

HOUSE BILL 63

Introduced by Whalen, et al.

6/28	Introduced
6/28	Fiscal Note Requested
6/28	Referred to Labor & Employment Relations
6/28	Sponsor Fiscal Note Requested
6/28	Sponsor Fiscal Note Received
6/28	Hearing
6/28	Committee Report--Bill Passed as Amended
6/30	Sponsor Fiscal Note Printed Died in Process

1 *House* BILL NO. *63*
 2 INTRODUCED BY *Whalen, M. P. Connolly*
 3 *Coke, D. H. Menahan, J. M. Casella*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING THE CORPORATE
 5 LICENSE TAX ON INSURANCE COMPANIES; APPROPRIATING THE TAX
 6 MONEY FOR STATE WORKERS' COMPENSATION PLAN EXPENSES;
 7 AMENDING SECTIONS 15-1-501, 15-31-101, 15-31-113, AND
 8 33-2-705, MCA; AND PROVIDING AN APPLICABILITY DATE AND AN
 9 EFFECTIVE DATE."

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

12 Section 1. Section 15-1-501, MCA, is amended to read:

13 "15-1-501. Disposition of moneys from certain
 14 designated license and other taxes. (1) The state treasurer
 15 shall deposit to the credit of the state general fund all
 16 moneys received by him from the collection of:

- 17 (a) fees from driver's licenses, motorcycle
 18 endorsements, and duplicate driver's licenses as provided in
 19 61-5-121;
- 20 (b) electrical energy producer's license taxes under
 21 chapter 51;
- 22 (c) severance taxes allocated to the general fund
 23 under chapter 36;
- 24 (d) liquor license taxes under Title 16;
- 25 (e) telephone [company] license taxes under chapter

- 1 53; and
- 2 (f) inheritance and estate taxes under Title 72,
 3 chapter 16.
- 4 (2) All moneys received from the collection of income
 5 taxes under chapter 30 of this title shall be deposited as
 6 follows:
- 7 (a) 58.2% to the credit of the state general fund;
- 8 (b) 10% to the credit of the debt service account for
 9 long-range building program bonds as described in 17-5-408;
 10 and
- 11 (c) 31.8% to the credit of the state special revenue
 12 fund for state equalization aid to the public schools of
 13 Montana as described in 20-9-343.
- 14 (3) All moneys received from the collection of
 15 corporation license and income taxes under chapter 31 of
 16 this title, except as provided in subsection (4) and
 17 15-31-702, shall be deposited as follows:
- 18 (a) 64% to the credit of the state general fund;
- 19 (b) 11% to the credit of the debt service account for
 20 long-range building program bonds as described in 17-5-408;
 21 and
- 22 (c) 25% to the credit of the state special revenue
 23 fund for state equalization aid to the public schools of
 24 Montana as described in 20-9-343.
- 25 (4) The commissioner of insurance shall retain an



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HB 63

1 amount of each tax paid under 15-31-101(5) equal to the
 2 amount the taxpayer would have paid under 33-2-705 had the
 3 taxpayer not been exempt from the tax under 33-2-705 by
 4 reason of paying a tax under 15-31-101(5). The commissioner
 5 of insurance shall distribute the retained amount in the
 6 same manner as taxes paid under 33-2-705. There is an
 7 account in the state special revenue fund and the
 8 commissioner shall deposit the remainder of the tax in the
 9 account to be used by the commissioner to administer the
 10 collection of taxes imposed by 15-31-101(5) and as follows:

11 (a) The executive director of the fund created in
 12 39-71-2313 shall use the tax money to pay claims and
 13 administrative expenses occurring after July 1, 1990, to the
 14 extent necessary to prevent an increase in the total amount
 15 of money that must be collected in all fund rate
 16 classifications that are in effect on July 1, 1990. Rates
 17 may be changed, but to the extent that insurance corporation
 18 license tax money is available rate increases must not
 19 result in a rise in the total amount of money collected in
 20 all rate classifications.

