

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

June 25, 1986

The second meeting of the Senate Judiciary Committee for the 49th Legislature, Third Special Session, was called to order at 1:05 P.M. on June 25, 1986, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF SB 22: Senator Chet Blaylock, Senate District 43: Members of the committee, I'd like to say, why are we here to consider SB 22, which if enacted would essentially restore the law to the way it was before the Supreme Court struck down the imposition of limits on public liability under Article 2, Section 18. I'd just like to say, in a little background, that this Senator is deeply involved in this whole issue because I was a member of the Constitutional Convention and I served on the Bill of Rights Committee, which put in Section 18. At the time, there was very deep debate throughout that Constitutional Convention because a lot of people felt that we should not remove sovereign immunity, and I still think that we did the right thing. But, it has become clear in the years since the Constitution was adopted and the cases that have been through the courts, that the exposure of the state and the sub-entities is so great, that it was reasonable that we put on limits. The limits were put on, or I should say the amendment to Section 18 was passed in 1974 -- it passed by a 21,000 vote majority -- which allowed the state legislature, by a 2/3's vote, to enact these limits. Then in 1977, the legislature did enact that statute. Then, in 1985 came the Pfost case and the Supreme Court majority, and this is their language, "rejected out of hand" Article 2, Section 18, which gave the legislature power to enact the limits. Now to justify that rejection, they quote, not from a Supreme Court of the United States case and not from a Montana Supreme Court case, but from a California case, the Serrano* case. Now I realize that we get many strange and wonderful things out of California, but I'm not sure that we should sweep aside an amendment to our Constitution, adopted by a majority of 21,000 people, and say that it is of no effect. To the contrary, I would ask the court to remember that for years the Montana Supreme Court, and this

* Serrano v. Priest (1976), 135 Cal. Rptr. 345, cert. den. 432 U.S. 907

is the very language in that Pfost case, that the Supreme Court of the State of Montana, this was pre-1972, said in effect that the legislature could do such things as say that the state entities would be insured up to their limits of liability. And, that if a case went against a state entity and it were over the limits of the liability they had on their insurance, that they could roll it back down. So, our Supreme Court in Montana has allowed that to happen a lot of times, even by the majority opinion. They quote from a case, Boettger v. Employers Liability Assurance Corp., which was decided in 1971 and says: "this court states that if the amount of liability after judgment exceeded the amount of insurance, the policy should be delivered by the claimant to the District Court to apply the limitation required in the statute 40-4402", that would be the old codes. Now, as the minority opinion stated, the only option the majority gives us is for total immunity. I don't want that. It seems to me that if Montana's legislature has the power to give total immunity, then it has the power from the people to give partial immunity and that is what we hope to get with this statute. Now, I will admit members of the committee, and I have said this to all people whom I asked to sign my petition to get the 76 signatures, that to go back to the Supreme Court with largely the same language is a shakey proposition. I realize there are no guarantees, but I think that with the evidence which we can present to this committee and which will hopefully then go to the court, that we can present a compelling reason why the court should uphold this statute, because that is what the Pfost decision asks for, a compelling reason for the limits. That is what they want. Now, we have in the 6 months since the Pfost decision was handed down, we have had widespread cancellations of insurance and trebling and quadrupling of insurance rates which bleed the financial sinew away from the original purpose of the appropriations. My county, Yellowstone County, Montana, is going bare on insurance. In the last special session in March we gave the cities the power to self insure and Billings is going to do that. They're taking the lead and they're going to set up their 18 million dollar insurance fund. But, there are some people who are going to have to self-insure who are going to have a very narrow support there and with one case going against them, they are wiped out. They will have to turn to their taxpayers for enormous amounts of millage and these figures will be made available to this committee. I've asked some of these people to come today to present this evidence to the committee which will be made a part of the record. I believe from the advise I've gotten from attorneys, that this statute is the way to go. It gives us immediate protection to the state and their entities and it also, if it is upheld, does not require us to go into the consti-

tution, which I think is a laudable objective.

PROPONENTS: Nathan Tubergen, Finance Director for the City of Great Falls and also Trustee for the Self-Insurance Pool for the Montana League of Cities and Towns: I'm here today to testify in support of this bill. With regard to Mr. Blaylock's comment, Great Falls is also one of the cities that had their insurance cancelled and I've been working with the City of Billings for over a year here trying to get this program going. If we can get some limits, one of the big advantages that we're going to have is in regard to the bond issue that you approved at your previous special session. It's going to enhance our ability to be able to operate as an insurance company. There's approximately 40 cities at this time and we're looking at approximately 72 or even more in the future. I will not go into more detail because Alec Hansen, the Director of Montana League of Cities and Towns, will be presenting more of the case but, I did want to state, as a member of the trustees, I urge your support.

Kay Foster, City Council member in Billings, speaking in her capacity as the Chairman of the Insurance Subcommittee of the Governor's Council on Economic Development: We have had a subcommittee looking at the matters of both private and governmental tort liability which began meeting in December of last year. We have our report ready, but it has not been approved by the entire Governor's council. I would like to state, however, that there was unanimous support among our subcommittee for the statutory limits on tort liability for governmental entities. All of our considerations were viewed from an economic development standpoint and the retention of existing businesses in Montana and efforts to relocate others to our state. The one factor that we have heard in the over two years that this council has been in existence is that there must be consistency in our taxation and in our regulation. The potential that now exists with the joint and several liability doctrine, removes any predictability as to the level of taxation since potential large judgments against local governments can only be paid through increased property taxation. I would like you to take that into consideration and to consider the economic development impact of having no limit on local government tort liabilities.

Jim Van Arsdal, Mayor of the City of Billings: Just in short, we support this bill very much. We are self-insured but this does not reduce the risk that our taxpayers in the City of Billings would have to share if we had a very bad hit or a large claim. So, we need this protection to

protect our taxpayers of the City of Billings. As you know, our liability is ever there, police, fire, walking down our streets or sidewalks and so forth. We have the liability, we have the situation where we could be sued at any time and do get sued. We can take care of the small ones, but we need to have protection for the large ones.

Jim Nugent, City Attorney for the City of Missoula and the First Vice President of the League of Cities and Towns: What I would like to call to your attention today, in support of this senate bill, is to point out to you and emphasize that with respect to public entities often its the very existence of the public entity that poses the problem in that it creates a greater potential risk of liability in many instances that would be experienced by private sector residences and/or businesses. For example, the very existence of public sidewalks, intersection visibility problems, where trees, shrubs, hedges, fences, etc., pose a problem with respect to visibility at intersections. Traffic control devices that are stolen or removed by pranksters or people collecting them for their room, are areas that are difficult to monitor and there are areas of exposure of liability to city government. Recently, last month, the Montana Supreme Court indicated that the town of Whitehall, and the cities and towns generally, owed a legal duty to exercise ordinary care to keep the sidewalks reasonably safe. I submit to you that we don't have the personnel to make the necessary inspections on a regular basis to determine if a sidewalk is going to pass muster with respect to a potential fall, slip or fall, of any sort because you know that if anyone slips or falls and there is the slightest crack, you're likely going to be on the other end of a lawsuit. With respect to the city of Missoula's insurance coverage, this past year we were not able to obtain coverage for our police department. After our general liability insurance carrier, USF&G, dropped the police department, we applied to four different insurance companies and throughout the year we never did receive a favorable response and we have went naked so to speak with respect to police coverage. As of July 1 our entire general liability insurance will not be renewed and we will be forced to enter into the League of Cities and Towns Insurance Trust Program, which will provide less coverage than what we had under the USF&G policy at an increased cost overall. Also, I'd like to call your attention to the fact that we're estimating our insurance premium cost this year at approximately \$175,000-\$190,000, which is in excess of 4 mills when you compare that to the size

of the mill that is assessed on the real property in the city of Missoula. This year, after reappraisal, that value of the mill is projected to be at \$44,500. Therefore, I would urge that you take into account the fact that public entities, simply by their very existence, become a convenient "deep pocket" so to speak, as a joinder of defendants in many lawsuits simply because we're the public entity and that's a public sidewalk or that's a public street. Another concern that has all of us concerned about the potential future liability is your joint and several liability. There are horror stories from other states about the joint and several liability problems. We're not aware of any specifics yet, at this time, but the potential does exist. For example, at an unmarked intersection where there's a hedge posing visibility problems or something like that and you have a drunk driver injure or kill someone and that drunk driver doesn't carry liability insurance, which is quite common out there, a lot of the people don't have liability insurance on their motor vehicles, and as has happened in the past, you have a plaintiff sue not only the operator of the motor vehicle but the residence as well as the person who owns the home and the government under joint and several liability. If that person with the automobile did not have any insurance liability coverage, then you're looking at just two defendants who are going to be sharing that and, of course, that's increasing our risk too.

Jim Wysocki, member of the Insurance Trust for the Montana League of Cities and Towns Board and also the City Manager for the city of Bozeman: Just very briefly, I would say that one element that hasn't been covered is the fact that our property tax, for the special levy in the city of Bozeman, has more than doubled and will increase again over the next two years. The fact that 36 communities are without insurance, as we are come Tuesday of next week, as a result of an insurance company pulling out, and the fact that we can only offer in the insurance trust a \$500,000 maximum at this point in time per occurrence, has lead a couple of my city commissioners, and I would assume it would go through the minds of the members of this committee, as to whether they really want to hold a public office or not. It is a very serious thing, one of those things that we must take into consideration as far as public liabilities are concerned, and limitations certainly would assist in that regard.

