in the State Auditor's Office and into which general insurance premium taxes collected against the enumerated risks were deposited.
19-13-604	FURS	$5.8 million	State auditor must pay from the general fund 32.61% of the compensation of active members.	Enacted in 1981: Calculated as a percentage of compensation of active members, but paid directly from an earmarked account in the State Auditor's Office and into which general insurance premium taxes collected against the enumerated risks were deposited.

MCA Section	Pension Fund	FY 2002 Payment	Current statutory language on calculation	Historical statutory language on calculation
19-17-301	VFCA	$1.1 million	"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. "	Enacted in 1935: State auditor paid 5% of the ***general insurance premium taxes*** collected against the enumerated risks ***after*** after payments under 19-13-604 (to FURS) and 19-18-512 (to local fire funds) were made. In 1981, concurrent with creation of FURS, the calculation was changed to ***before*** payments to FURS and the local fire relief associations.
19-18-512	Local fire relief assoc.	$229,000	Paid by the State Auditor from the general fund. "The warrant must be for an amount equal to 1 1/2 mills of the total taxable value of the city or town."	Enacted in 1911: originally authorized cities to impose the levy, with a portion of the revenue forwarded to the state. Later amended to be paid from the general insurance premium taxes, but was always calculated as an amount equal to a specified property tax mill levy. Until 1995, this was paid by the state auditor from the insurance premium tax earmarked fund.
19-19-305	Municipalities with police departments	$538,000	Paid by the State Auditor from the general fund. "...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."	Enacted in 1965: was always to be calculated in the same manner as provided for the fire department disbursements under 19-18-512. Until 1995, this was paid from the general insurance premium tax earmarked fund.

MCA Section	Pension Fund	FY 2002 Payment	Current statutory language on calculation	Historical statutory language on calculation
19-19-506	Supplemental benefits under local police dept. funds	$19,700	Paid by the State Auditor from the general fund. The payment must be sufficient to provide a benefit amount that may "not be less than one-half the salary paid in that fiscal year in the appropriate city or town to the newly confirmed police officers."	Enacted in 1977: This was based on a similar supplemental minimum benefit paid for firefighters who retired before July 1, 1973. The firefighters' supplemental benefit provision was enacted in 1975 and included ***a new 1.5% fire insurance premium tax to fund the benefit***. The tax was to be reduced and finally terminated as recipients passed away. In 1977, amendments continued the additional tax and removed the reduction and termination language to provide supplemental benefits to certain police officer retirees. Further amendments in 1981, when FURS was created, identified this 1.5% tax as an earmarked source of revenue for supplemental benefits for members of FURS. ****See paragraph with historical notes immediately below this table.***

***Historical notes on the additional 1.5% Fire Insurance Premium Tax**

In 1997, a general revision of the statutes governing administration of the state's finances amended Section 50-3-109, MCA, by moving the enumerated risks from Section 19-18-512, MCA, to be codified as Subsection (2) of the Section 50-3-109, MCA. Amendments in the bill also clarified the breakout of the two fire insurance premium taxes. The 1% fire insurance premium tax (the original Fire Marshal's Tax) was to be deposited to the general fund. Other revisions in the act provided that the 1.5% fire insurance premium tax for supplemental benefits also be deposited directly into the general fund. However, the State Auditor would still pay to the local police departments and fire relief associations an amount equal to the proceeds of the 1.5% tax. If the money statutorily appropriated for the benefits exceeded the cost of the benefits, the excess amount was to be paid into the FURS trust fund to help fund a 1989 benefit that

guaranteed FURS retirees would have a minimum pension benefit equal to 1/2 the salary of a newly confirmed firefighter in the city from which the firefighter retired. Other bills in 1997 provided that the payments made to the FURS and VFCA trust funds to be made directly from the general fund. The internal reference in Section 50-3-109, MCA, that tied the 1.5% fire insurance premium tax to various supplemental benefits in FURS was stricken because payment calculations were provided for in other sections. Thus, the internal reference linking the special additional 1.5% fire insurance premium tax to supplemental pension benefits became moot. The 1999 code commissioner's bill to generally revise the MCA and correct erroneous internal references in the statutes, amended Section 50-3-109, MCA, by striking the moot internal reference to supplemental benefits and combining the two sets of fire insurance premium taxes imposed on the fire portion of premiums into one tax of 2.5%. This eliminated the redundancy of a 1% tax and a 1.5% tax both imposed on the same premiums and both being deposited directly to the general fund.

The "X" million dollar question

With respect to the statutory history discussed above, did deposit of the insurance premium tax revenue directly to the general fund rather than to special accounts and the subsequent combining of the 1.5% fire insurance premium tax with the 1% Fire Marshal's Tax short-change the pension trust funds?