21 (b) Tax money not necessary for the purpose of
 22 subsection (4)(a) must be used to lower the total amount of
 23 money collected in all rate classifications by 20%, to the
 24 extent money is available for this purpose.

25 (c) Tax money not necessary for the purposes of

1 subsections (4)(a) and (4)(b) must be used to reduce the
 2 state's unfunded workers' compensation insurance liability.

3 ~~(4)~~(5) The state treasurer shall also deposit to the
 4 credit of the state general fund all moneys received by him
 5 from the collection of license taxes, fees, and all net
 6 revenues and receipts from all other sources under the
 7 operation of the Montana Alcoholic Beverage Code.

8 ~~(5)~~(6) After the distribution provided for in
 9 15-36-112, the remainder of the oil severance tax
 10 collections shall be deposited in the general fund."

11 **Section 2.** Section 15-31-101, MCA, is amended to read:

12 "15-31-101. Organizations subject to tax. (1) The term
 13 "corporation" includes associations, joint-stock companies,
 14 common-law trusts and business trusts which do business in
 15 an organized capacity, and all other corporations whether
 16 created, organized, or existing under and pursuant to the
 17 laws, agreements, or declarations of trust of any state,
 18 country, or the United States.

19 (2) The terms "engaged in business" and "doing
 20 business" both mean actively engaging in any transaction for
 21 the purpose of financial or pecuniary gain or profit.

22 (3) Except as provided in 15-31-103 or 33-2-705~~(4)~~ and
 23 subsection (5) or as may be otherwise specifically provided,
 24 every corporation engaged in business in the state of
 25 Montana shall annually pay to the state treasurer as a

1 license fee for the privilege of carrying on business in
 2 this state such percentage or percentages of its total net
 3 income for the preceding taxable year at the rate
 4 hereinafter set forth. In the case of corporations having
 5 income from business activity which is taxable both within
 6 and without this state, the license fee shall be measured by
 7 the net income derived from or attributable to Montana
 8 sources as determined under part 3. This tax is due and
 9 payable on the 15th day of the 5th month following the close
 10 of the taxable year of the corporation; however, the tax
 11 becomes a lien as provided in this chapter on the last day
 12 of the taxable year in which the income was earned and is
 13 for the privilege of carrying on business in this state for
 14 the taxable year in which the income was earned.

15 (4) Every bank organized under the laws of the state
 16 of Montana, of any other state, or of the United States and
 17 every savings and loan association organized under the laws
 18 of this state or of the United States is subject to the
 19 Montana corporation license tax provided for under this
 20 chapter. For taxable years beginning on and after January 1,
 21 1972, this subsection is effective in accordance with Public
 22 Law 91-156, section 2 (12 U.S.C. 548).

23 (5) An insurance company not exempt from the license
 24 tax under 15-31-102 must pay the license tax imposed by this
 25 section if the amount of the license tax exceeds the amount

1 of the tax on net premiums due under 33-2-705. An insurance
 2 company that pays the tax imposed by this section is exempt
 3 from the tax imposed by 33-2-705. The license tax on
 4 insurance companies must be collected by the commissioner of
 5 insurance, and for purposes of this sentence "department" or
 6 "department of revenue", as used in this title, means the
 7 commissioner of insurance."

8 **Section 3.** Section 15-31-113, MCA, is amended to read:

9 "15-31-113. Gross income and net income. (1) The term
 10 "gross income" means all income recognized in determining
 11 the corporation's gross income for federal income tax
 12 purposes and:

13 (a) including:

14 (i) interest exempt from federal income tax;

15 (ii) the portion of gain from a liquidation of the
 16 reporting corporation not recognized for federal corporate
 17 income tax purposes pursuant to sections 331 through 337 of
 18 the Internal Revenue Code (as those sections may be amended
 19 or renumbered) attributable to stockholders, either
 20 individual or corporate, not subject to Montana income or
 21 license tax under Title 15, chapter 30 or chapter 31, as
 22 appropriate, on the gain passing through to the stockholders
 23 pursuant to federal law; and

24 (b) excluding gain recognized for federal tax purposes
 25 as a shareholder of a liquidating corporation pursuant to

1 sections 331 through 337 of the Internal Revenue Code (as
2 those sections may be amended or renumbered) when the gain
3 is required to be recognized by the liquidating corporation
4 pursuant to subsection (1)(a)(ii) of this section.