Toni Hagener, Hill County Commissioner and President of the Montana Association of Counties: I will not reiterate what the previous arguments have been. I stand in support

of the Senator's bill on the basis that it does have a very compelling reason. In our county alone, we have had one person resign from a board, an active involved autonomous board. We have had several people, 3-5, refuse to accept appointments on the basis that they could not assume or could not take on the chance of a liability. The point that was made about our elected officials, wondering if they really should do it, there was a film that came out about public liability some time ago and after it was shown, several people said if I had known that ahead of time, I would not have run for office. I think there is a very strong compelling reason. I think just on the smallest of counties, to the largest of counties, you have a problem with trying to get good people to serve, both as elected officials and to serve on the boards that you need to implement county government operation.

Alec Hansen, representing the Montana League of Cities and Towns: Presently there are about 36 counties and towns in this state that have joined together through our organization to form a self-insurance pool. We expect that there are many other cities that are facing cancellation of their liability policies in the next several months. In fact, we believe that by the end of this year there will be as many as 75 cities involved in our self-insurance pool. At the present time we can only offer 1/2 million dollars in coverage. One half of a million dollars, in a state where the sky is the limit on liability claims, obviously is not enough. To give you some examples, with our 500,000 dollar coverage, if a million dollar judgment was imposed on the following cities this would be the consequences under the judgment levy provided by state law: in Deer Lodge, the city of Deer Lodge would have to increase its mill levy 120 mills for three years to pay that judgment; in Helena the increase would be 5 mills for 3 years; in Billings, the largest city in our state, it would require 4 mills for a period of 1 year; and in St. Ignatius, I think you can see what I'm driving at here, where Senator Pinsoneault happens to be City Attorney, the increase would be 430 mills for three years and I'm telling you right now, I think that would be the end of St. Ignatius. Cities and towns are having difficulty in securing insurance because they have very unique and dangerous exposure. The business of municipal government is very complicated and it includes police and fire protection, arrest procedures, sometimes we become involved in high speed chases, we operate thousands of miles of streets, under a new court ruling we are now

liable for the sidewalks, we're responsible for building and fire inspections, street signs, swimming pools, in some cases rodeos, firework displays, and many other special events. Many of these types of events now are being cancelled and it really is changing the way we live in Montana. As I said, under our program, at the current time, we can only offer limited coverage. We have not been able to go into the markets throughout this country and in some cases overseas, we have not been able to secure a reinsurance policy. I think this is a very dangerous situation because of the state, where the sky is the limit on liability claims or liability judgments. We just have too many small towns, places like Deer Lodge and St. Ignatius, that cannot take a major uncovered claim and continue to survive.

Jo Bruner, speaking for the Montana Water Development Association: Mr. Chairman, the Montana Water Development Association recently mailed out a questionnaire to approximately 200 water user organizations in Montana and as of this date we have had just about 1/4 of them returned. For your information, the majority of Montana Water User Organizations belonged in a private category. There are various definitions within that category. We realize that this bill will not take them into consideration, but we certainly need to think of that too. Interesting enough, there was no consistent threads of reasoning in which organizations had been dropped or had an increase in premium or any other insurance problem. About the only consistency was that none of them carried adequate insurance coverage, simply because they could not afford to do so. Many of them will be wiped out completely, with even a frivolous suit, not counting a drowning or something like that. Our irrigation and water user districts are in trouble. I'm going to hand out a chart to you that explains some of those problems and I'll be glad to answer questions on that later. (Chart is attached as Exhibit 1) For those who can get coverage, it's so high that it is unaffordable. That's passed on to an already sad agriculture situation. Our ditch riders and maintenance men, in many instances, have not had a raise in wages in 3-4 years and that's not taking into consideration the cost of living. We can't hardly afford to pass any more costs onto them. The hard thing is that we're giving them no explanation of why our costs of premiums are skyrocketing, or why they are being dropped. It is hard to believe that all of the blame lies with large settlements because some of the irrigation districts that have had their premiums increased three fold or have been dropped, have had no suits filed at all. Yet it seems that the insurance companies

are averaging out those who do have suits filed against them and we are taking the brunt. We ask that you do give us a do pass on SB 22.

Debi Brammer, representing the Montana Association of Conservation Districts, gave testimony in support of this bill and her written statement is attached as Exhibit 2.

Representative Ramirez, House District 87: I would like to testify in favor of this bill and I haven't heard all of the hearing so I'm not really quite certain of everything that has been said but let me explain what I hope you will do with this. Back before the last special session I met with the people, with the city of Billings, and they told me what their problems were and they explained what I understood the problem statewide might be. They are able to get about \$500,000 in liability insurance which I think has been mentioned here. They also, through the bill that we passed in the last session, have a provision for bonding, where they can help spread out the cost of any judgments that they might have to pay and it was quite helpful to them and I think it helps even some of the smaller communities with the exception that it's really not an insurance program, it's just a way to extend the payment and so you really don't have the traditional insurance concept, where you put everyone's money into a pool and then the risk is shared among all of the people in that pool. You don't have that, you just are extending the payment. If you have a small community that gets a very, very large judgment against them, you could extend the payment, practically forever, and it's not going to provide them any real insurance coverage. They're going to have to go back with a mill levy or something, to try to pay for that judgment and I think that a lot of communities are going to be in real trouble or a community could be in real trouble, if they had a large judgment against them. Now I think the \$300,000 limit is too low and it really doesn't relate to anything. I think if you raise this to around a million dollars or so, that you would really be focusing on the precise problem. The communities can get about \$500,000 dollars worth of insurance, they can probably handle about another \$500,000 or maybe even a million dollars, through this bonding program. Beyond that, they are having difficulty, if not an impossibility, of getting what we call reinsurance, umbrella insurance, excess insurance, whatever you want to call it. That's where I think there is a compelling state interest to have a limitation at somewhere around the million to a million and 1/2 dollar level that would

protect from the excessive judgment that might be rendered, particularly against a small community, and so I'd like to see you amend this to more or less coincide with where the problem really starts for government, I think, and if you do that I really believe firmly that there is a compelling state interest in doing that to protect local government. That's why I'm in favor of this. I think we can do this with a majority vote, incidentally, and if we can show a compelling state interest, I also believe, truly, that if we had a higher limit, and I'm as much responsible as anybody for the lower limit we have in the previous law, but if we had a higher limit, I think that that would go a long way to satisfying the concerns of the Supreme Court if this issue were to get to the court again. So, that's what I would urge you to do.

Don Peoples, Chief Executive of Butte/Silver Bow: I'm not going to repeat what has already been said here because obviously the Butte/Silver Bow supports SB 22. Let me tell you that the crisis is there, it's real. We've been through it and we've been cancelled on policy after policy and in areas where we could obtain coverage, increases of 500-600 percent were very common with the reduced coverage. If it had not been for the League of Cities putting together an insurance pool, we would be going bare in almost all areas of liability insurance. It's my view that if the League's policy program is going to continue to provide coverage and if we're able to do the bonding to increase our coverage, we're still going to need some help and if that program is going to be a success, it's going to be heavily dependent on the establishment of some levels of reasonable liability.

Chairman Mazurek advised the committee that Second Reading was being started on the Senate floor. He recessed the hearing at 1:40 P.M. to reconvene as soon as possible after the floor session.

The hearing reconvened at 4:35 P.M., June 25, 1985.

Bruce Moerer, Montana School Board Association, gave testimony in support of SB 22. His written statement is attached as Exhibit 3.

Bob Mullen, Richland County Commissioner and past President of the Montana Association of Counties: When Commissioner Jim Halverson from Roosevelt County and I met this morning at 4:30 A.M. in Circle to make it over here, we thought we'd be here in plenty of time for your 1:00 P.M. meeting. I'd just like to say we appreciate your waiting for us. I was asked by the Montana Association of Counties to make a

few comments concerning the compelling interest before the state regarding governmental immunity. As you are well aware, it is a real issue and I would apologize at this point for missing the original part of the testimony presented at 1:00 P.M. and to avoid sounding redundant I would just like to say one thing, County Commissioners on a whole have at times been referred to as gutless individuals, but unless we put in place some type of immunity for governmental entities, that those chairs will not only be gutless but they will be empty and that deals with every board that I represent in terms of weed association, fair boards, park boards, and county commission boards.

Gordon Morris, Montana Association of Counties: You've heard the previous testimonies this afternoon and I don't intend to repeat any of it. I would like to try to demonstrate the compelling state interest in back of the needs of this legislation. As Commissioner Mullen just pointed out, we see around the state now a real trend in regard to the inability of elected officials to fill voluntary boards. We are seeing voluntary boards, particularly in two areas, fair boards and wheat boards, being unmanned and that's not a sexist comment. We are not finding volunteers coming forward in regard to those voluntary positions due to the threat of the immunity that attaches to each and every one of them in public service insofar as those are the two most volatile areas that we have from the standpoint of local government liabilities. We've also seen this past year, a lot of elected officials, as Commissioner Mullen pointed out, indicate that they had personal growing reservations as to the wisdom of serving as an elected official. Commissioner Loyd Allen, a six year commissioner from Choteau County, whose term is up this January, chose not to serve. He's not here today, but he did ask me to pass this on to you. He chose not to serve and not to file again this term due to, and his quote I'll read, "he was not prepared to put his farm on the line in exchange for serving the public." He did not file. He has been a long standing commissioner of the Choteau County and has served admirably. That is a trend that I think we're going to continue to see. The circumstances that we see emerging right now, in respect to counties, 85% of the counties across the State of Montana are currently bare in some or all of their insurance. I think the number one area that we see them going bare in, first and foremost, is in the area of environmental repairment liability, liability associated with weed control operations, as performed by the County Weed Board and under the direction of a licensed sprayer. We see almost 100%

absence of liability coverage for those operations and I'd like to assure the committee that that is due to a significant extent to the fact that there are not currently caps assumed on the limits of liability associated with that particular area. We also see the same thing happening in terms of law enforcement officer liability coverage and then finally, from a public officials standpoint, the coverages afforded under errors in omissions policies. We see cancellation notices, statewide phenomena, we also see increases in premiums. A couple of examples, we see standard premiums as early or as recently as three years ago, where you would have had a 5 million dollar policy written for full coverage for a small county, costing that county \$21,000. A year later that policy was renewed with a 1 million dollar coverage, 1 million in contrast to the earlier 5 million, and the premium on that going to \$47,000. A year later on the renewal, with only \$300,000 coverage, the premium was now at \$58,000. That is a very common situation. That is not the worst scenario I could have brought before you, that is a very typical situation and we see that it's being related directly to the fact that we cannot point to limits on the liability. With that, I would just simply hope that the committee would act favorably on SB 22. I think it would send a message to the insurance industry. I might add in closing, regardless of what you do, if you do pass it, it is only a signal from the standpoint that it's only as good as the paper it's written on until it's tested in a court of law. We are proceeding with every bit of our energy to try and secure the necessary signatures to put it on the ballot in November.