And the answer is...

For the VFCA

With respect to the VFCA, the contributions to the VFCA have always been calculated as a percentage of the general insurance premium tax revenue received from the 2.75% tax imposed under Title 33-2-705, MCA, on insurers who collect premiums against the risks enumerated in Section 50-3-109(2), MCA. Providing that this tax be deposited to the general fund and that the payment to be made from the general fund instead of an earmarked account has had no effect on the funding of the VFCA because the statute still requires the 5% to be calculated against the specified tax revenue.

Nevertheless, Section 19-17-301, MCA, which governs this calculation needs to be cleaned up and could be amended as follows to clarify the calculation:

> **19-17-301. ~~Fire insurance~~ 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 imposed under 30-2-705 and collected from insurers authorized to effect insurance against risks enumerated in 50-3-109(2). ~~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.

This clarification would have no effect on the amount of money paid to the VFCA trust fund but would make it easier to discern which insurance premium tax revenue is used when the State Auditor makes the 5% calculation for the payment.

How much money is now in the VFCA trust fund and whether the fund is healthy enough to provide increased benefits is an important question, but beyond the purpose of this paper. Current VFCA pension benefits for a retired firefighter who is 55 years of age with 20 years of service, or who is 60 years of age with 10 years of service is statutorily set at $100 a month.

For the other police and fire pension funds

With respect to the other pension plan funds (the funding for MPORS, FURS, and the local police funds), the amounts historically paid from earmarked accounts into which the insurance premium taxes were directly deposited and that are now paid from the general fund have never been calculated as a percentage of the revenue. Rather, the amounts paid have been calculated either as an amount equal to a mill levy or as a percentage of compensation. Thus, statutory changes affecting whether the payment was to be made from an earmarked fund or from the general fund did not change the amount ultimately paid into those funds.

Does a portion of the 2.5% Fire Marshal's Tax under Section 50-3-109(1), MCA, belong to the pension plans?

The special additional 1.5% fire insurance premium tax (now part of the 2.5% fire marshal's tax) was originally enacted in 1975 to fund one-time supplemental benefits. As previously noted, the tax was supposed to decrease and ultimately

terminate as the eligible benefit recipients passed away. (In fact, the firefighters' supplemental benefit was repealed in 1997 because there were no remaining eligible recipients.)

Subsequent amendments led to the 1.5% fire insurance premium tax becoming permanent and an on-going funding source for other police and fire one-time benefit increases. These supplemental benefit increases eventually gave way to guaranteed minimum benefit provisions in both FURS and MPORS. The minimum benefits themselves have now given way to a Guaranteed Annual Benefit Adjustment (GABA) within those systems. Both the GABA and the minimum benefit adjustments paid in MPORS and FURS are actuarially funded. This means that contribution amounts are based on the percentage of compensation needed to provide adequate funding for the benefits and not on the sufficiency of the fire insurance premium taxes.

Although the entire 2.5% fire marshal's tax is now deposited to the general fund, thus, becoming an additional revenue source to the general fund, the total tax amounts to only about $2.4 million in revenue while total general fund payments for pension benefits now totals about $14.2 million.

The total general fund payments to pension plans can, of course, be sliced into various different pieces, but determining which pieces were intended to be funded by the general fund and which were intended to be funded by the 1975 1.5% fire insurance premium tax is like trying to follow a string of spaghetti on a full plate. Nonetheless, perhaps some of the information in this paper will assist legislators and stakeholders to sort through arguments about why there are general fund impacts when certain FURS or VFCA pension benefits are increased or extended to additional members.