5 (2) The term "net income" means the gross income of
6 the corporation less, except as provided in subsection (4),
7 the deductions set forth in 15-31-114.

8 (3) No corporation is exempt from the corporation
9 license tax unless specifically provided for under
10 15-31-101(3) or 15-31-102. Any corporation not subject to or
11 liable for federal income tax but not exempt from the
12 corporation license tax under 15-31-101(3) or 15-31-102
13 shall compute gross income for corporation license tax
14 purposes in the same manner as a corporation that is subject
15 to or liable for federal income tax according to the
16 provisions for determining gross income in the federal
17 Internal Revenue Code in effect for the taxable year.

18 (4) The net income of each insurance company taxable
19 under 15-31-101(5) is the gross income, as determined under
20 this section, less, at the choice of the commissioner of
21 insurance, either the deductions set forth in 15-31-114, or
22 the deductions allowed by any standard for determining net
23 income adopted by the national association of insurance
24 commissioners."

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

1 "33-2-705. Report on premiums and other consideration
2 -- tax. (1) Each authorized insurer and each formerly
3 authorized insurer with respect to premiums so received
4 while an authorized insurer in this state shall file with
5 the commissioner, on or before March 1 each year, a report
6 in form as prescribed by the commissioner showing total
7 direct premium income, including policy, membership, and
8 other fees, premiums paid by application of dividends,
9 refunds, savings, savings coupons, and similar returns or
10 credits to payment of premiums for new or additional or
11 extended or renewed insurance, charges for payment of
12 premium in installments, and all other consideration for
13 insurance from all kinds and classes of insurance, whether
14 designated as a premium or otherwise, received by it during
15 the preceding calendar year on account of policies covering
16 property, subjects, or risks located, resident, or to be
17 performed in Montana, with proper proportionate allocation
18 of premium as to such property, subjects, or risks in
19 Montana insured under policies or contracts covering
20 property, subjects, or risks located or resident in more
21 than one state, after deducting from such total direct
22 premium income applicable cancellations, returned premiums,
23 the unabsorbed portion of any deposit premium, the amount of
24 reduction in or refund of premiums allowed to industrial
25 life policyholders for payment of premiums direct to an

1 office of the insurer, all policy dividends, refunds,
 2 savings, savings coupons, and other similar returns paid or
 3 credited to policyholders with respect to such policies. As
 4 to title insurance, "premium" includes the total charge for
 5 such insurance. No deduction shall be made of the cash
 6 surrender values of policies. Considerations received on
 7 annuity contracts shall not be included in total direct
 8 premium income and shall not be subject to tax.

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

13 (3) That portion of the tax paid hereunder by an
 14 insurer on account of premiums received for fire insurance
 15 shall be separately specified in the report as required by
 16 the commissioner, for apportionment as provided by law.
 17 Where insurance against fire is included with insurance of
 18 property against other perils at an undivided premium, the
 19 insurer shall make such reasonable allocation from such
 20 entire premium to the fire portion of the coverage as shall
 21 be stated in such report and as may be approved or accepted
 22 by the commissioner.

23 (4) With respect to authorized insurers the premium
 24 tax provided by this section shall be payment in full and in
 25 lieu of all other demands for any and all state, county,

1 city, district, municipal, and school taxes, licenses, fees,
 2 and excises of whatever kind or character, excepting only
 3 those prescribed by this code, taxes on real and tangible
 4 personal property located in this state, and taxes payable
 5 under 15-31-101 or 50-3-109.