Jim Halverson, Commissioner from Roosevelt County and also the Fiscal Officer for the Montana Association of Counties: I'd just like for the record to show that in Roosevelt County we have had the Chairman of the Weed District resign because of the question of insurance. We've had numerous committee board members decline to be reappointed to these committees because of the question of insurance and at the present our hospital boards, our airport boards, nursing homeboards and all of them are really apprehensive because of this question. I, myself, even question when the time comes that I can't get insurance to cover me and my job, now I've been a County Commissioner for 9 years and I like the job, well most of the time anyway, but when the time comes that I can't get insurance and I have to put everything that my family has on the line, that's the day that I might have to quit.

Bill Anderson, representing Superintendent Argenbright in the Office of Public Instruction: There are people who have been denied insurance. Most of the schools seem to be getting insurance, but over the last three years the price of that insurance has gone up about 3 times. The coverage is being limited so it is starting to affect the offerings of types of activities that we feel comfortable to run in the schools -- the use of playgrounds, the use of facilities and buildings. I think you will see a deterioration of all of this if this thing is not corrected.

John Maynard, Administrator of the Tort Claims Division of the Department of Administration: I appeared before you once before this year, when you were considering, during the last special session, HB 7, which would have put a constitutional amendment on the ballot in November to change a section of our Constitution. At that time, as you will recall, I passed out a report from 1984 about the viability of the state self-insurance fund. Today, I'm going to enlarge on the information that was presented at that time and try to put into context what the removal of the limits of liability means for the insurance picture of the State of Montana. The first thing I wanted to say, and I will wrap this up as quickly as I can, but there is just a brief foundation I have to lay for this material. In the Pfost decision and the reason we're here today, the court made some very specific findings about what the legislature previously had done in imposing these limits. The court said when it was faced with the findings that you enacted in 1983, "we find little more in the quoted legislative findings supporting Section 2-9-107 than a legislative plea not to require the legislature and other political entities to provide the funds necessary to pay the just obligations of those entities." The court went on to state that "the type of information that was conveyed in those findings was mere speculation" and so it is my purpose here today to take away that speculation and to tell you as clearly and as forcefully as I can what the facts are with respect to the state's insurance picture. The Tort Claims Division is responsible for defending the State of Montana in all of the tort suits that are filed and since 1977, when we became self-insured, that amounts to around 1200 claims. These range from personal injury actions, that involve potential million dollar liability and perhaps even in excess of that, to claims involving, well we had a claim from a student at the Montana State University who had lost a contact lens in some jalapeno pepper juice. It dissolved and she felt that we were somehow responsible for that. Consequently, there is a wide range of claims. I'm going to specifically talk

about 10 of those claims at the conclusion in order to tell you what types of liability we are looking at. The other purpose of the Tort Claims Division, which was formerly called the Insurance and Legal Division, is to purchase insurance for the State of Montana and to administer the Self-Insurance Fund which we utilize in settling tort claims, paying judgments on the basis of tort claims, etc. In addition to those tort claims, we buy property insurance. If we do not have enough money to purchase property insurance, we have the authority to take that money, you have given us the authority, to take that money from the self-insurance fund and purchase property insurance to cover all of the buildings of the State of Montana. That includes the Capitol building, for example. Last year, our property insurance premium was \$152,000. However, when the legislature last met, we knew that there was going to be a rise in our insurance premium for property and we had budgeted in the area of \$260,000 to purchase property insurance. Last Friday, we opened our property insurance bids. We received three bids. The lowest bid was different from the coverage we had previously because it provided us less protection. The insurance that we had for the last three years provided us a \$100,000 aggregate deductible in any given year. After we had lost \$100,000 in property damage, the insurance policy kicked in and covered us to 50 million dollars. The first thing that the bid specified is that it would no longer be a \$100,000 per aggregate deductible, it would be a \$100,000 per occurrence deductible. Which means that in any given case you have to first get \$100,000 worth of damage before the property insurance. For this protection, the low bid was \$921,000. The only way that we can pay that kind of money for an insurance policy is to take it out of our self-insurance fund, the excess at this present time. That is one drain on our self-insurance fund. Another drain on our self-insurance fund that hasn't been contemplated, or wasn't anything that we could foresee at the time of the last legislative session, has been our auto liability insurance. Our auto liability insurance for all of the automobiles owned by the State of Montana was sent out for bid but we received no bids. As of July 1, 1985, we had to assume the responsibility for self-insuring our auto liability coverage as well, in addition to those drains on our self-insurance fund that are coming up and will have to be met during the next fiscal year. We have a present value, as of June 1st, in the self-insurance fund of \$9,051,000. In the material that I passed out during the special session, of which I would like to have deemed made a part of the record of this hearing, was a report of an actuarial firm in Seattle,

Washington, Certified Public Accountants, Coopers and Lybrand. (this material is included as a part of the minutes dated June 26, 1986, SB 22, Exhibit 4) At that point in 1984, they were assessing what money we needed to have reserved to cover the losses and claims that were coming into our office and they did that in the light of the then recently released Karla White decision, which as you will recall, eliminated the ban on non-economic damages, the limit on non-economic damages that had previously been in our statute. As a result of that and for the first time, Coopers and Lybrand, who have reviewed actuarially our fund for several years now, for the first time found that we were significantly in the red and underreserved. At that point they found out that we were underreserved in the amount of approximately 11.2 million dollars. That is with our \$300,000 limits intact as they were reenacted by the legislature in 1983 and simply expanding the coverage to include non-economic damages. At the present time we are awaiting the report for this fiscal year, which will be mailed to me on Friday. If there is a way that I could make that report a part of the record of this bill I would like to do that when I have the report available. (the report referred to from Coopers and Lybrand is attached as Exhibit 4) Today what I have from the report are the major findings. (letter furnished to the committee with these findings is attached as Exhibit 5) These findings are the first time that an actuarial accounting firm has looked at the state fund to determine how far under-reserved we are in light of the Pfost decision that came out on December 31st. I did receive, approximately a week ago from Coopers and Lybrand, some figures indicating a relativity figure from which we can make these deductions that they will ultimately make in our report. In speaking today with Richard Fallquist, who is the Director, Actuarial Services, Coopers and Lybrand, he provided me with a number of statistics. He provided me with statistics that demonstrate the difference in what we need to have reserved in our account based on different retention levels, in other words different limits of liability that might be imposed. If there are no limits of liability at all for the state of Montana, as is presently the case as a result of Pfost, his estimates indicate that we should maintain a reserve, that our ultimate loss will be 55 million dollars. That means that at the present time we should have reserved 47.9 million dollars. The additional amount would be made up over the course of time in the interest on the investments as we await the process of these claims being processed. Consequently, with no limits, 47.9 million dollars. If you divide that number by 2.35, which is the relativity factor,

you find that with \$300,000 limits, our reserve should be in the neighborhood of 27.6 million dollars; approximately 20 million dollars less in reserves if there are \$300,000 limits as opposed to no limits. If the limits were to be \$500,000, the 27.6 figure could be simply multiplied by 1.25 and fall into the realm of around 35 million dollars and the same with the million dollar limit, 1 1/2 times that would be approaching 40 million dollars. The results of this on state agencies are calculable and clear. We have a formula which has been developed over time, it has been altered at the suggestion in the 1982 report of Coopers and Lybrand, to accurately assess the cost to various departments. The formula is then applied to each entity of state government that we insure and we, the Tort Claims Division, charge each of the various departments a premium. The premium that we would have to charge in the next year or next two years or next three years, if we were to make this deficit up over time, is something that we can calculate within a few dollars. For example, the largest premium paid by any department of state government for insurance is paid by the Highway Department. The Highway Department as a matter of fact, because of the types of claims, the nature of the claims, the loss experienced, the number of employees that it has, pays 42% of the entire premiums paid by all other agencies of state government. In this past year and in 1987, we have budgeted for and asked the Highway Department to pay a premium of \$687,000. In order to make up the deficit from the 47.9 million dollars that we need to make up to be properly reserved, less the 9 million dollars that we already have, indicates that we have to make up a reserve deficit of 38.2 million dollars; 42% of that is 16 million dollars chargeable to the Highway Department. In order to pay that, services of the Highway Department would have to be sacrificed to that extent. At a \$300,000 limit to make that up over time, we would have to charge the Highway Department \$6,900,000. In other words, the difference between a \$300,000 limit and an unlimited liability for the Highway Department amounts to 9 million dollars out of the Highway Department's budget and its something that should be reserved at the present time. We've seen a steady increase in the amount of reserves necessary. As of July 1, the figure is 47 million. If one applies this same formula to the Department of Military Affairs, the Department of Military Affairs would have to pay a premium of \$382,000, as opposed to a premium of \$162,500 if the limits were \$300,000. With respect to Montana State University, MSU presently pays as a premium \$68,000 in this fiscal year to the State Self-Insurance Fund for its coverage. That \$68,000, in order to properly fund the liability under this analysis, un-

