

SENATE BILL 359

Introduced by McLane, et al.

2/06	Introduced
2/06	Referred to Business & Industry
2/07	Fiscal Note Requested
2/14	Fiscal Note Received
2/15	Hearing
2/15	Fiscal Note Printed
	Died in Committee

1 *Senate* BILL NO. 359
2 INTRODUCED BY *Mr. Sam Heller*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FUNDING FOR
5 AUTOPSIES THROUGH THE IMPOSITION OF A TAX ON INSURANCE
6 PREMIUMS OF POLICIES THAT CONTAIN A DEATH BENEFIT OR ON
7 PREMIUMS OF POLICIES OR RIDERS THAT PAY AS THE RESULT OF A
8 DEATH CAUSED BY THE INSURED; CREATING AN AUTOPSY FUND;
9 PROVIDING THAT THE FUND BE ADMINISTERED BY THE STATE MEDICAL
10 EXAMINER; PROVIDING FOR A STATUTORY APPROPRIATION; AMENDING
11 SECTIONS 17-7-502, 33-2-705, AND 44-3-211, MCA; AND
12 PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."
13

14 STATEMENT OF INTENT

15 A statement of intent is required for this bill because
16 rulemaking authority is granted to the state medical
17 examiner, department of justice, in [section 3]. It is
18 intended that the medical examiner provide grants to
19 counties so that the income from the insurance premium tax
20 does the greatest good. The rules may provide what
21 circumstances should exist before an autopsy qualifies for
22 reimbursement from grant money. County funding may be either
23 prospective or on a reimbursement basis, or a combination of
24 both, to cover infrequent autopsies in lesser populated
25 counties and a class of autopsies expected to occur with

1 predictable frequency in densely populated counties.

2 The medical examiner is expected to adopt rules to
3 address other matters, such as the manner of transmitting
4 funds to a county and reports from county coroners.
5

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

7 NEW SECTION. Section 1. Tax on death benefit
8 insurance to fund performance of autopsies. Each insurer
9 authorized to transact business in the state shall pay to
10 the commissioner of insurance on or before March 1 of each
11 year, in addition to the taxes on premiums required by law
12 to be paid by it, a tax of 3/4 of 1% on the portion of the
13 direct premiums received during the preceding calendar year,
14 after deducting cancellations and return premiums, for each
15 policy that contains a death benefit and each policy or
16 rider to a policy that pays as a result of a death caused by
17 the insured. The proceeds of the tax must be deposited as
18 provided in [section 2] for payment by the state medical
19 examiner of county autopsies.

20 NEW SECTION. Section 2. Special revenue account --
21 source -- statutory appropriation. (1) There is created a
22 special revenue fund to be called the autopsy fund.

23 (2) The insurance commissioner shall transfer all
24 taxes collected pursuant to [section 1] to the autopsy fund.

25 (3) The autopsy fund is statutorily appropriated, as

provided in 17-7-502, to the department of justice for conducting autopsies as provided in [section 3].

NEW SECTION. Section 3. County autopsy funding --

administration by state medical examiner. (1) The state medical examiner shall administer the autopsy fund established in [section 2]. The costs incurred by the state medical examiner for administration are payable from the autopsy fund.

(2) The state medical examiner may grant funds to a county to defray costs of autopsies when, subject to rules adopted by the state medical examiner, the coroner in his discretion believes an autopsy should be performed. The funds must be deposited in the county general fund to reimburse the county, in whole or in part, for the cost of the autopsy. All grants are subject to the availability of funds. This section does not relieve a county of the duty to provide funds for the performance of necessary autopsies.

(3) The state medical examiner shall adopt rules, pursuant to Title 2, chapter 4, governing:

(a) the administration of the fund, including the manner of making applications for grants, payment of grants, and accountability for use of granted money;

(b) the permissible uses of the money, including guidelines for a coroner to use to determine whether the circumstances of a death suggest that an autopsy should be

performed;

(c) reports from coroners relating to the use of the money; and

(d) other matters the state medical examiner determines necessary to administer and allocate the available funds in the most effective and efficient manner.

Section 4. Section 33-2-705, MCA, is amended to read:

***33-2-705. Report on premiums and other consideration -- tax.** (1) Each authorized insurer and each formerly authorized insurer with respect to premiums so received while an authorized insurer in this state shall file with the commissioner, on or before March 1 each year, a report in form as 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 it 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 such 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 such 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 such the policies. As to title insurance, "premium" includes the total charge for such the insurance. No A deduction shall may not be made of the cash surrender values of policies. Considerations received on annuity contracts shall may not be included in total direct premium income and shall are not be subject to tax.

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

(3) (a) That portion of the tax paid hereunder under this section by an insurer on account of premiums received for fire insurance shall must be separately specified in the report as required by the commissioner, for apportionment as provided by law. Where insurance against fire is included

with insurance of property against other perils at an undivided premium, the insurer shall make such a reasonable allocation from such the entire premium to the fire portion of the coverage, as shall-be stated in such the report and as may be approved or accepted by the commissioner.

