

HOUSE BILL 721

Introduced by Becker

2/08	Introduced
2/08	Referred to Taxation
2/09	First Reading
2/09	Fiscal Note Requested
2/16	Fiscal Note Received
2/18	Fiscal Note Printed
3/06	Hearing
3/11	Revised Fiscal Note Printed
3/21	Tabled in Committee

1 *Becker House* BILL NO. *721*
 2 INTRODUCED BY *Franklin D. Cherry*
 3 *Yellowtail* ~~*William Beale*~~

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FUNDING FOR
 5 AUTOPSIES THROUGH THE IMPOSITION OF A TAX ON INSURANCE
 6 PREMIUMS OF POLICIES THAT CONTAIN A DEATH BENEFIT OR ON
 7 POLICIES OR RIDERS THAT PAY AS THE RESULT OF A DEATH CAUSED
 8 BY THE INSURED; TO CREATE AN AUTOPSY ACCOUNT AND A STATUTORY
 9 APPROPRIATION TO BE ADMINISTERED BY THE ATTORNEY GENERAL;
 10 AMENDING SECTIONS 17-7-502 AND 33-2-705, MCA; AND PROVIDING
 11 AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 NEW SECTION. Section 1. Tax on death benefit insurance
 15 to fund performance of autopsies. Each insurer authorized to
 16 transact business in the state shall pay to the commissioner
 17 on or before March 1 of each year, in addition to the taxes
 18 on premiums required by law, a tax of 1/10 of 1% on the
 19 portion of the direct premiums received during the preceding
 20 calendar year, after deducting cancellations and return
 21 premiums, for each policy that contains a death benefit and
 22 each policy or rider to a policy that pays as a result of a
 23 death caused by the insured. The proceeds of the tax must be
 24 deposited as provided in [section 2] for payment by the
 25 attorney general of the costs of autopsies ordered by a

1 coroner, a county attorney, or the attorney general pursuant
 2 to 46-4-103.

3 NEW SECTION. Section 2. Autopsy account -- source --
 4 statutory appropriation. (1) There is created an autopsy
 5 account within the state special revenue fund.

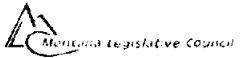
6 (2) The commissioner shall transfer all taxes collected
 7 pursuant to [section 1] to the autopsy account.

8 (3) The autopsy account is statutorily appropriated, as
 9 provided in 17-7-502, to the attorney general for the
 10 reimbursement of the costs of autopsies ordered by a
 11 coroner, a county attorney, or the attorney general pursuant
 12 to 46-4-103.

13 NEW SECTION. Section 3. Autopsy account --
 14 administration by attorney general. (1) The attorney general
 15 shall administer the autopsy account created in [section 2].
 16 The administrative costs incurred by the attorney general
 17 are payable from the autopsy account.

18 (2) The following costs of an autopsy ordered pursuant
 19 to 46-4-103 are reimbursable from the autopsy account:

- 20 (a) the medical examiner's or associate medical
- 21 examiner's fee for performing an autopsy;
- 22 (b) the reasonable and ordinary costs of using a
- 23 morgue, funeral home, hospital, or other facility for the
- 24 purpose of conducting an autopsy;
- 25 (c) any costs incurred in transporting a dead human



1 body for the purpose of conducting an autopsy; and
 2 (d) the fees for scientific tests or examinations
 3 ordered in the course of an autopsy.

4 (3) The county coroner, in the case of autopsies that
 5 are ordered by the county coroner or the county attorney, or
 6 the state medical examiner, in the case of autopsies that
 7 are ordered by the attorney general, shall submit to the
 8 attorney general a detailed, verified statement of the
 9 reimbursable costs of an autopsy ordered pursuant to
 10 46-4-103. Upon receipt and verification of the statement,
 11 the attorney general shall promptly reimburse the designated
 12 county or the state medical examiner for the autopsy costs.
 13 A county must deposit the amount reimbursed in its general
 14 fund unless the county has a coroner fund. If the county has
 15 a coroner fund, the amount reimbursed must be deposited in
 16 that fund.

17 (4) If the money appropriated for the autopsy account
 18 is insufficient to reimburse the cost of an autopsy ordered
 19 pursuant to 46-4-103, payment of the cost must be made in
 20 accordance with 46-4-103(4).