limited liability, they would need to pay a premium of \$1,528,000 and at \$300,000, to make up their portion of that reserve, they would have to pay \$650,000, a difference of 7 or 8 hundred thousand dollars out of the MSU budget. The fact of the matter is that this legislative session has been called because there is a budget crisis in this state, there is a \$100 million shortfall. I'm suggesting that the shortfall is more extensive than that when one considers the effect of raising the limits of our liability, the state's liability, and removing all limits entirely. The Pfost is premised on the right of full legal redress, which is protected in our Constitution. The court said that the legislature cannot pass a law impinging that right, unless it can demonstrate a compelling state interest. I will simply note first of all that a person's right to full legal redress is necessarily affected by a defendant's ability to pay. If I cause damage to an individual in excess of my ability to pay it, that person simply is not fully redressed for that grievance. For example, we have a case involving an individual who was driving down the highway, you picked up a hitchhiker, you put the hitchhiker in the driver's seat and he fell asleep. He let his arm hang out the window, the hitchhiker fell asleep, ran into a guardrail and severed the individual's arm. We've been sued in that case on a theory of the design of the guardrail and quite frankly I think one of the reasons we were sued in that case is because of our deep pocket, the hitchhiker not having any assets. That person's right to full legal redress from the driver of the vehicle was limited by his ability to pay. I think that there is an ability to pay issue when one considers the liability of the State of Montana, especially in light of the current fiscal circumstances that the state finds itself in and it brings you to Helena. That is one case, there are many others and I will just mention them very briefly because they, I believe, point to a direction of litigation and areas of litigation that indicate that the state's exposure is ever increasing. We have a number of cases involving universities and classes that are taught in universities, accidents that happen as a result of those classes. There are the educational institutions that incur liability because of the classes they teach, especially in the physical education realm. We have a claim rising out of the foundry class, these are some of the types of claims that we have. We have a number of claims surfacing in an area of what I would term regulatory torts. The essence of a regulatory tort is that the legislature imposes on an agency the duty to regulate some type of business, whether it be securities regulation or whether it be safety regulation. What has happened in these particular instances is we have a company that has gone bankrupt, which was a self-insured, Workers' Compensation carrier. As a precondition to being a self-insured Workers' Compensation

carrier, they had to present a report to the Department of Labor and Industry, the Workers' Compensation Division. As a result of this review, the plaintiffs are saying that our failure to predict the business liability of this particular company has resulted in their damage by certifying them as self-insured carriers when the business went bankrupt. Now they are asking us to pick up that Workers' Compensation coverage, which would amount probably at the low end to a claim of a million and a half dollars. In addition to that, we have a number of insurance regulatory functions in the State Auditor's Office that have resulted in claims against the State of Montana in the amount of \$3 million, another in the amount of potential judgement in excess of the \$300,000 limit. To sum it up, there are in fact things that we do, particularly in the area of highways and highway design, that make us a target defendant, a deep-pocket defendant, and our ability to pay these judgements is similar to the ability of private individuals to pay judgements. It is limited by our resources. Consequently, I would urge your passage of SB 22 and that in addition to passing the bill you make findings along with the bill, specific findings, that could be viewed by the Supreme Court in its obvious determination in that regard of whether or not those are sufficient reasons in their minds to justify a compelling state interest.

Nathan Tubergen, Finance Director for the City of Great Falls and also a Trustee of the Self-Insurance Pool for the State of Montana: I realize your time constraint so I'll only take a minute but I feel what I've got is very important for your decision. I've been in contact with a financial insurance consultant this afternoon and according to him, the self-insurance pool could actuarial soundly handle liability limits at the present time of \$500,000 per person, a million dollars per occurrence. If we are successful in marketing the bond issue that we are working on that I mentioned earlier this morning and with the increased participation that we're looking at, we feel that we could operate safely with liability limits of \$750,000 per person and \$1 1/2 million per occurrence. But, we must emphasize that if there is any higher limit than what we are recommending today, we would be threatening the security of the liability program and the security of all of the cities and towns in Montana.

Senator Towe, Senate District 46: I come before you today as the former chairman of the Judiciary subcommittee that prepared the original sovereign immunity bill that was declared unconstitutional in the Karla White decision and

was further affected by the Pfost decision and I just want to add to the record, so that there is no mistake, that there was a great deal of deliberation and a great deal of finding of specific reasons why sovereign immunity was needed in some form so that this bill can be supported if it goes into court again. What I'd like to do is refer to the study report that that committee presented. That committee met on an interim basis, it went through a great deal of deliberations and took a lot of testimony and I will at the proper moment, move that this report and all of the minutes and all of the testimony that we have of record be made a part of the record of this hearing so that we can, in fact, further support some of the things that that committee did. In fact, much of that committee's decision is reflected in the bill that you have before you today. The thing that I want to call the committee's attention to is page 23 of the interim committee report. There is reference there to much the same thing that we've been hearing today believe it or not. The state was not always self-insured. In that time it was not and they did obtain insurance coverage for the state to cover the liability. The only policy they could get contained a 60-day notice of cancellation clause. In May, 1975 the insurer notified the State of Montana it was going to cancel effective July 1. There were at that time \$25 million in outstanding claims presented to the state. The same basic thing happened according to the testimony that we took at that time in some of the counties. Hill County in particular, and it is referred to here in the report which said no reputable insurance carrier would even bid on a policy. There were difficulties at that time even in determining and obtaining insurance. And that's a fairly significant factor that lead us to the position that we took which resulted in the law that was adopted in 1975. We referred to some of the other states and referred to some of the things that they had difficulty doing. Arkansas, for example, had some specific reference that we made reference to. In Arkansas, and some of the other states, but as a result of some of the discussion relating to some of the actions in the other states, we found that it wasn't just the ability to pay the judgements, and that is a factor, but there were other things involved. For example, the specific problems caused by an unlimited liability affects the discretionary acts within the scope of employment of government officials, the intentional torts by employees, false imprisonment, malicious prosecution and invasion of privacy. All of those constituted special problems when you apply it to a governmental entity that doesn't exist when you have a private employer or a private entity involved. Some of the specific ways in which the state handled it is interesting.

Further references made in the report to the fact that if you do not allow full immunity, you take a serious risk of submitting governmental policy decisions, if you do not have some limitation, the policy decisions that the government makes may be different because of the fear of suit and that may put other people in jeopardy. The judicial branch, for instance, may fear to make certain decisions because they would be subject to suit. The executive branch may fear that they should not make certain decisions because they would be subject to suit and when that fear causes a difference in the decision that would otherwise result from our governments, that in itself is a serious problem that needs to be addressed. Another act of fact that I wanted to refer to, the reference was made in our report to the fact that the governmental entity is most often the party with the greatest financial capability. In other words, the deep pockets, when compared with the private citizen or any other person, thus the state can more easily pay for the injury to a person. The problem occurs in carrying this argument to its fullest extent because the large sums of money might have to be raised or diverted to pay an award to an injured person. The diversion or raising of these sums might force the government to curtail services provided to the state citizens. Insurance is only a partial answer, since the cost of premiums is high and sometimes tortious actions are simply not covered. Those things were supported by some specific instances. I can recall two other things that we discussed that are not in the report. One was a school bus, the possibility that a school bus accident could involve some 30 kids, you could have maybe 2 or 3 million dollars a child if there was real negligence there as a result, which caused the accident, and the accident was really caused by a government employee, school district bus driver, for example. There isn't a school district in the state that could stand that kind of a judgement. Take as another example, which was given and was discussed, of the possibility that some city of Billings employee at the airport negligently left a gasoline hose out on the airport runway or out on the airport area right by the building and as a result of that it caused an airplane to blow up with 200 passengers on board. If we were talking about a \$3 million judgement per passenger, we would be talking about \$600 million and I point out to you that that is six times the taxable valuation of the city of Billings today. We couldn't handle it. It would, in fact, basically confiscate the entire property of the people who live in Billings. The city has different obligations that just don't exist in the private area and the private sector.

I would call the committee's attention to some of the specific things on pages 47-49, I won't read them, and refer to some of the problems that were noted here by the committee, failure to provide police protection, for example, failure to provide detention correctional facilities, failure to make an arrest, failure to provide medical care to a prisoner, failure to suppress or contain a fire, failure to provide adequate health facilities, discretionary acts in controlling disease, confinement of persons for mental illness or addiction. All of those are government services that have to be done and if you say that the government is liable without limitation, there is some real question as to how effectively government could provide those services. (Interim Study by the Subcommittee on Judiciary on Limits on the Waiver of Sovereign Immunity, December, 1976, is attached as Exhibit 6)

Bonnie Tippy, representing the Alliance of American Insurers: I wasn't sure whether to get up as a proponent or an opponent. I'm sort of a noponent. Generally speaking, in almost any state, the Alliance would strongly support the effort to put caps upon liability limits for governmental entities. In almost any other state we could tell you that you would see an easing in the affordability, as well as in the availability, of insurance; however, we want to caution you that you probably won't see that here in Montana regarding private insurance companies. That is because we have a serious problem with the constitutional question here. We don't feel that this would stand constitutional muster under current conditions. We don't think that the Supreme Court would necessarily reverse itself totally from a decision they made just 6 months ago. We also don't see that compelling state interest can be proven any better now than perhaps what it was last December. Therefore, we do want to enter that into the record. We do hope that a constitutional amendment can still take place. We're very concerned about this. We do hope that this bill, which we think will probably pass this body, does not muddy the waters to a point where a constitutional amendment does not pass because then the whole liability question will be put into chaos clear until 1988.