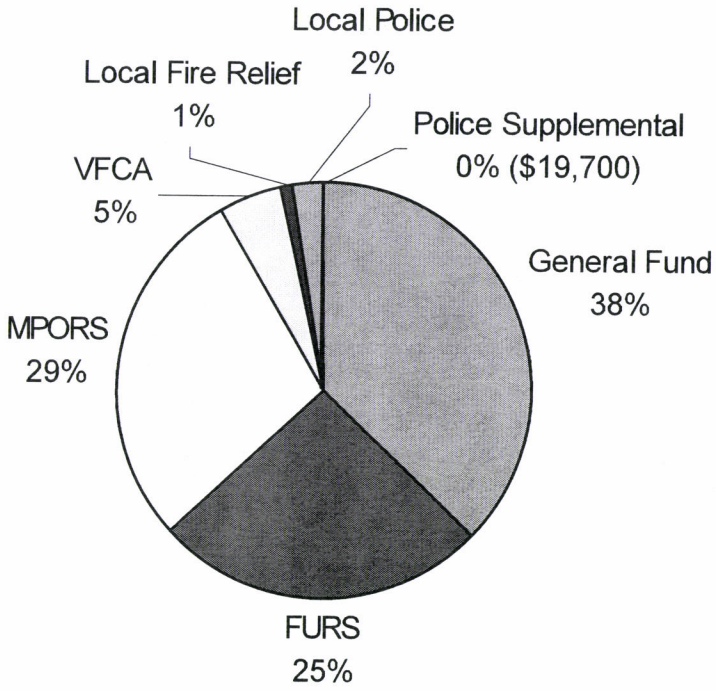
Pieces of the pie

Of the total $46.4 million collected in general insurance premium taxes in FY 2002, $22.7 million is attributable to the premiums paid to insurers who write policies against the risks enumerated in Section 50-3-109(2), MCA. Of this $22.7 million "pie", various slices have been used to fund police and fire pension benefits, with amounts left over being used to pay other benefits, and any remaining amounts reverting to the general fund. Today, of the $22.7 million

"pie", $14.2 million is paid through the State Auditor's Office to the pension funds. Figure 3 illustrates how large or small the various slices of this pie were in FY 2002.

Figure 3:

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



A NUTSHELL HISTORY

The history of the general insurance premium tax starts with the very First Legislative Assembly of the Territory of Montana in 1864 when a licensing fee was imposed on any entity who conducted business in the Territory. By 1911, general licensing fees had been broken out by business types. For insurance companies, licensing fees were based on the amount of premiums they collected. In 1911, legislation created the Fire Marshal's Office and funded it with a tax on the fire portion of the premiums collected by fire insurance companies. This tax was in addition to and separate from the licensing fees paid by these companies. Other legislation assisted local fire and police disability funds by providing that the general licensing fees were deposited directly to local disability funds before unexpended amount were forwarded to the state treasury.

As benefits evolved and the number of retirees increased, costs increased. Financially troubled local fire and police funds were consolidated into statewide funds, each receiving a state contribution through the State Auditor's Office. The VFCA was enacted in 1935, MPORS was enacted in 1977, and FURS was enacted in 1981. Some localities elected not to join the consolidated MPORS and FURS funds and so retained their right to receive payments from the State Auditor. These payments continued to be calculated as a mill levy amount on the taxable value of the city.

As statutory provisions governing state finances and accounting methods were revised, updated, and simplified, revenue was deposited directly to the state general fund, then statutorily appropriated to the earmarked accounts. Most recent revisions to state finance laws replaced many statutory appropriations with simple fund transfers.

However, through all of these revisions, the calculations to determine what amount would be paid to which pension funds remained consistent, either as a mill levy calculation, as a percentage of compensation, or, with respect to the VFCA, as 5% of the general insurance premium taxes collected under Section 33-2-705, MCA, from insurers writing policies against the risks enumerated in Section 50-3-109(2), MCA.

CONCLUSION:
A MATTER OF PERSPECTIVE

If one takes the perspective that the premium taxes collected under Section 33-2-705, MCA, from insurers who write policies against the risks enumerated in Section 50-3-109(2), MCA, were originally intended only to pay firefighter and police officer pension benefits, then an argument can be made that the pension funds are receiving $8.5 million less than they are entitled to receive. (The $8.5 million is the difference between the $22.7 million collected in premium taxes on those insurers, minus the $14.2 million that is now paid out through the state auditor's office).

On the other hand, if one takes the perspective that the insurance premium tax was originally enacted as a shared revenue source or as a state general fund revenue source and that certain portions of the state revenue were later carved out and dedicated to assist financially troubled local funds, then an argument can be made that the pension funds are receiving a bigger slice of the pie than originally intended.

From the public policy perspective, the central issue to be debated is not which funding source should be tapped to pay for which benefits. Rather, the issue to be debated is whether the benefit enhancement or membership expansion that shows up on a fiscal note as a "hit" against the general fund is based on sound retirement plan principles aimed at meeting rational public policy goals.

Hopefully, this paper has provided helpful information, provoked some thought, and responded to the research request made by the State Administration and Veterans' Affairs Interim Committee.

Appendix A:
The Full Text of Relevant MCA Sections

General Insurance Premium Tax Statute

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. ***[emphasis added]***

Fire Marshal's/Fire Insurance Premium Tax Statute

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 17-2-121.

(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.

[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]***

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]***

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]

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.

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.

Appendix B:
Short History of Key Statutes

***Note, these are unedited staff notes offered for added information, please excuse any errors**

The key statutory provisions related to insurance premium taxes and funding for firefighter and police officer disability and pensions are as follows:

- Section 33-2-705, MCA, imposes a 2.75% tax commonly called the general insurance premium tax. This tax is imposed on all corporations doing insurance business in Montana. This tax was originally enacted in 1864 by the First Legislative Assembly of the Territory of Montana as a licensing fee on all entities doing business in Montana. In 1897 new sections of law were enacted specific to insurance companies and the licensing fee charged was based on the premiums collected the company.