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

15 (7) 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 5. Appropriation.** (1) The first
 20 \$50,000 collected under 15-31-101(5) in each fiscal year of
 21 the fiscal biennium ending June 30, 1991, is appropriated
 22 from the state special revenue fund account created in
 23 15-1-501(4) to the commissioner of insurance to be used to
 24 administer the collection of the tax imposed by
 25 15-31-101(5).

LC 0509/01

1 (2) Except as provided in subsection (1), the money
2 deposited in the special revenue fund account created in
3 15-31-101(5) each fiscal year of the fiscal biennium ending
4 June 30, 1991, is appropriated to the executive director of
5 the state compensation mutual insurance fund created by
6 39-71-2313 to be used for the purposes stated in
7 15-1-501(4)(a) through (4)(c).

8 NEW SECTION. **Section 6.** Applicability. The tax
9 imposed by 15-31-101(5) applies to tax years beginning after
10 December 31, 1989.

11 NEW SECTION. **Section 7.** Effective date. [This act] is
12 effective October 1, 1989.

-End-

SPONSOR'S FISCAL NOTE

Form BD-155

There is hereby submitted a Sponsor's Fiscal Note for: HB 63, Version: 1ST READING

Assumptions: A. 1 Billion Dollars Premium Revenue paid by Montanans each year

B. Claims & Reserve amt. for claims charged against the above premium revenue each year — 340 Million Dollars

C. Operating Expenses charged against the above premium Revenue each year — 60 Million Dollars

D. Claims paid out of above Revenue are paid out in approximately equal amounts over an average of 10 years. (results in an average of 850 Million held per year for claims payments)

E. Insurance Companies will earn an average of 15% per year on monies held pending payout on claims.

F. Premium tax collections → 28 Million Dollars per year

G. Corporate Income tax collections → ~~20~~⁴⁹ Million per year

Tax Collections for w.c. Reductions	Current	FY 90	FY 91
	\$0	\$21 Million	\$21 Million

Joseph J. Whalen 6-28-89
PRIMARY SPONSOR DATE

Fiscal Note for: HB 63 Version: _____

HB 63

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

1 HOUSE BILL NO. 63
2 INTRODUCED BY WHALEN, KILPATRICK, CONNELLY, COHEN,
3 GERVAIS, SQUIRES, MENAHAN, MCDONOUGH, RUSSELL,
4 MCCORMICK, COCCHIARELLA, O'KEEFE, DRISCOLL
5
6 A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING THE CORPORATE
7 LICENSE TAX ON INSURANCE COMPANIES; APPROPRIATING THE TAX
8 MONEY FOR STATE WORKERS' COMPENSATION PLAN EXPENSES;
9 AUTHORIZING THE COMMISSIONER OF INSURANCE TO ADOPT RULES TO
10 IMPLEMENT THIS ACT; AMENDING SECTIONS 15-1-501, 15-31-101,
11 15-31-113, 33-1-313, AND 33-2-705, MCA; AND PROVIDING AN
12 APPLICABILITY DATE AND AN EFFECTIVE DATE."
13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15 **Section 1.** Section 15-1-501, MCA, is amended to read:
16 "15-1-501. Disposition of moneys from certain
17 designated license and other taxes. (1) The state treasurer
18 shall deposit to the credit of the state general fund all
19 moneys received by him from the collection of:
20 (a) fees from driver's licenses, motorcycle
21 endorsements, and duplicate driver's licenses as provided in
22 61-5-121;
23 (b) electrical energy producer's license taxes under
24 chapter 51;
25 (c) severance taxes allocated to the general fund