OPPONENTS: Karl Englund: I know that you've started floor action, I'll try to be very, very brief. I, too, am in a bit of a quandary in terms of a proponent or an opponent. I compliment Senator Blaylock for this approach, I think this is the best approach. I think the Supreme Court very clearly said that the legislature has the authority to set

limits if there is a dog gone good reason for doing so. I think that for the first time, in the time that I've been working on the legislature on this issue, we have gotten some hard data. I haven't had the time to digest it to understand completely whether or not it can or cannot justify the limits that are in the current bill. What I stand opposed to are a couple of provisions of the current bill, as they now exist. First of all, the \$300,000 limit is just simply not realistic. Mr. Pfost, the person who brought us to this point, my understanding has approximately one quarter of a million dollars in medical bills alone at this point. Medical treatment is not over and that doesn't include the lost wages or any of the other actual damages that he suffered. So, \$300,000, when we're talking about a serious and catastrophically injured person, is simply not a realistic figure. I don't accept the fact that I'm to blame for that, more than anyone else is to blame for that. It's a reality in today's world. Medical expenses are high and when we're talking about someone in a wheelchair or someone with serious brain damage, which is the kind of injury that we're talking about to fall under these limits, then we have to recognize that that is an expensive thing to treat and \$300,000 is simply not going to do it. Second thing is the applicability section, to apply it retroactively, particularly based on the testimony that we've heard here today, I think is wrong. The school boards and the local counties and the local people are all concerned about prospective problems. I don't know, therefore, why we need to apply it retroactively, particularly to them. Finally, if you enact the limits, and again I sense that you will, I think it's important for you to continue to come back and look at them at a reasonable time in the future and, therefore, to sunset this act. I don't know if the 1987 legislature is too soon, maybe at the end of the 1989 legislature. The notion of the compelling state interest, the notion of an insurance crisis, the notion of the unavailability and unaffordability of insurance, may significantly change. If it changes then the basis for your decision changes and then, once again, you may stand to have the problem of having the limits thrown out and so I think you need to continue to come back and look at it. The only way to insure that is to sunset the act.

Senator Mazurek said we will have to wait on questions until after we return for the finish of this hearing.

Senator Mazurek had one question to ask Bonnie Tippy: Is it the position of the American Insurance Institute or the Alliance of American Insurers that there has been no showing of any compelling reason for liability limits on governmental entities in this hearing?

Bonnie Tippy: We haven't heard anything that strongly

Judiciary Committee
June 25, 1986
Page Twenty-two

shows us that the Supreme Court would reverse itself in a decision from December.

Senator Mazurek: But it's not your position that there's no compelling reason, which is what I thought I heard you say. You just don't know if this present court is going to do something.

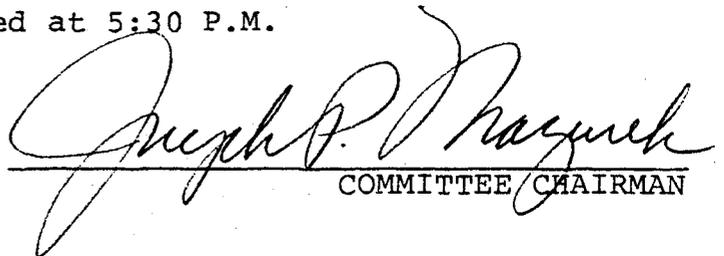
Bonnie Tippy: Yes.

Senator Mazurek: I just didn't want the record to reflect that you didn't think there'd been a showing of any compelling reason for limits. Is that correct?

Bonnie Tippy: You're correct.

Chairman Mazurek said we will continue the hearing from this point on June 26, 1986 and will hold executive action at that time.

The meeting was adjourned at 5:30 P.M.


COMMITTEE CHAIRMAN

ah

ROLL CALL

SENATE JUDICIARY COMMITTEE

49th THIRD SPECIAL LEGISLATIVE SESSION - 1986

Date 6-25-86

NAME	PRESENT	ABSENT	EXCUSED
Senator Chet Blaylock	✓		
Senator Bob Brown	✓		
Senator Bruce D. Crippen	✓		
Senator Jack Galt	✓		
Senator R. J. "Dick" Pinsoneault	✓		
Senator James Shaw	✓		
Senator Thomas E. Towe	✓		
Senator William P. Yellowtail, Jr.	✓		
Vice Chairman Senator M. K. "Kermit" Daniels	✓		
Chairman Senator Joe Mazurek	✓		

Each day attach to minutes.

Judiciary

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
		SB.22		
V. Brunner	MUDA		X	
Bonnie Tapp	Alliance of Am. Insurers	SB.22		X
Tom Maynard	Admin / Tort Claims	SB22	X	
Tom Nugent	City of Missoula	SB 22	X	
Thos K. Seiberger	City of Great Falls	SB22	X	
House	LEAGUE OF CITIES	SB 22	X	
El Anderson	OPI	SB 22	X	
Edson Morris	MACo	SB22	✓	
Joe Hacker	Insula Co. Shareholders	SB 22		X
Joe W. Moerer	MSBA	SB 22	✓	
Ray Foster	City of Bozeman	SB 22	✓	
Ken Anselme	City of Bozeman	SB 22	✓	
Jim Bergstrom	Mont State Firemen's Assoc	SB 22	X	
Jim Wysocki	BOZEMAN Mont. League Cities INSURANCE TRUST	SB.22	X	
B. Hagen	MAPS	"	X	
Levi Brammer	M.A.C.D.	SB22	X	
Don Peoples	Butte Silver Pan	SB 02	X	
Ed McLeod	IFAM	SB22	X	
Mullen	MACo	SB22	X	
Tom Halverson	MACo	SB 22	X	
Piley Johnson	PIA	SB 22	X	

(This sheet to be used by those testifying on a bill.)

NAME: Jim Wysocki DATE: June 25, 1986

ADDRESS: Box 640 Bozeman, MT.

PHONE: 586-3321

REPRESENTING WHOM? City of Bozeman ^{mt League} of Citizens Inc.
Trust

APPEARING ON WHICH PROPOSAL: S.B. 22

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENT: To Limit!

- Public Officials Coverage
- Economic Development Possibilities
- Property Tax ^{Levies} has more than doubled
in past 2 years
- Cost Avoidance measure

Current Program
 Recommend Limits of MAXIMUM
 \$500,000 per person (Based on \$8 million
 \$1 million per occurrence Revenue Bond issue)
 If \$10 million Revenue Bond issue
 \$750,000; \$1.5 million per occurrence
 James E. Wyzdek

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Montana Water Development Association
Liability

Name	Acres	Type	Increased	dropped	same	Costs	Comments
Greenfield Irr District	83,000	Bureau of Reclama-	\$21,000- from 7,000 \$6,400- from 3,000			20¢ acre to 70¢ (\$14.50 + 50¢)	Underinsured--only million- either irrigators pay add- additional or have to take decrease in services.
East Bench Dillon	25,000	BOR	\$2,000 from 300.00			5¢ acre to 17¢ (\$9.50)	No pay raise in 3 years including cost of living. only place to go is reduced services. Pay more for this increase than previous tota Company said no new polic. would be written
Huntley Proj.	27,157	BOR	\$2,000 to 6,000 Prop & Veh.		x	15¢-33¢ in 18 months. \$15.50- <u>acre</u>	Indicated would be removed tripled in 18 mos.
Billings Bench	18,000	Stock- holders	\$6,452-- X		x	\$13.50	Dropped then got less cover for more money. Cost doesnt include R & B
Helena Valley		BOR	X \$3,100 to 5,700		X		Doesn't include officers an can't afford adequate cover
Lockwood Irr	public	public	X				considerable difficulty in obtaining insurance inadequate not avialable
Cove Irr.		private					
Last Chance	2,492	private	X doubled				
Columbus	quasi	1,506			x		
Ward	750	public					too expensive to carry.

SENATE JUDICIARY
EXHIBIT NO. /
DATE 06-25-86
BILL NO. S.B. 22

Mr. Chairman and members of the committee, my name is Debi Brammer. I represent the Montana Association of Conservation Districts.

Our Association would like to go on record as supporting Senate Bill "22."

There are 59 conservation districts in the state of Montana. Each of these districts have 5 elected officials and most districts also have two appointed urban officials. These districts have many duties to perform and continually are handed more by our state government, such as the stream bed and bank preservation act, and portage routes on the stream access bill. The supervisors are volunteer and are mandated many responsibilities that cause them grave concern in their inability to obtain liability insurance when having to make the often times controversial decisions necessitated by these mandates.

One week after the March session ended I received 110 resignations of the 413 district supervisors, with the supervisors stating that they would not jeopardize their families' livelihood. No matter how small of a chance there was of being sued.

As an example of the severity of our problem the Flathead County Conservation District's 3 year insurance policy was terminated after only two years with no explanation. They have since been turned down by eleven companies. Flathead County Conservation District has budgeted one thousand dollars per year for their liability insurance in the past. The county has suggested to them that they budget at least \$7,000 this year in hopes of finding a company that will insure them.

Another example, Custer County Conservation District has paid \$775.00 per year for one million in liability insurance, was asked to pay approximately \$5,400 for \$500,000 in coverage and was then cancelled anyway.

Yellowstone County Conservation District insurance was dropped and they have been turned down by several companies.

Eastern Sanders Conservation District was also dropped after 2 years on their 3 year contract and have been turned down by numerous agencies.

Petroleum County Conservation District was dropped also and the list goes on and on.

Again, we support Senate Bill 22 and also ask your support.

Thank you.