21 **Section 4.** Section 17-7-502, MCA, is amended to read:
 22 "17-7-502. Statutory appropriations -- definition --
 23 requisites for validity. (1) A statutory appropriation is an
 24 appropriation made by permanent law that authorizes spending
 25 by a state agency without the need for a biennial

1 legislative appropriation or budget amendment.

2 (2) Except as provided in subsection (4), to be
 3 effective, a statutory appropriation must comply with both
 4 of the following provisions:

5 (a) The law containing the statutory authority must be
 6 listed in subsection (3).

7 (b) The law or portion of the law making a statutory
 8 appropriation must specifically state that a statutory
 9 appropriation is made as provided in this section.

10 (3) The following laws are the only laws containing
 11 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
 12 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;
 13 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;
 14 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;
 15 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;
 16 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;
 17 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111;
 18 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016;
 19 23-5-1027; 27-12-206; section 2; 37-51-501; 39-71-2504;
 20 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205;
 21 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103;
 22 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613;
 23 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws
 24 of 1985.

25 (4) There is a statutory appropriation to pay the

1 principal, interest, premiums, and costs of issuing, paying,
 2 and securing all bonds, notes, or other obligations, as due,
 3 that have been authorized and issued pursuant to the laws of
 4 Montana. Agencies that have entered into agreements
 5 authorized by the laws of Montana to pay the state
 6 treasurer, for deposit in accordance with 17-2-101 through
 7 17-2-107, as determined by the state treasurer, an amount
 8 sufficient to pay the principal and interest as due on the
 9 bonds or notes have statutory appropriation authority for
 10 such payments. (In subsection (3), pursuant to sec. 10, Ch.
 11 664, L. 1987, the inclusion of 39-71-2504 terminates June
 12 30, 1991.)"

13 **Section 5.** Section 33-2-705, MCA, is amended to read:

14 "33-2-705. Report on premiums and other consideration
 15 -- tax. (1) Each authorized insurer and each formerly
 16 authorized insurer with respect to premiums so received
 17 while an authorized insurer in this state shall file with
 18 the commissioner, on or before March 1 each year, a report
 19 in form as prescribed by the commissioner showing total
 20 direct premium income, including policy, membership, and
 21 other fees, premiums paid by application of dividends,
 22 refunds, savings, savings coupons, and similar returns or
 23 credits to payment of premiums for new or additional or
 24 extended or renewed insurance, charges for payment of
 25 premium in installments, and all other consideration for

1 insurance from all kinds and classes of insurance, whether
 2 designated as a premium or otherwise, received by it during
 3 the preceding calendar year on account of policies covering
 4 property, subjects, or risks located, resident, or to be
 5 performed in Montana, with proper proportionate allocation
 6 of premium as to such property, subjects, or risks in
 7 Montana insured under policies or contracts covering
 8 property, subjects, or risks located or resident in more
 9 than one state, after deducting from such total direct
 10 premium income applicable cancellations, returned premiums,
 11 the unabsorbed portion of any deposit premium, the amount of
 12 reduction in or refund of premiums allowed to industrial
 13 life policyholders for payment of premiums direct to an
 14 office of the insurer, all policy dividends, refunds,
 15 savings, savings coupons, and other similar returns paid or
 16 credited to policyholders with respect to such policies. As
 17 to title insurance, "premium" includes the total charge for
 18 such insurance. No deduction shall be made of the cash
 19 surrender values of policies. Considerations received on
 20 annuity contracts shall not be included in total direct
 21 premium income and shall not be subject to tax.

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

1 (3) That portion of the tax paid hereunder by an
 2 insurer on account of premiums received for fire insurance
 3 shall be separately specified in the report as required by
 4 the commissioner, for apportionment as provided by law.
 5 Where insurance against fire is included with insurance of
 6 property against other perils at an undivided premium, the
 7 insurer shall make such reasonable allocation from such
 8 entire premium to the fire portion of the coverage as shall
 9 be stated in such report and as may be approved or accepted
 10 by the commissioner.

11 (4) With respect to authorized insurers, the premium
 12 tax provided ~~by this section shall be~~ in subsection (2) is
 13 payment in full and in lieu of all other demands for any and
 14 all state, county, city, district, municipal, and school
 15 taxes, licenses, fees, and excises of whatever kind or
 16 character, excepting only those prescribed by this code,
 17 taxes on real and tangible personal property located in this
 18 state, and taxes payable under 50-3-109.