1 under chapter 36;
2 (d) liquor license taxes under Title 16;
3 (e) telephone [company] license taxes under chapter
4 53; and
5 (f) inheritance and estate taxes under Title 72,
6 chapter 16.
7 (2) All moneys received from the collection of income
8 taxes under chapter 30 of this title shall be deposited as
9 follows:
10 (a) 58.2% to the credit of the state general fund;
11 (b) 10% to the credit of the debt service account for
12 long-range building program bonds as described in 17-5-408;
13 and
14 (c) 31.8% to the credit of the state special revenue
15 fund for state equalization aid to the public schools of
16 Montana as described in 20-9-343.
17 (3) All moneys received from the collection of
18 corporation license and income taxes under chapter 31 of
19 this title, except as provided in subsection (4) and
20 15-31-702, shall be deposited as follows:
21 (a) 64% to the credit of the state general fund;
22 (b) 11% to the credit of the debt service account for
23 long-range building program bonds as described in 17-5-408;
24 and
25 (c) 25% to the credit of the state special revenue

1 fund for state equalization aid to the public schools of
2 Montana as described in 20-9-343.

3 (4) The commissioner of insurance shall retain an
4 amount of each tax paid under 15-31-101(5) equal to the
5 amount the taxpayer would have paid under 33-2-705 had the
6 taxpayer not been exempt from the tax under 33-2-705 by
7 reason of paying a tax under 15-31-101(5). The commissioner
8 of insurance shall distribute the retained amount in the
9 same manner as taxes paid under 33-2-705. There is an
10 account in the state special revenue fund and the
11 commissioner shall deposit the remainder of the tax in the
12 account to be used by the commissioner to administer the
13 collection of taxes imposed by 15-31-101(5) and as follows:

14 (a) The executive director of the fund created in
15 39-71-2313 shall use the tax money to pay claims and
16 administrative expenses occurring after July 1, 1990, to the
17 extent necessary to prevent an increase in the total amount
18 of money that must be collected in all fund rate
19 classifications that are in effect on July 1, 1990. Rates
20 may be changed, but to the extent that insurance corporation
21 license tax money is available rate increases must not
22 result in a rise in the total amount of money collected in
23 all rate classifications.

24 (b) Tax money not necessary for the purpose of
25 subsection (4)(a) must be used to lower the total amount of

1 money collected in all rate classifications by 20%, to the
2 extent money is available for this purpose.

3 (c) Tax money not necessary for the purposes of
4 subsections (4)(a) and (4)(b) must be used to reduce the
5 state's unfunded workers' compensation insurance liability.

6 ~~†4†~~(5) The state treasurer shall also deposit to the
7 credit of the state general fund all moneys received by him
8 from the collection of license taxes, fees, and all net
9 revenues and receipts from all other sources under the
10 operation of the Montana Alcoholic Beverage Code.

11 ~~†5†~~(6) After the distribution provided for in
12 15-36-112, the remainder of the oil severance tax
13 collections shall be deposited in the general fund."

14 **Section 2.** Section 15-31-101, MCA, is amended to read:

15 "15-31-101. Organizations subject to tax. (1) The term
16 "corporation" includes associations, joint-stock companies,
17 common-law trusts and business trusts which do business in
18 an organized capacity, and all other corporations whether
19 created, organized, or existing under and pursuant to the
20 laws, agreements, or declarations of trust of any state,
21 country, or the United States.

22 (2) The terms "engaged in business" and "doing
23 business" both mean actively engaging in any transaction for
24 the purpose of financial or pecuniary gain or profit.

25 (3) Except as provided in 15-31-103 ~~or 33-2-705†4†~~ and

1 subsection (5) or as may be otherwise specifically provided,
 2 every corporation engaged in business in the state of
 3 Montana shall annually pay to the state treasurer as a
 4 license fee for the privilege of carrying on business in
 5 this state such percentage or percentages of its total net
 6 income for the preceding taxable year at the rate
 7 hereinafter set forth. In the case of corporations having
 8 income from business activity which is taxable both within
 9 and without this state, the license fee shall be measured by
 10 the net income derived from or attributable to Montana
 11 sources as determined under part 3. This tax is due and
 12 payable on the 15th day of the 5th month following the close
 13 of the taxable year of the corporation; however, the tax
 14 becomes a lien as provided in this chapter on the last day
 15 of the taxable year in which the income was earned and is
 16 for the privilege of carrying on business in this state for
 17 the taxable year in which the income was earned.