SENATE JUDICIARY

EXHIBIT NO. 2

DATE 06-25-86

BILL NO. S.B. 22



MONTANA SCHOOL BOARDS ASSOCIATION

515 North Sanders
Helena, Montana 59601
Telephone: 406/442-2180
Wayne G. Buchanan, Executive Director

- OFFICERS:**
- RESIDENT**
Karen Doolen
5503 Sweetgrass Creek Dr.
Billings, MT 59106
- VICE PRESIDENT**
Robert Moody
1921 Adams
Butte, MT 59701
- IMMEDIATE PAST PRESIDENT**
Marvin Edwards
Box 428
Chinook, MT 59523
- DISTRICT DIRECTORS:**
- 1 MARION FOLEY HOLDEN
Box 298
Martin City, MT 59926
- 2 MARVIN EDWARDS
P.O. Box 428
Chinook, MT 59523
- 3 SALLY LISTERUD
Box 937
Wolf Point, MT 59201
- 4 MARGARET BASTA
R. 2, Box 68
Lindsay, MT 59339
- 5 ANITA JOHNSON
Route 1, Box 1644
Clewiston, MT 59457
- 6 ALICE TULLY
5355 Mullan Road
Missoula, MT 59801
- 7 KENNETH BANDELIER
740 E. Bannack St.
Dillon, MT 59725
- 8 TAMMY HALL
6734 Gooch Hill Road
Bozeman, MT 59715
- 9 GAIL ALEXANDER
Box 47
Shawmut, MT 59078
- 10 HUGH BROADUS
Route 1, Box 2070
Forsyth, MT 59327
- MUNICIPAL:**
- BILLINGS DIRECTOR**
KAREN DOOLEN
5503 Sweetgrass Crk. Dr.
Billings, MT 59106
- BUTTE DIRECTOR**
ROBERT MOODRY
1921 Adams
Butte, MT 59701
- GREAT FALLS DIRECTOR**
DON HAMILTON
Box 2269
Great Falls, MT 59403
- MISSOULA DIRECTOR**
RON FERNELIUS
2216 East Vista
Missoula, MT 59801

Testimony of Bruce W. Moerer, representing Montana School Boards Association, before the June, 1986 Special Session of the Legislature concerning Senate Bill 22.

Mr. Chairman, members of the committee:
The Montana School Boards Association supports Senate Bill No. 22. You have all heard the reasons, so I will not repeat them at length herein. State laws mandate that school districts provide services which have some degree of exposure to liability, such as transportation, use of chemicals, and physical education among others. We cannot terminate these services as a private business would when the risks get too high. For example, Montana schools, each day, have 1,700 bus routes, covering a total of 95,000 miles, which serve 63,000 students.

A School Administrators of Montana, survey early this year found that 11 schools out of 70 reporting had lost insurance coverage for various reasons. Also attached is a copy of their report showing the school districts' premiums for liability insurance for the 1985-86 year as compared to the 1981-82 year.

Although we have no guarantees, we hope that liability limits will either allow school districts to be able to afford liability insurance, or at least be able to form the structure for our own insurance trust and allow us to self insure.

If insurance were not available, a \$1,000,000 judgement would take Squirrel Creek Elementary School District in Big Horn County only 5 mills to pay off (mill=\$95,000), but it would take Valley Veiw Elementary School District in Lake County 1,992 mills to pay off (mill=\$251:median value) and it would take Helena Flats School District in Flathead County 14,700 mills to pay off (mill=\$68.00)

We respectfully request that you recommend that Senate Bill 22 do pass.

2298-58-22
98-58-22-86
3
STATE JUDICIARY

General Liability

<u>1981-82</u>	<u>1985-86</u>	<u>Percent Change</u>
12,000	39,200	+ 227%
1,200	2,200	+ 83
46,000	47,700	+ 4
900	3,300	+ 267
8,500	14,700	+ 73
1,400	1,000	- 29
1,300	4,300	+ 231
1,000	1,900	+ 90
450	1,600	+ 256
600	3,000	+ 400
400	600	+ 50
5,300	8,300	+ 57
5,000	8,200	+ 64
2,700	4,500	+ 67
1,100	1,300	+ 18
7,200	20,600	+ 186
600	2,300	+ 283
24,900	40,500	+ 63
27,000	98,900	+ 266
7,000	12,600	+ 80
1,600	4,000	+ 150
13,300	30,300	+ 128
4,800	16,000	+ 233
7,000	14,900	+ 113
5,600	9,500	+ 69
2,500	3,600	+ 44
800	1,000	+ 25
11,300	12,700	+ 12
31,900	48,400	+ 52
5,900	8,900	+ 51
1,100	1,300	+ 18
4,800	7,800	+ 63
1,200	5,000	+ 317
2,700	8,200	+ 204
700	1,600	+ 129
400	2,400	+ 500
6,800	11,400	+ 68
2,500	10,500	+ 320
6,400	9,800	+ 53
900	3,100	+ 244
10,500	14,300	+ 36
16,900	18,500	+ 9
5,000	7,000	+ 40

Confidential

ACTUARIAL REPORT

STATE OF MONTANA

Actuarial Estimates of the Adequacy of the Comprehensive
General Liability Self-Insurance Fund
for the Accident Period 7/1/77-6/30/86

Prepared for: State of Montana
Department of Administration
Insurance and Legal Division

Prepared by: Coopers & Lybrand

Date: July 2, 1986

SENATE JUDICIARY

EXHIBIT NO. 4

06-25-86

S.B. 22

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SENATE JUDICIARY

EXHIBIT NO. 4

DATE 06-25-86

BILL NO. S.B. 22

Introduction

The purpose of this report is to estimate the ultimate liabilities of the State of Montana's Comprehensive General Liability Self-Insurance Fund. These estimates are for accidents occurring during the accident period July 1, 1977 through June 30, 1986.

These estimates are for claims on a limited basis if closed before January 1, 1986 and on an unlimited basis otherwise. Claims on a limited basis are limited to \$300 thousand per claim and \$1.0 million per occurrence. Punitive damages are excluded.

On July 1, 1973, the "Montana Comprehensive State Insurance Plan and Tort Claims Act" became effective. From July 1, 1973 through June 30, 1977, the State of Montana purchased comprehensive general liability insurance from private insurance companies. Beginning July 1, 1977, the coverage was provided by the Self-Insurance Fund which is administered by the Insurance and Legal Division of the Department of Administration.

Originally, only economic damages were included. Liability for noneconomic damages was then added in 1983. Claims were limited to \$300 thousand per claim and \$1.0 million per occurrence. Effective January 1, 1986, the Supreme Court of the State of Montana held the \$300 thousand per claim and \$1.0 million per occurrence limit was unconstitutional.

Warning

Estimates of loss, expense and attorneys fees for general liability have a great deal of inherent variability. Although the estimates presented in this report are our "best estimates", the actual ultimate amounts may differ substantially from these estimates. Among the reasons for the high variability of our estimates is the rapidly changing social and legal climate and the length of time from occurrence to report to final settlement of these claims in liability. Additional variability is due to the lack of a cap on these claims and credible State of Montana payments and incurred loss development statistics. We have relied on countrywide statistics to assist us in making projections.

Exhibits 4, 12 and 22 call attention to the magnitude of this variability.

Findings

1. It is estimated that the expected unlimited ultimate loss, expense and attorneys fees for comprehensive general liability for accidents occurring during the period July 1, 1977 through June 30, 1986 are approximately \$55.2 million and indicated reserves are approximately \$47.1 million as shown on Exhibit 1. The State's current reserve is \$9.1 million, producing an estimated reserve deficiency of approximately \$38.0 million.

2. The estimated present value of future payments at an interest rate of 8% per annum is \$35.8 million as presented on Exhibit 3C. This estimate was calculated based on an assumed payout pattern of the State's estimated future payments which is set forth on Exhibit 3A. The interest rate assumption was provided by the State.

3. Exhibit 4 presents an estimate of the inherent variability in the data. While we estimate an expected reserve amount of \$47.1 million, we also estimate there is a 10% chance that the required reserve could be less than \$33.9 million and a 10% chance that the required reserve could exceed \$61.9 million. This estimate is for claims with no cap.

4. Because of the variability in these estimates, the State of Montana may wish to fund reserves at levels higher than the expected estimate. This would provide additional funds necessary for adverse claims experience worse than expected.

5. We recommend that the State of Montana computerize its historical claim information. The following is a list of data elements to be included: individual claim characteristics; amounts and dates of payments; amounts and dates of estimated reserve amounts; amounts and dates of expense and attorney fee payments; and incident dates, report dates and closed dates for each claim.

Data Base

The data used in the study was the actual experience of the Fund provided by Steve Weber, Assistant Administrator. Information from other sources was also utilized.

The data consisted of the register of accident/incident reports developed as of April 30, 1986 and a payments record. Information was also provided by John Maynard, Administrator, and by the Division's attorneys.

Individual claim experience was combined to perform the analysis. Coopers & Lybrand did not audit the State's data.

Assumptions

We have used a number of assumptions in this study for estimating ultimate loss amounts. These assumptions are as follows:

1. Historical reported claim development patterns in the fund are reasonable estimators of future reported claim development.
2. The estimated size-of-loss distribution for accident year 1979-1980 can be approximated using the average of reported

claims for accident years 1977-1978 through 1981-1982, and size-of-loss experience from other sources may be applicable.

3. Paid loss development factors, incurred loss development factors and increased limits tables from the other sources may be used to assist in projecting ultimate losses and losses at higher limits and on an unlimited basis.
4. The ratio of fiscal year expenses and attorney fees payments to loss payments may be a reasonable approximator of the ultimate ratio of expenses and attorney fees to losses.
5. A rate of +9% per annum is a reasonable rate of change in average cost per claim for property damage and bodily injury liability claims in future years.

Our estimates will vary to the extent these assumptions would change.

Methods of Analysis

Our method of analysis was to group claims into two categories: bodily injury liability and property damage liability. Individual claims (both closed and open claims) were first arranged by size-of-loss category. Next we estimated ultimate loss limited to \$300,000 per claim using claim payments and incurred amounts as of April 30, 1986 adjusted by development factors derived from general liability statistics from other data sources.

ultimate estimates based on development statistics were for the years 1977-1978 through 1981-1982 for bodily injury and for the years 1977-1978 through 1983-1984 for property damage.