- Section 50-3-109, MCA, imposes a 2.5% tax commonly called the fire insurance premium tax or the fire marshal's tax. This tax is on the *fire portion* of insurance premiums reported and taxed under Section 33-2-705, MCA, and must be paid *in addition* to the 2.75% tax imposed on those premiums under Section 33-2-705, MCA. Thus, companies that write insurance policies that include insurance against fire damage are paying a total 5.25% tax on the fire portion of all the premiums they collect. A portion of this tax, 1.5%, was historically used to pay for supplemental benefits. As these payments began to be made by the general fund, it was combined into the Fire Marshal's Tax of 1%, which had originally been used to fund the State Fire Marshal's Office, but which was also de-earmarked and deposited to the general fund. Again, the payments from the general fund continue to be made, but are not longer made from an earmarked account into which the taxes were originally directly deposited.

- Section 19-18-512, MCA, provides for a payment from the state auditor equal to 1.5 mills of the taxable value of the city to be paid from the state general fund to local fire relief associations in the city. Local fire department disability funds were originally established in 1907. The city could levy a special property tax to fund the local fire disability funds. As statutes and funding mechanisms evolved, the payments to the local funds began to be made through the State Auditor's Office from insurance premium tax revenue earmarked as a firefighter disability fund. In 1981, the local fire relief association funds in first and second class cities (many of the funds were seriously underfunded or in debt) were consolidated into the Firefighters Unified Retirement System (FURS). Other cities had an option to join or not to join FURS. The local fire relief associations receiving this payment today under Section 19-18-512, MCA, are the associations that did not elect to join FURS, and the payment made to them is still calculated based on taxable valuation of property. The fire relief association payments and the state contribution to FURS were made from the same "pot" of money, which was the insurance premium taxes collected by the State Auditor and deposited directly into an earmarked account.

- Section 19-13-604, MCA, provides that an amount equal to 32.61% of the salaries of current members be deposited from the state general fund to the FURS trust fund. As mentioned above, FURS was created in 1981. This state contribution used to be made by the State Auditor from the general insurance premium taxes collected under Section 33-2-705, MCA, from a certain group of

insurance companies that collected premiums against the risks enumerated in Section 50-3-109(2), MCA.

- Section 19-17-301, MCA, provides that "a sum equivalent to 5% of the premium taxes collected from insurers authorized to effect insurance against risks enumerated in 50-3-109" be deposited from the state general fund to the pension trust fund established under the Volunteer Firefighters' Compensation Act (VFCA). The VFCA was enacted in 1935, before FURS was established, to cover firefighters in unincorporated areas.

- Section 19-9-702, MCA, provides that an amount equal to 29.37% of the salaries of current members be deposited from the state general fund to the Municipal Police Officers' Retirement System (MPORS), which was enacted in 1977. As with the state contribution to FURS, the state contribution to MPORS used to be made from insurance premium taxes paid under Section 33-2-705, MCA, but only for taxes collected against premiums for motor vehicle and casualty insurance. Furthermore, the calculation had not ever been based on the amount of the taxes collected, but was calculated as a percentage of compensation paid to active members of MPORS.

- Section 19-19-305, MCA, provides for a state contribution from the general fund to certain municipalities with police departments that are not now part of MPORS. Similar to the local fire relief associations, these departments did not consolidate their pension and disability funds under MPORS in 1977, and so continue to receive payments calculated as 1.5 mills of the taxable value of the city. Although this payment is today made from the general fund, the payment had been made from an earmarked account into which insurance premium taxes for motor vehicle and casualty insurance was deposited.

- Section 19-19-506, MCA, provides for the State Auditor to make a state contribution from the general fund to pay for supplemental minimum benefits enacted in 1977 for certain retirees of the local police pension and disability funds. Again, these payments were originally paid from earmarked insurance premium tax revenue.

Appendix C:
Detailed Chronological History Of Funding for the VFCA Under Section 19-17-301, MCA

***Note, these are <u>unedited staff notes</u> offered for added information, please excuse any errors**

Section 19-17-301, MCA, was originally enacted in 1935. However, to add more historical perspective, below is the pre-1935 history (1865-1935) of insurance premium taxes in general and, at various junctures, of the taxes more specific to fire insurance companies.