18 (4) Every bank organized under the laws of the state
 19 of Montana, of any other state, or of the United States and
 20 every savings and loan association organized under the laws
 21 of this state or of the United States is subject to the
 22 Montana corporation license tax provided for under this
 23 chapter. For taxable years beginning on and after January 1,
 24 1972, this subsection is effective in accordance with Public
 25 Law 91-156, section 2 (12 U.S.C. 548).

1 (5) An insurance company not exempt from the license
 2 tax under 15-31-102 must pay the license tax imposed by this
 3 section if the amount of the license tax exceeds the amount
 4 of the tax on net premiums due under 33-2-705. An insurance
 5 company that pays the tax imposed by this section is exempt
 6 from the tax imposed by 33-2-705. The license tax on
 7 insurance companies must be collected by the commissioner of
 8 insurance, and for purposes of this sentence "department" or
 9 "department of revenue", as used in this title, means the
 10 commissioner of insurance."

11 **Section 3.** Section 15-31-113, MCA, is amended to read:
 12 "15-31-113. Gross income and net income. (1) The term
 13 "gross income" means all income recognized in determining
 14 the corporation's gross income for federal income tax
 15 purposes and:
 16 (a) including:
 17 (i) interest exempt from federal income tax;
 18 (ii) the portion of gain from a liquidation of the
 19 reporting corporation not recognized for federal corporate
 20 income tax purposes pursuant to sections 331 through 337 of
 21 the Internal Revenue Code (as those sections may be amended
 22 or renumbered) attributable to stockholders, either
 23 individual or corporate, not subject to Montana income or
 24 license tax under Title 15, chapter 30 or chapter 31, as
 25 appropriate, on the gain passing through to the stockholders

1 pursuant to federal law; and

2 (b) excluding gain recognized for federal tax purposes
3 as a shareholder of a liquidating corporation pursuant to
4 sections 331 through 337 of the Internal Revenue Code (as
5 those sections may be amended or renumbered) when the gain
6 is required to be recognized by the liquidating corporation
7 pursuant to subsection (1)(a)(ii) of this section.

8 (2) The term "net income" means the gross income of
9 the corporation less, except as provided in subsection (4),
10 the deductions set forth in 15-31-114.

11 (3) No corporation is exempt from the corporation
12 license tax unless specifically provided for under
13 15-31-101(3) or 15-31-102. Any corporation not subject to or
14 liable for federal income tax but not exempt from the
15 corporation license tax under 15-31-101(3) or 15-31-102
16 shall compute gross income for corporation license tax
17 purposes in the same manner as a corporation that is subject
18 to or liable for federal income tax according to the
19 provisions for determining gross income in the federal
20 Internal Revenue Code in effect for the taxable year.

21 (4) The net income of each insurance company taxable
22 under 15-31-101(5) is the gross income, as determined under
23 this section, less, at the choice of the commissioner of
24 insurance, either the deductions set forth in 15-31-114, or
25 the deductions allowed by any standard for determining net

1 income adopted by the national association of insurance
2 commissioners."

3 **SECTION 4. SECTION 33-1-313, MCA, IS AMENDED TO READ:**

4 "33-1-313. Rules -- notice, hearing, and penalty. (1)
5 The commissioner may make reasonable rules necessary for or
6 as an aid to effectuation of any provision of this code and
7 15-31-113(4). No such rule shall extend, modify, or conflict
8 with any law of this state or the reasonable implications
9 thereof. Any such rule affecting persons or matters other
10 than the personnel or the internal affairs of the
11 commissioner's office shall be made or amended only after a
12 hearing thereon of which notice was given as required by
13 33-1-703. If reasonably possible the commissioner shall set
14 forth the proposed rule or amendment in or with the notice
15 of hearing. No such rule or amendment as to which a hearing
16 is required shall be effective until it has been on file as
17 a public record in the commissioner's office for at least 10
18 days.