19 (5) That portion of the tax paid by an insurer for
 20 premiums received for any policy that contains a death
 21 benefit or a policy that pays as a result of a death caused
 22 by the insured must be specified separately in the report as
 23 required by the commissioner for the purposes set forth in
 24 [sections 1 through 3]. If the insurance containing a death
 25 benefit or paying as a result of a death caused by the

1 insured is included with other insurance at an undivided
 2 premium, the insurer shall make a reasonable allocation from
 3 the entire premium to the death benefit or payment portion
 4 of the coverage as stated in the report and as approved by
 5 the commissioner.

6 (6) The commissioner may suspend or revoke the
 7 certificate of authority of any insurer which fails to pay
 8 its taxes as required under this section.

9 (6)(7) In addition to the penalty provided for in
 10 subsection (5) (6), the commissioner may impose upon an
 11 insurer who fails to pay the tax required under this section
 12 a fine of \$100 a day for each day the tax remains unpaid
 13 past the due date or 1% of the amount owed in tax, whichever
 14 is greater.

15 (7)(8) The commissioner may by rule provide a quarterly
 16 schedule for payment of portions of the premium tax under
 17 this section during the year in which such tax liability is
 18 accrued."

19 **NEW SECTION. Section 6. Codification instruction.**
 20 [Sections 1 through 3] are intended to be codified as an
 21 integral part of Title 33, chapter 2, part 7, and the
 22 provisions of Title 33, chapter 2, part 7, apply to
 23 [sections 1 through 3].

24 **NEW SECTION. Section 7. Applicability.** [This act]
 25 applies to all life insurance tax revenue recorded on or

LC 1535/01

1 after July 1, 1991, regardless of when the tax obligation
2 accrued.

3 NEW SECTION. **Section 8.** **Effective date.** [This act] is
4 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0721, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide funding for autopsies through the imposition of a tax on insurance premiums of policies that contain a death benefit or on policies or riders that pay as a result of a death caused by the insured.

ASSUMPTIONS:

Department of Justice:


1. 700 autopsies will be performed statewide each year by the Forensic Science Division of the Department of Justice, with the average cost being \$1,100 per autopsy.
2. The State Medical Examiner will perform 125 of the 700 autopsies, with a savings of \$700 per autopsy which otherwise be paid to contract pathologists.
3. Current law is represented by the executive budget recommendation for the Forensic Science Division.

State Auditor:

4. Life insurance and annuity premiums written in Montana in 1989 were \$168,835,508 and \$144,782,258, respectively.
5. Life insurance and annuity premiums will increase by 1% per year in 1990, 1991 and 1992.
6. Calendar year 1991 premiums are the base for premium taxes collected in FY92 and FY93.
7. The additional premium tax rate will be .001.
8. 1.00 FTE Compliance Specialist II at grade 12, step 2 will be added to collect and audit the new tax.
9. A computer terminal will be added in FY92 at a cost of \$3,000.
10. Office space rental for the FTE will cost \$2,500 each year, and telephone costs will be \$2,500 and \$2,000 in the next two fiscal years.
11. Current law is represented by the executive budget base for the Insurance Program in the State Auditors Office.

FISCAL IMPACT:

see next page



ROD SUNDSTED, BUDGET DIRECTOR 2-15-91
Office of Budget and Program Planning DATE



ARLENE BECKER, PRIMARY SPONSOR 2-18-91
DATE

Fiscal Note for HB0721, as introduced

HB 721

Fiscal Note Request, HB0721, as introduced
 Form BD-15
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FISCAL IMPACT:

Department of Justice-Forensic Science Division

Expenditures:

	FY '92			FY '93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Operating Costs	281,000	963,000	682,000	282,200	964,200	682,000
<u>Funding:</u>						
General Fund (01)	225,000	587,100	362,100	225,800	584,800	359,000
Alcoholism Treatment (02)	56,000	56,000	0	56,400	56,400	0
Autopsy Account (02)	<u>0</u>	<u>319,900</u>	<u>319,900</u>	<u>0</u>	<u>323,000</u>	<u>323,000</u>
Total	281,000	963,000	682,000	282,200	964,200	682,000

State Auditor-Insurance Program

F.T.E.	30.00	31.00	1.00	30.00	31.00	1.00
Personal Services	856,600	881,375	24,775	855,700	881,785	26,085
Operating Costs	146,600	151,600	5,000	147,800	152,300	4,500
Capital Outlay	<u>0</u>	<u>3,000</u>	<u>3,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	1,003,200	1,035,975	32,775	1,003,500	1,034,085	30,585
<u>Funding:</u>						
General Fund (01)	1,003,200	1,003,975	32,775	1,003,500	1,034,085	30,585

Revenues:

New Premium Tax (02)	0	319,921	319,921	0	323,120	323,120
General Fund Impact			(394,875)			(389,585)

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

The assumption of autopsy costs currently paid by cities and counties will reduced expenditures by approximately \$500,000 per year.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Life insurance and annuity products will increase in cost to consumers.