1864 The First Session of the Legislative Assembly of the Territory of Montana established licensing fees for people and organizations doing business in Montana. The fees were based on transaction amounts. Of the fees collected, 60% was kept by the county, 40% was remitted to the Territory. Fire insurance companies were not specifically mentioned. *(See Public Laws of the Territory of Montana, 1864, pp. 523-528.)*

1879 Licenses were specifically required for fire insurance companies to do business in a city or town within a county. Licenses had to be obtained from the county. The fee was $7.50 each quarter or $40 annually. The county retained 100% of the revenue, but it had to "be applied to the maintenance of the fire department of the town or city where such business shall be carried on...." If there was no fire department in a city or town where business was being conducted, the money was deposited to the general fund of the county. *(See Chapter XXXI, Insurance Companies and Agents, Revised Statutes of Montana 1879, pp. 756-758.)*

1887 Of the licensing fees first imposed in 1865 on all insurance companies, 75% of licenses fees collected were kept by the county, 25% were remitted to the Territory. *(See Laws of Montana, 1887, pp. 72-77.)*

1897 House Bill No. 258 revised the licensing of all insurance companies, associations, and societies doing business in Montana. Included in the act were companies insuring "against loss or damage by fire". The bill provided for licensing fees to be paid to the State Auditor based on the amount of insurance premiums collected by the company in each year. To collect $5,000 or less in premiums per year, the licensing fee was $125. To collect more than $5,000 in premiums per year, the licensing fee was $25 for every $1,000 in premiums collected by the company. The bill did not specify a disposition of the fees from the State Auditor to local authorities. *(See Session Laws, 50th Assembly, pp. 76-78.)*

1911 Section 24, Chapter 148, Laws of 1911, established the State Fire Marshal's Office under the State Auditor's Office. To fund the fire marshal's office, a new tax was enacted on the premiums collected by fire insurance companies. The state fire marshal, along with the fire chief of the city fire department and the justice of the peace presiding in areas where a fire occurred were required by the 1911 law to investigate and

determine the cause and circumstance of each fire. The following is Section 24 in Chapter 148, Laws of 1911:

"For the purpose of maintaining the department of the State Fire Marshal and the payment of expenses incident thereto, each fire insurance company doing business in this state shall pay to the State Auditor and Commissioner of Insurance, ex officio, during the month of February or March in each year, in addition to the license fees required by law to be paid by it . . . a tax of one-fourth (1/4) of one (1) per cent on the gross premium receipts of such companies . . . ."

The State Auditor deposited revenue from this tax into a special fund called the State Fire Marshal Fund. Expenditures could not exceed the amount of money in the fund, and at the end of each fiscal year, unexpended money in the fund was to be deposited to the state general fund.

Chapter 129 of the Session Laws of 1911 provided that each city or town with an organized fire department would report to the Insurance Commissioner information about the fire department's water supply, the number or organized fire companies in the city or town, and the equipment used by each fire company. The city or town was also to report "the amount of premiums received by it". The Insurance Commissioner was to certify to the State Auditor "the name of each city which has had, for not less than one year, an organized fire department, and which has been so reported to him, and the amount of premiums received in each city in such year by each fire insurance company". The State Auditor was then required to issue at the end of each fiscal year a warrant to every city or town that amounted to "25% of the licenses collected by the state auditor under section 4017 of the revised codes of the state of Montana, in proportion to the premium so paid, and collected by said fire insurance companies, in such cities to the total premiums, paid and collected by such fire insurance companies in the entire state". Section 4017 of the revised codes was the codification of the provision originally enacted in 1897, when license fees on all insurance companies were generally revised. *(See Chapter 129, Session Laws, Twelfth Legislative Assembly, pp. 353-357 and Section 4017 RCM 1907.)*

Thus, at this juncture, licensing fees based on premiums collected specifically by fire insurance companies doing business in the city were to be tracked separately and that 25% of the licensing fees paid pursuant to the fire insurance premiums were to be deposited to local fire department disability funds.

1915 The allocation of the licensing fees collected from fire insurance companies and paid into to local fire department disability funds was increased from 25% to 50%, with the balance going to the state general fund. *(See Chapter 49, Laws of Montana, 1915.)*

1921 Summary of the laws as of 1921: In the Revised Codes of Montana of 1921, Section 5127, provided that the state auditor shall "issue and deliver to the treasurer of every city his warrant for an amount equal to fifty per cent of the licenses collected by the state auditor under 6112 of these codes, in proportion to the premium so paid and collected by the said fire insurance companies in such cities to the total premiums paid and collected by such fire insurance companies in the entire state."