19 (2) In addition to any other penalty provided, willful
20 violation of any such rule shall subject the violator to
21 such administrative penalties as may be applicable under
22 this code as for violation of the provision as to which such
23 rule relates."

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

25 "33-2-705. Report on premiums and other consideration

1 -- tax. (1) Each authorized insurer and each formerly
2 authorized insurer with respect to premiums so received
3 while an authorized insurer in this state shall file with
4 the commissioner, on or before March 1 each year, a report
5 in form as prescribed by the commissioner showing total
6 direct premium income, including policy, membership, and
7 other fees, premiums paid by application of dividends,
8 refunds, savings, savings coupons, and similar returns or
9 credits to payment of premiums for new or additional or
10 extended or renewed insurance, charges for payment of
11 premium in installments, and all other consideration for
12 insurance from all kinds and classes of insurance, whether
13 designated as a premium or otherwise, received by it during
14 the preceding calendar year on account of policies covering
15 property, subjects, or risks located, resident, or to be
16 performed in Montana, with proper proportionate allocation
17 of premium as to such property, subjects, or risks in
18 Montana insured under policies or contracts covering
19 property, subjects, or risks located or resident in more
20 than one state, after deducting from such total direct
21 premium income applicable cancellations, returned premiums,
22 the unabsorbed portion of any deposit premium, the amount of
23 reduction in or refund of premiums allowed to industrial
24 life policyholders for payment of premiums direct to an
25 office of the insurer, all policy dividends, refunds,

1 savings, savings coupons, and other similar returns paid or
2 credited to policyholders with respect to such policies. As
3 to title insurance, "premium" includes the total charge for
4 such insurance. No deduction shall be made of the cash
5 surrender values of policies. Considerations received on
6 annuity contracts shall not be included in total direct
7 premium income and shall not be subject to tax.

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

12 (3) That portion of the tax paid hereunder by an
13 insurer on account of premiums received for fire insurance
14 shall be separately specified in the report as required by
15 the commissioner, for apportionment as provided by law.
16 Where insurance against fire is included with insurance of
17 property against other perils at an undivided premium, the
18 insurer shall make such reasonable allocation from such
19 entire premium to the fire portion of the coverage as shall
20 be stated in such report and as may be approved or accepted
21 by the commissioner.

22 (4) With respect to authorized insurers the premium
23 tax provided by this section shall be payment in full and in
24 lieu of all other demands for any and all state, county,
25 city, district, municipal, and school taxes, licenses, fees,

1 and excises of whatever kind or character, excepting only
 2 those prescribed by this code, taxes on real and tangible
 3 personal property located in this state, and taxes payable
 4 under 15-31-101 or 50-3-109.

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

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

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

18 NEW SECTION. Section 6. Appropriation. (1) The first
 19 \$50,000 collected under 15-31-101(5) in each fiscal year of
 20 the fiscal biennium ending June 30, 1991, is appropriated
 21 from the state special revenue fund account created in
 22 15-1-501(4) to the commissioner of insurance to be used to
 23 administer the collection of the tax imposed by
 24 15-31-101(5).

25 (2) Except as provided in subsection (1), the money

1 deposited in the special revenue fund account created in
 2 15-31-101(5) each fiscal year of the fiscal biennium ending
 3 June 30, 1991, is appropriated to the executive director of
 4 the state compensation mutual insurance fund created by
 5 39-71-2313 to be used for the purposes stated in
 6 15-1-501(4)(a) through (4)(c).

7 NEW SECTION. Section 7. Applicability. The tax
 8 imposed by 15-31-101(5) applies to tax years beginning after
 9 December 31, 1989.

10 NEW SECTION. Section 8. Effective date. [This act] is
 11 effective October 1, 1989.

-End-