For the remaining years we estimated both the number of claims expected to close with loss payments and the average loss amount. Historical statistics showing the ratio of claims closed with payments to reported claims and historical average claim amounts were used as the basis for selecting estimates for the more recent years. An annual change in average claim amount of +9.0% was utilized to estimate claim severity. This estimate was selected based on a review of countrywide statistics.

Using the historical size-of-loss statistics and countrywide general liability size-of-loss statistics, we then estimated the factors to adjust claims limited to \$300,000 to an unlimited basis. These factors were then multiplied to the claim amounts limited to \$300,000 to produce unlimited estimates.

Expenses and attorneys fees were estimated using historical ratios of expense and attorneys fees to losses as a basis.

Description of Exhibits

Estimated Unlimited Loss, Expenses and Attorneys Fees Reserves -
(7/1/77-6/30/86) - as of 6/30/86 - Exhibit 1

Exhibit 1 sets forth a comparison of our estimate of the liabilities of the Self-Insurance Fund versus the State's reserves as of June 30, 1986. We estimate an expected reserve of approximately \$47.1 million compared to the Fund balance of \$9.1 million. This produces an estimated reserve deficiency of approximately \$38.0 million. Payments as of June 30, 1986 were estimated using payments developed through April 30, 1986.

Estimated Ultimate Limited and Unlimited Loss, Expenses and Attorneys Fees - Exhibit 2

Exhibit 2 presents estimates of limited to \$300,000 and unlimited ultimate loss for bodily injury and property damage separately. Bodily injury estimates are shown for Accident Years 1977-1978 through 1981-1982 combined and for the years 1982-1983, 1983-1984, 1984-1985 and 1985-1986. For property damage, estimates are shown for Accident Years 1977-1978 through 1983-1984 combined and for the years 1984-1985 and 1985-1986.

On Exhibit 2 we show limited estimates of \$21.9 million, \$2.7 million and \$24.6 million for bodily injury, property damage and the total respectively. Unlimited estimates are \$43.3 million,

\$4.7 million and \$48.0 million for bodily injury, property damage and the total respectively. Estimated expense and attorneys fees are estimated at 15% of unlimited loss, or \$7.2 million. Total unlimited ultimate loss, loss expense and attorneys fees are estimated to be \$55.2 million.

The factors in Column (2) of Exhibit 2 were developed using both State of Montana experience and countrywide statistics. Since State of Montana experience in the past has been limited to \$300,000 per claim, countrywide statistics were required to assist us in estimating losses in excess of \$300,000 per claim.

In our letter to Steve Weber, Assistant Administrator, dated June 17, 1986, we estimated the expected ultimate loss, expenses and attorneys fees relativities for the Fund for the current year. These were as follows:

<u>Retention</u>	<u>Relativity</u>
\$300 thousand	1.00
500 thousand	1.25
1 million	1.55
Unlimited	2.35

This chart may be interpreted as follows: \$100 of loss limited to \$300,000 including unlimited expenses and attorneys fees is equal to \$235 on an unlimited basis.

The factors in Exhibit 2, Column (2) reflect these current year factors but also represent the actual experience to date which includes closed claims limited to \$300,000 per claim and open and unreported claims that may exceed \$300,000 per claim. To select the factors for the Accident Years 1977-1978 through 1981-1982 for bodily injury, we referred to the size-of-loss distribution (unlimited basis) shown on Exhibit 12. To select the factors for Accident Years 1977-1978 through 1983-1984 for property damage, we referred to the size-of-loss distribution (unlimited basis) on Exhibit 22.

We then interpolated to estimate the factors for bodily injury for Accident Years 1982-1983 and more recent years and for property damage Accident Years 1984-1985 and 1985-1986.

Estimated Payments Pattern, Future Payments and Present Value of Future Payments - Exhibits 3A, 3B, and 3C

On Exhibits 3A-3C, we set forth an estimated future payout pattern for the reserves as of June 30, 1986 and calculate the present value of future payments at an 8% per annum interest rate.

Exhibit 3A presents our selected payout pattern for all accidents incurred during a year and calculates the present value of this pattern in Column (3). Column (3) shows that \$65 could be placed in a fund earning 8% per annum to pay \$100 in claims over time.

Exhibit 3B shows our estimate of the future payouts by accident year and payment year. This exhibit projects payments for the fiscal year ending June 30, 1987 to be \$6.7 million. This projection assumes large claim payments will be made..

Exhibit 3C calculates the present value of future payments at an 8% per annum rate of interest for each accident year and payment year. Total payments at present value are estimated at \$35.8 million compared to estimated total payments of \$47.1 million.

Estimated Variability of Loss, Expenses and Attorneys Fees -
Exhibit 4

Exhibit 4 presents the probability distribution of expected reserves, shown as a level of confidence (Column (1)) that actual future payments on claims incurred will not exceed totals in Column (2). This estimate was developed using a Coopers & Lybrand computer model based on the estimated size-of-loss distribution for the State of Montana. This exhibit should be interpreted as follows, for example: The probability that the reserves for loss expense and attorneys fees will not exceed \$51.5 million is 70%.

Bodily Injury Liability - Exhibits 5 - 14

Exhibits 5 through 14 present our analysis of bodily injury liability claims. Exhibit 5 displays our estimate of ultimate loss limited to \$300,000 per claim using the ultimate number of

claims closed with payments (Columns (2) and (4)) and averages (Columns (3) and (5)). Estimated averages in Column (5) were calculated by increasing the total in Column (3) by +9% per annum. This exhibit shows a total limited estimate of \$21.9 million.

Exhibit 6 estimates limited loss based on paid loss (Column (5)) and incurred loss (Column (6)) development patterns. We multiplied the developed amounts as of April 30, 1986 (Column (3) and (4)), by the estimated development factors, Columns (5) and (6), respectively. The factors were derived from various other sources, because factors for the State of Montana's experience lack an appropriate number of years of development. We have shown the selected ultimate loss amounts in Column (9) for each Accident Year 1977-1978 through 1981-1982. The more recent years were not estimated due to lack of appropriate paid loss and incurred loss data.

Exhibit 7 compares the ratio of the number of claims closed with loss payments to reported claims. Columns (1)-(3) show claims closed and reported as of April 30, 1986 and Columns (4)-(6) show our ultimate estimates. The development of reported claims and ultimate estimates are presented on Exhibits 8-11. We are estimating a reduction in the ratio of claims closed with payments to reported claims. We believe the number of claims closed with payments will increase (see Column 4), but that the

ratio to reported claims will decrease. We estimate that a larger proportion of reported claims today are nuisance claims that will close with no payments.

Exhibits 8-11 show our estimates of ultimate reported claims. Actual claims are presented on Exhibits 10 and 11, and development factors (ratios of cumulative claims) are calculated on Exhibit 9. Having reviewed these factors, we selected factors which were used on Exhibit 8, Column (3) to estimate the ultimate number of claims. The factors in Column (3) were adjusted in Column (4) to estimate the development as of June 30 since claims were only developed up through April 30, 1986.

The estimated unlimited size-of-loss distribution for the Accident Year 1979-1980 is shown on Exhibit 12. This distribution is the average for the accident period July 1, 1977 - June 30, 1982. We reviewed the claim histories on Exhibits 13 and 14 and then estimated the percentage of claims we expect will close in each size-of-loss category. This exhibit shows averages for claims closed with loss payments. We have also calculated the factor to adjust losses limited to \$300,000 per claim to an unlimited basis. This factor was used to assist us in estimating the factors on Exhibit 2, Column (2). Exhibits 13 and 14 show the claims reported as of April 30, 1986.

Property Damage Liability - Exhibits 15 - 24

Exhibits 15 through 24 present our analysis of property damage liability claims. Exhibit 15 displays our estimate of ultimate loss limited to \$300,000 per claim using the ultimate number of claims closed with payments (Columns (2) and (4)) and averages (Columns (3) and (5)). Estimated averages in Column (5) were calculated by increasing the total in Column (3) by +9% per annum. This exhibit shows a total limited estimate of \$2.7 million.

Exhibit 16 estimates limited loss based on paid loss (Column (5)) and incurred loss (Column (6)) development patterns. We multiplied the developed amounts as of April 30, 1986 (Column (3) and (4)), by the estimated development factors, Columns (5) and (6), respectively. The factors were derived from various other sources because development factors for the State of Montana's experience lack an appropriate number of years of development. We have shown the selected ultimate loss amounts in Column (9) for each Accident Year 1977-1978 through 1983-1984. The more recent years were not estimated due to lack of appropriate paid loss and incurred loss data.

Exhibit 17 compares the ratio of the number of claims closed with loss payments to reported claims. Columns (1)-(3) show claims closed and reported as of April 30, 1986 and Columns (4)-(6) show our ultimate estimates. The development of reported claims and ultimate estimates are presented on Exhibits 18-21. We are

estimating a reduction in the ratio of closed with payments to reported claims. We believe the number of claims closed with payments will increase (see Column (4)), but that the ratio to reported claims will decrease. We estimate that a larger proportion of reported claims today are nuisance claims that will close with no payments.

Exhibits 18-21 show our estimates of ultimate reported claims. Actual claims are presented on Exhibits 20 and 21, and development factors (ratios of cumulative claims) are calculated on Exhibit 19. Having reviewed these factors, we selected factors which were used on Exhibit 18 (Column (3)) to estimate the ultimate number of claims. The factors in Column (3) were adjusted in Column (4) to estimate the development as of June 30 since claims were only developed through April 30, 1986.