Section 6112 was previously Section 4017 of the 1907 RCM, and it provided that all insurance companies (including fire insurance companies) needed a license to do business. For a license to collect $5,000 or less in premiums a year, the licensing fee was $125. For a license to collect more than $5,000 in premiums a year, the license fee was $25 for each $1,000 in premiums collected. *(See RCM 1921, Section 5127 and Section 6112.)*

1933 Chapter 127 of the Laws of 1933 was an act "to amend Section 5127 of the Revised Codes of Montana, of 1921, as amended by Section 9 of Chapter 58 of the Session Laws of the Twentieth Legislative Assembly of the Sate of Montana, Relating to State Auditor to Pay Cities and Towns Seventy-five Per Centum (75%) of the Licenses Collected for the Maintaining Disability and Pension fund of the Fire Department Relief Association of a City or Town." The act provided a formula for calculating the amount to be paid to each city's fund. Of the total license fees collected (under Section 6112), 50% was to be paid out to cities and towns according to the proportion of the fire insurance premiums collected in the city compared to the total collected from fire insurance companies statewide. The remaining 25% (of the 75% "earmarked" for Fire Relief Associations) was to be used for a second payment of an amount sufficient to ensure all cities who received less than $100 under the first allocation would receive a second allocation sufficient to ensure they received $100 minimum. For accounting purposes, the act also established a state special revenue account called the "Disability and Pension Fund", out of which these payments were made.

<u>Summary of disbursements of revenue based on insurance premiums:</u>

From the licensing fees:

- -- 25% to state general fund
- -- 75% earmarked in the Disability and Pension Fund
  - - 50% of the money in the Fund was paid out to fire relief associations proportional to licensing fees paid by fire insurance companies
  - - 25% of the money in the Fund was paid out in an amount sufficient to ensure no city received less than $100.

From the tax on fire company insurance premiums (paid in addition to licensing fees:

- -- 100% earmarked to fund the Fire Marshal's Office
- -- Amounts not expended at the end of each fiscal year reverted to the state general fund

1935 Chapter 65, Laws of 1935, established what was called the Volunteer Firemen's Compensation Act. The act provided a specified disability compensation for "every member of a fire company organized in an unincorporated town or village" who was injured in the line of duty and whose injury required a doctor's attention. Section 2 of the act established a fund to be know as the Volunteer Firemen's Compensation Fund, from which the disability claims were to be paid. The payment of claims from the fund was administered by the Industrial Accident Board. A certain percentage of the licensing fees, by then called taxes, collected

from fire insurance companies was specified as the funding source for the disability payments. Section 11 of the act provided that the State Auditor and Ex-officio Commissioner of Insurance (one office) shall:

> "annually cause to be deposited in the "Volunteer Firemen's Compensation Fund"..."such sum as shall be equivalent to 5 percent of the premium taxes collected from ***fire insurance companies*** pursuant to Section 6112, Revised Codes of Montana, 1921, as shall remain ***after*** the amounts provided for by Section 5127, Revised Codes of Montana 1921, as amended by Chapter 127, Laws of Montana, 1933, shall have first been deducted." ***[emphasis added]***

1947

Chapter 125, Laws of 1947, amended Section 5158.11 by clarifying that the fire insurance premium tax was actually just a portion of the tax (licensing fees) paid by all insurance companies to obtain a license to conduct business. Section 6112 based the licensing fee amounts on the premiums collected by insurance companies for all types of insurance. Section 6136 specifically authorized any insurance company to provide fire insurance. This 1947 act provided that the amount of money to be deposited to the VCFA fund was 5% "of premium taxes collected from insurance companies *authorized to effect insurance against risks enumerated in Paragraph 1 of Section 6136,* pursuant to Section 6112, as shall remain after the amounts provided for by Section 5127, shall have been first deducted." The italics highlights the new language enacted in 1947. Paragraph 1 of Section 6136 itself was not new. Section 6136 enumerated all the various types of insurance that companies where authorized to sell. Paragraph one related to property insurance. The risks to property were listed and were eventually codified as subsection (2) of Section 50-2-109, MCA.

Another act, Chapter 162, Laws of 1947, updated the statutory language that is now Subsection (1) of Section 50-3-109, MCA, (i.e., the Fire Marshal's Tax) so that rather than referring to a tax on the premiums paid to "fire insurance companies", the tax was imposed on each "insurance company authorized to affect insurance on the risks enumerated in paragraph one of Section 6136" and instead of the tax being on all premiums paid to the company, language was inserted stating the tax on those companies was imposed only on the "fire portion" of the premiums paid to them.

It is important to note that the insurance companies authorized to insure property against certain risks were required to pay the licensing fees that were now being referred to as insurance premium taxes PLUS the fire marshal's tax, which was also calculated based on the insurance premiums collected by the company. Consequently, the *fire portion* of the premiums collected by certain insurance companies was subject to both taxes.