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0721, as introduced, revised.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide funding for autopsies through the imposition of a tax on insurance premiums of policies that contain a death benefit or on policies or riders that pay as a result of a death caused by the insured.

ASSUMPTIONS:

Department of Justice:


1. 700 autopsies will be performed statewide each year by the Forensic Science Division of the Department of Justice, with the average cost being \$1,100 per autopsy.
2. The State Medical Examiner will perform 125 of the 700 autopsies, with a savings of \$700 per autopsy which otherwise would be paid to contract pathologists.
3. Current law is represented by the executive budget recommendation for the Forensic Science Division.

State Auditor:


4. Life insurance and annuity premiums written in Montana in 1989 were \$168,835,508 and \$144,782,258, respectively.
5. Life insurance and annuity premiums will increase by 1% in calendar years 1990, 1991 and 1992.
6. Calendar year 1991 premiums are the base for premium taxes collected in FY92.
7. The additional premium tax rate will be .001.
8. Casualty insurance lines which include death benefits include: farmowners, homeowners, and commercial multiple peril, medical malpractice, workers' compensation, general liability, private passenger and commercial auto liability, aircraft, and boiler and machinery.
9. Total premiums written in Montana for death benefit-related casualty lines in 1989 were \$368,310,000.
10. Casualty premiums will increase by 3% in calendar years 1990, 1991 and 1992.
11. The death benefit-related portions of casualty premiums are 2% for workers' compensation and auto liability, and 5% for all other casualty lines.
12. 1.00 FTE Compliance Specialist II at grade 12, step 2 will be added to collect and audit the new tax.
13. A computer terminal will be added in FY92 at a cost of \$3,000.
14. Office space rental for the FTE will cost \$2,500 each year, and telephone costs will be \$2,500 and \$2,000 in the next two fiscal years.
15. Current law is represented by the executive budget base for the Insurance Program in the State Auditors Office.

FISCAL IMPACT:

see next page


ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning

3-8-91
DATE


ARLENE BECKER, PRIMARY SPONSOR

3-11-91
DATE

Fiscal Note for HB0721, as introduced, revised.

HB 721-2
Rev.

Fiscal Note Request, HB0721, as introduced, revised.

Form BD-15

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FISCAL IMPACT:

Department of Justice-Forensic Science Division

Expenditures:

	FY '92			FY '93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Operating Costs	281,000	963,000	682,000	282,200	964,200	682,000
<u>Funding:</u>						
General Fund (01)	225,000	573,629	348,629	225,800	578,820	345,020
Alcoholism Treatment (02)	56,000	56,000	0	56,400	56,400	0
Autopsy Account (02)	0	333,371	333,371	0	336,980	336,980
Total	281,000	963,000	682,000	282,200	964,200	682,000

State Auditor-Insurance Program

F.T.E.	30.00	31.00	1.00	30.00	31.00	1.00
Personal Services	856,600	881,375	24,775	855,700	881,785	26,085
Operating Costs	146,600	151,600	5,000	147,800	152,300	4,500
Capital Outlay	0	3,000	3,000	0	0	0
Total	1,003,200	1,035,975	32,775	1,003,500	1,034,085	30,585
<u>Funding:</u>						
General Fund (01)	1,003,200	1,003,975	32,775	1,003,500	1,034,085	30,585

Revenues:

Autopsy Account: Life & Annuity Premium Tax (02)	0	319,921	319,921	0	323,120	323,120
Autopsy Account: Casualty Insur. Premium Tax (02)	0	13,450	13,450	0	13,860	13,860
Total	0	333,371	333,371	0	336,980	336,980

General Fund Impact (Decrease) (381,404) (375,605)

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

The assumption of autopsy costs currently paid by cities and counties will reduce expenditures by approximately \$500,000 per year.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Life insurance and annuity products will increase in cost to consumers.

HO 721-2
Rev.