(b) That portion of the tax paid by an insurer on account of premiums received for any policy that contains a death benefit or a policy that pays as a result of a death caused by the insured must be separately specified in the report as required by the commissioner, for the purposes set forth in [sections 1 through 3]. If insurance containing a death benefit or paying as a result of a death caused by the insured is included with other insurance at an undivided premium, the insurer shall make a reasonable allocation from the entire premium to the death benefit or payment portion of the coverage, as 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 shall 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 which 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~~ which fails to pay the tax required under this section a fine of \$100 a day for each day the tax remains unpaid past the due date or 1% of the amount owed in tax, whichever is greater.

(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 ~~such~~ the tax liability is accrued."

Section 5. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

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

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

(b) The law or portion of the law making a statutory

appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111; 23-5-610; 23-5-1027; 33-31-212; 33-31-401; 37-51-501; 39-71-2504; [section 2]; 53-6-150; 53-24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306; 90-15-103; section 13, House Bill No. 861, Laws of 1985; and section 1, Chapter 454, Laws of 1987.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the

1 bonds or notes have statutory appropriation authority for
 2 such payments. (In subsection (3): pursuant to sec. 15, Ch.
 3 607, L. 1987, the inclusion of 15-65-121 terminates June 30,
 4 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion
 5 of 39-71-2504 terminates June 30, 1991; and pursuant to sec.
 6 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.
 7 1987, terminates July 1, 1988.)"

8 **Section 6.** Section 44-3-211, MCA, is amended to read:

9 "44-3-211. Duties of state medical examiner --
 10 general. The duties of the state medical examiner include
 11 but are not limited to the following:

12 (1) providing assistance and consultation to associate
 13 medical examiners, coroners, and law enforcement officers;

14 (2) providing court testimony when necessary to
 15 accomplish the purposes of this chapter;

16 (3) stimulating and directing research in the field of
 17 forensic pathology; and

18 (4) maintaining an ongoing educational and training
 19 program for associate medical examiners, coroners, and law
 20 enforcement officers; and

21 (5) administering the autopsy fund to pay costs of
 22 autopsies performed by county coroners as provided in
 23 [sections 1 through 3]."

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

1 after July 1, 1989, regardless of when the tax obligation
 2 accrued.

3 **NEW SECTION. Section 8.** Effective date. [This act] is
 4 effective July 1, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB359, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act providing funding for autopsies through the imposition of a tax on insurance premiums of policies or riders that pay as the result of a death caused by the insured; creating an autopsy fund; providing that the fund be administered by the state medical examiner; providing for a statutory appropriation; amending Sections 17-7-502, 33-2-705, and 44-3-211, MCA; and providing an effective date and an applicability date.

ASSUMPTIONS:

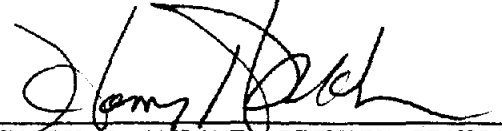
1. Life, annuity and casualty premiums in Montana in calendar year 1987 were \$210,562,000; \$101,260,000; and \$330,201,000 respectively.
2. Life and annuity premiums will increase by 2% each, and casualty premiums will increase by 7.5% each year.
3. 50% of all multi-peril policy premiums relate to casualty insurance.
4. State Auditor's Office will require an additional grade 12 FTE to audit the new revenue at an annual cost of \$21,400.
5. 500 autopsies will be ordered by coroners in FY90 and FY91, with an average cost of \$700 per autopsy;
6. Bill requires a 3/4 of 1% tax on annual life insurance premiums which have death benefits clauses or riders. This would affect coverage for state employees of the vo-techs, university system and executive branch. It is assumed that the tax will be passed on to the policy holder.

FISCAL IMPACT:

	<u>FY90</u>			<u>FY91</u>		
	Current	Proposed		Current	Proposed	
	Law	Law	Difference	Law	Law	Difference
Revenues:						
Life Premium Tax	\$ -0-	\$1,643,000	\$1,643,000	\$ -0-	\$1,676,000	\$1,676,000
Annuity Premium Tax	-0-	775,000	775,000	-0-	782,000	782,000
Casualty Premium Tax	-0-	2,862,000	2,862,000	-0-	3,077,000	3,077,000
TOTAL	\$ -0-	\$5,280,000	\$5,280,000	\$ -0-	\$5,535,000	\$5,535,000
Expenditures:						
<u>State Auditor's Office</u>						
FTE	-0-	1.0	1.0	-0-	1.0	1.0
Personal Services \$	-0-	\$ 21,400	\$ 21,400	\$ -0-	\$ 21,400	\$ 21,400
<u>Department of Justice</u>						
Operating Expenses\$	-0-	\$ 350,000	\$ 350,000	\$ -0-	\$ 350,000	\$ 350,000
Net Effect:			\$4,908,600			\$5,163,600
Expenditures:						
Department of Admin \$	-0-	\$ 10,476	\$ 10,476	\$ -0-	\$ 10,649	\$ 10,649
Department of Higher Education	\$ -0-	\$ 4,035	\$ 4,035	\$ -0-	\$ 4,035	\$ 4,035
Funding: Insurance Benefit Account						


 RAY SHACKLEFORD, BUDGET DIRECTOR
 OFFICE OF BUDGET AND PROGRAM PLANNING

DATE 2/13/89


 HARRY H. MCLANE, PRIMARY SPONSOR

DATE 2/14/89

Fiscal Note for SB359, as introduced**SB 359**