Special Note

Without retracing the entire history of what became Section 11-2022 in the 1947 R.C.M. (formerly Section 5158.3 of the 1935 R.C.M.) or the history of the other relevant MCA sections, it is important to note that by the time the 2nd Replacement Volume of the 1947 R.C.M. was published in 1967, which composited the numerous legislative changes that had been made since the 1935 R.C.M., the disability benefits payable under the VFCA had evolved significantly. Whereas initially enacted to provide only disability benefits, by 1967, the VFCA benefits also encompassed funeral expenses, payments to fire companies that maintained their own group insurance plan for death or disability, and pension payments for firefighters who had attained a certain age and completed a certain number of years of service. With respect to the pension benefits payable, a volunteer firefighter who was eligible for a pension could file a "claim" with the public employees' retirement system's administrative board. Under Sections 11-2025 and 11-2526, each year, after all disability, death, and group insurance payments had been paid, the Industrial Accident Board would tell the retirement board how much money remained in the VFCA fund. The retirement board would then determine how much could be paid to each "claimant" (i.e., retiree) belonging to the pension fund. Claimants were entitled to remain in the pension plan for life and receive annual payments recalculated each year based on how many total retirees there were and the annual balance available after the disability, death, and insurance benefits were paid.

In summary, 5% of the fire insurance portion of the insurance premium tax revenue that remained <u>after</u> the allocation to the local fire relief association pension and disability funds was deposited to an earmarked fund for the VFCA. After disability, death, insurance, and administrative costs were paid by the Industrial Accident Board to members of the VFCA, the annual balance remaining in the earmarked fund was reported to the retirement board. The retirement board would then split that balance among all pension "claimants" (i.e., retirees) and pay it out monthly or in a lump sum.

1963

Chapter 147, Laws of 1963, generally revised the fund structure of the state treasury. Section 191 of the act amended Section 11-2030 by inserting language providing that the fire insurance premium taxes used to fund the VFCA (i.e., the 5% <u>after</u> allocations to the fire relief associations) was to be annually deposited to the "earmarked revenue fund" in the state treasury. It also added language to clarify that the money in the fund was to be used to pay the claims under and the administrative costs of the VFCA.

1969

By 1969, Section 11-022 of the 1969 Cumulative Pocket Supplement of the 1947 R.C.M. had been amended to further described the formula for how the pension payments due to VFCA retirees were to be calculated. In essence, at the close of the fiscal year (afer the disability, death, and insurance payments had been made) the Industrial Accident Board would reserve $1 million in their fund for future payments for those benefits. Money in their fund in excess of the $1 million would be paid to the Public Employees' Retirement System administrative board. The statute then directed that if the amount paid to the retirement board was sufficient, each member of the VFCA pension fund would receive $20 a month for the year, but if not sufficient, each member would simply receive a lump sum payout. The language further specified that the money from the earmarked fund (i.e. the VFCA fund) that was set aside from that fund for

the purposes of paying pensions to VFCA retirees could not exceed the amount required to payout a maximum of $25 per month for each retiree. In other words, money received by the retirement board in excess of the amount needed to pay $25 per month to each retiree was evidently (though not expressly stated) to be returned to the Industrial Accident Board and was not "fenced" for future pension payments.

1973 By 1973, Section 11-2022 in the 1973 Cumulative Pocket Supplement of the R.C.M. had further evolved. Disability and death benefits had been increased and the formula for the VFCA pension payments had been revised. After paying the disability, death, and insurance benefits, the Industrial Accident Board was to pay to the retirement board the amount in the earmarked fund exceeding $1 million or 95% of the amount that the earmarked fund had increased during the previous fiscal year, whichever was less. Further changes included increasing the maximum pension payment to $50 per month.

1975 In 1975, under Chapter 32 of the Laws of 1975, an additional 1.5% tax on the "fire portion" of insurance premiums paid by the insurers authorized to sell insurance against the listed risks to property was imposed for the sole purpose of funding a special supplemental retirement benefit for firefighters who retired before1973. As enacted, the bill provided that as the persons who received the supplemental benefits became deceased, the tax would be reduced proportionally, and that when no one eligible to receive the supplemental benefits survived, the tax was to terminate. Money remaining in the special revenue account to which the tax revenue was deposited would revert to the general fund.

1977 Three acts in 1977 amended Section 11-2030, the section relating to 5% of the fire insurance premium taxes being set aside to fund the VFCA. Chapter 95, Laws of 1977, created an "agency fund" from which all the VFCA benefit payments, including pension payments, were made. The 5% of the fire insurance premium taxes (after the other allocations) was deposited directly to that agency fund. Chapter 157, Laws of 1977, was a general revision bill amending numerous sections affecting both the fire relief association disability funds and the VFCA. Section 11-2030 was amended in a manner similar to the Chapter 95 act so that the 5% would be deposited directly to a fund called the "volunteer firemen's fund". The act also clarified that money in the fund could only be used to pay for the disability, death, insurance, and pension benefits provided for under Section 11-2022 to eligible members. Chapter 90, Laws of 1977, increased the maximum pension payment from $50 to $100 per month.

1981 Chapter 566, Laws of Montana, 1981, created the Firefighters' Unified Retirement System (FURS). The disability and pension funds of local fire relief associations in first and second class cities as well as the disability funds from other cities who elected to join FURS were consolidated into one pension fund administered by the Public Employees' Retirement Board. The act also provided for a state contribution of 12% of compensation of active members (increasing to 15% in 1982 and 18% in 1983) to be paid into the FURS pension trust fund from the fire insurance premium tax.

Chapter 313, Laws of Montana 1981, amended Section 19-12-301, MCA, (previously Section 11-2030 R.C.M. and that would later be renumbered to Section 19-17-301) to provide that the 5% set aside for the VFCA benefits (disability, death, insurance, and pensions) was calculated based on the premium tax collected ***before*** the state auditor made annual payments to the local fire relief association disability and pension funds.

Composite

Both of the 1981 enactments (summarized immediately above) amended the Section 19-12-301, MCA. Therefore, the composite of Section 19-12-301 (after codification of both laws) provided that the 5% allocated to the VFCA was to be computed ***before both*** the state contribution to FURS and the state auditor's payment to the local fire relief associations that elected to not join FURS. (See Section 19-12-301, MCA of 1981.) This was a significant change for the VFCA because the 5% had been calculated on amounts left after the allocation to the local "pre-FURS" funds had been made.

1985

Chapter 703, Laws of Montana, 1985, was a general revision bill to clarify appropriations and provide for continuing statutory appropriations. Thus, the money paid into the state special revenue fund from insurance premium taxes was statutorily appropriated for the purposes specified in statute.

Summary

In 1985, insurance premium taxes were being used to fund the following pension and disability benefits:

From the general insurance premium taxes collected under Section 30-2-705 on insures authorized to insure against risks enumerated in 19-11-512, MCA (later to become Subsection (2) of Section 50-3-109, MCA, enacted as the Fire Marshal's Tax):

(1) To local fire relief association pension and disability funds amounting to 1.5 mills of the taxable value of property in the city

(2) To FURS for the state contribution based on a percentage of salary of active members

(3) To VFCA based on 5% of the total premium taxes collected from those insurers an calculated **before** the disbursements under (1) and (2) above were made

(4) To FURS for supplemental pension benefits to certain retirees

(5) To MPORS for the state contribution based on a percentage of salary of active members

(6) To MPORS for supplemental benefits providing a guaranteed minimum benefit *(*paid from the portion of the premium taxes associated with motor vehicle and casualty insurance)*

(7) To MPORS for other supplemental benefits

(8) To local police officer relief associations as a state contribution

(9) To local police officer relief associations for supplemental benefits

Note: Unexpended amounts of the revenue collected from the insurance premium taxes were deposited to the state general fund.

From an additional special 1.5% tax on the fire portion of the premiums paid under Section 33-2-705, MCA, by the same group of insurers insuring property against the risks enumerated in Section 19-11-512, MCA:

(1) Supplemental benefits for the pre-1973 retirees of the local fire relief association pension and disability funds

From the 0.75% Fire Marshal's Tax imposed in Section 50-3-109, MCA:

(1) For the operation of the State Fire Marshal's Office, annual amount

(2) Annual balance in special revenue fund to go to the state general fund.

1995 Chapter 175, Laws of Montana, 1995, (HB63) significantly revised the VFCA to provide that benefits under the plan be actuarially funded. The "volunteer firefighters fund" designation for the account from which the VFCA benefits were paid was changed to the "pension trust fund". Benefit amounts were calculated based on years of service. Whereas pension benefits paid had been based on the amount available in the fund after disability, death, and insurance benefits had been paid, the 1995 amendments provided that recipients would receive a monthly benefit based on years of service, with a maximum of $100 per month (a reduction from the $120 per month set for all recipients. This $100 full pension was paid for 20 or more years of service. Partial pensions were to be paid based on years of service between 10 and 20 years of service.

1997 Chapter 532, Laws of Montana, 1997, amended Section 19-17-301, MCA, and other sections of the retirement statutes, to provide that the fire insurance premium tax revenue used to pay pension plan benefits would be paid into the general fund. From the general fund, the state auditor would pay the amounts specified. The amendments did not alter the amounts paid. Section 19-17-3MCA, continued to use 5% of the Title 50 fire insurance premium tax before allocations to the local fire relief associations and FURS were made to fund the VFCA.

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