The estimated unlimited size-of-loss distribution for the Accident Year 1979-1980 is shown on Exhibit 22. This distribution is the average of the accident period July 1, 1977 - June 30, 1982. We reviewed the claim histories on Exhibits 23 and 24 and then estimated the percentage of claims we expect will close in each size-of-loss category. This exhibit shows averages for claims closed with loss payments. We have also calculated the factor to adjust losses limited to \$300,000 per claim to an unlimited basis. This factor was used to assist us in estimating the factors on Exhibit 2, Column (2). Exhibits 23 and 24 show the claims reported as of April 30, 1986.

Estimated Ultimate Expense and Attorneys Fees - Exhibit 25

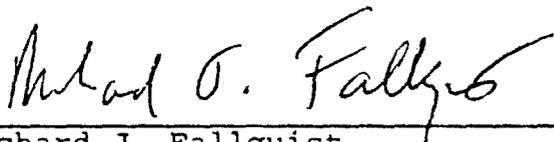
Since expenses and attorneys fees were not available for each accident year, we were unable to match these expenses to losses.

Therefore, we compared total expenses and attorneys fees payments to total loss payments for each payment year (fiscal year).

Exhibit 25 sets forth loss payments, expenses and attorneys fees for each fiscal year and the ratio of expenses to loss and attorneys fees to loss. The total ratio to date is .284 (expenses - .064, attorneys fees - .220). Because we expect an increase in this ratio as claims mature and new claims are reported, we selected an ultimate ratio of of .300. To express the expenses as a ratio to unlimited loss, we divided by a factor of 2.0, resulting in a ratio of .15.

Note of Thanks

We wish to thank John Maynard, Administrator, and Steve Weber, Assistant Administrator, for the opportunity to provide this report. We would be happy to answer any questions you may have concerning our analysis.



Richard J. Fallquist
Fellow, Casualty Actuarial Society
Member, American Academy of Actuaries

STATE OF MONTANA

Estimated Unlimited Loss, Expense and Attorneys Fees Reserves
(7/1/77-6/30/86)

as of 6/30/86

General Liability

	Estimated Unlimited Ultimate	Estimated Payments	Estimated Reserves as 6/30/86 (1) - (2)
	(1)	(2)	(3)
Bodily Injury	\$43.3	\$5.5	\$ 37.8
Property Damage	4.7	.8	3.9
Expenses & Attorneys Fees	7.2	1.8	5.4
Total	\$55.2	\$8.1	\$ 47.1

- (1) Coopers & Lybrand Estimated Unlimited Reserves (Loss, Expense, Attorneys Fees) at 6/30/86 \$ 47.1
- (2) State of Montana Fund Balance at 6/30/86 9.1
- (3) Estimated Redundancy (+) or Deficiency (-) (2) - (1) \$-38.0

Notes:

1. Amounts are in millions of dollars.
2. Amounts in Column (2) were estimated as of 6/30/86 using data developed through 4/30/86.

SENATE JUDICIARY

EXHIBIT NO. 4DATE 06-25-86BILL NO. S. B. 22

STATE OF MONTANA

Estimated Ultimate Limited & Unlimited Loss, Expense and Attorneys Fees

General Liability Claims

<u>Accident Year</u>	<u>Estimated Ultimate Limited Loss (1)</u>	<u>Factor to Adjust to Unlimited Loss (2)</u>	<u>Estimated Unlimited Loss (1) x (2) (3)</u>
<u>Bodily Injury</u>			
1977-1978 through 1981-1982	\$ 7,470.0	1.75	\$13,072.5
1982-1983	2,743.3	1.80	4,938.0
1983-1984	3,541.1	2.00	7,082.2
1984-1985	4,288.6	2.10	9,006.1
1985-1986	3,833.2	2.40	9,199.7
Sub-total	\$21,876.2		\$43,298.5
<u>Property Damage</u>			
1977-1978 through 1983-1984	\$ 1,688.8	1.70	\$ 2,871.0
1984-1985	439.6	1.75	769.3
1985-1986	589.7	1.75	1,032.0
Sub-total	\$ 2,718.1		\$ 4,672.3
Total	\$24,594.3		\$47,970.8
(1) Estimated Unlimited Ultimate Loss			\$47,970.8
(2) Estimated Expense & Attorneys Fees Ratio			.15
(3) Estimated Expense & Attorneys Fees (1)x(2)			\$ 7,195.6
(4) Total Unlimited Ultimate Loss & Expense & Attorneys Fees (1)+(3)			\$55,166.4

Note:

1. Amounts in Columns (1) and (3) are in thousands of dollars.
2. Amounts in Column 1 are from Exhibits 3 and 15.
3. Factors in Column 2 were developed from Exhibits 12 and 22.
4. Limited Loss is \$300,000 per claim.

STATE OF MONTANA
Present Value of Payment Pattern
General Liability

Payment Pattern =====	Interest =====	Adjusted Payment Pattern =====
(1)	(2)	(3)
0.040	8.00	0.038
0.080	8.00	0.074
0.160	8.00	0.140
0.250	8.00	0.209
0.400	8.00	0.315
0.550	8.00	0.413
0.680	8.00	0.492
0.780	8.00	0.548
0.850	8.00	0.585
0.900	8.00	0.609
0.940	8.00	0.626
0.970	8.00	0.639
0.990	8.00	0.646
1.000	8.00	0.650

Note:

1. The payment pattern is based on State of Montana loss experience and industry statistics for general liability where appropriate.

STATE OF MONTANA
 Future Payments of Indicated Loss Reserves
 General Liability

Accident Year	Payment Year				
	1987	1988	1989	1990	1991
1978	980000	784000	588000	392000	196000
1979	231636	165455	132364	99273	66180
1980	262500	183750	131250	105000	78750
1981	918378	706444	494511	353222	282570
1982	989250	857350	659500	461650	329750
1983	1013200	1013200	878107	675467	472820
1984	877821	1463036	1463036	1267964	975350
1985	939478	1056913	1761522	1761522	1526650
1986	473458	946917	1065281	1775469	1775460
Total	6685721	7177065	7173571	6891567	5703560

Accident Year	Payment Year				
	1992	1993	1994	1995	1996
1978					
1979	33091				
1980	52500	26250			
1981	211933	141289	70644		
1982	263800	197850	131900	65950	
1983	337733	270187	202640	135093	67540
1984	682750	487679	390143	292607	195070
1985	1174348	822043	587174	469739	352300
1986	1538740	1183646	828552	591823	473450
Total	4294895	3128944	2211053	1555212	1088380

Accident Year	Payment Year				
	1997	1998	1999	2000	2001
1978					
1979					
1980					
1981					
1982					
1983					
1984	97536				
1985	234870	117435			
1986	355094	236729	118365		
Total	687500	354164	118365		

Total Payments: \$47,070,002

Note: Accident Years end June 30.

STATE OF MONTANA
 Present Value of Future Payments of Indicated Loss Reserves (Interest Rate: 8%)
 General Liability

Accident Year	Payment Year				
	1987	1988	1989	1990	1991
1978	943005	698523	485085	299435	138610
1979	222892	147416	109197	75831	46800
1980	252591	163716	108278	80206	55690
1981	883710	629422	407959	269814	199860
1982	951906	763875	544071	352638	233210
1983	974952	902733	724416	515966	334410
1984	844684	1303525	1206968	968554	689850
1985	904013	941681	1453211	1345566	1079770
1986	455585	843677	878830	1356219	1255750
Total	6433338	6394568	5918015	5264229	4034010

Accident Year	Payment Year				
	1992	1993	1994	1995	1996
1978					
1979	21671				
1980	34382	15918			
1981	138793	85675	39664		
1982	172760	119972	74057	34286	
1983	221178	163836	113775	70231	32510
1984	447127	295719	219051	152119	93900
1985	769071	498471	329677	244205	169580
1986	1007708	717740	465202	307673	227900
Total	2812690	1897331	1241426	808514	523900

Accident Year	Payment Year				
	1997	1998	1999	2000	2001
1978					
1979					
1980					
1981					
1982					
1983					
1984	43473				
1985	104683	48465			
1986	158268	97696	45230		
Total	306424	146161	45230		

Total Payments: \$35,825,868

SENATE JUDICIARY
 EXHIBIT NO. 4
 DATE 06-25-86

Note: Accident Years end June 30.

STATE OF MONTANA -- General Liability

Estimated Variability of Loss, Expenses and Attorneys Fees

<u>Confidence Level</u> (1)	<u>Total Loss, Expenses and Attorneys Fees</u> (2)
.90	\$61.9
.70	51.5
.50	46.8
.30	41.6
.10	33.9
Expected	\$47.1

Notes:

1. Amounts are in millions of dollars.
2. The confidence level is the probability that total estimated loss, expenses and attorneys fees will not exceed the indicated total in column (2).

STATE OF MONTANA -- General Liability

Estimated Limited Ultimate Loss

Bodily Injury Claims

<u>Accident Year</u>	<u>Ultimate Limited Loss</u> (1)	<u>Ultimate Number of Claims Closed with Payments</u> (2)	<u>Average (1)/(2)</u> (3)
1977-1978	\$ 725.0	23	\$31,522
1978-1979	1370.0	23	59,565
1979-1980	1950.0	28	69,643
1980-1981	1775.0	24	73,958
1981-1982	1650.0	36	45,833
Total	\$7,470.0	134	\$55,746

<u>Accident Year</u>	<u>Ultimate Number of Claims Closed with Payments</u> (4)	<u>Average</u> (5)	<u>Ultimate Limited Loss (4)x(5)</u> (6)
1982-1983	38	\$72,193	\$2,743.3
1984-1985	45	78,690	3,541.1
1984-1985	50	85,772	4,288.6
1985-1986	41	93,492	3,833.2

Total Limited Loss: \$21,876.2

Notes:

1. Amounts in columns (1), (3) and (6) and the total limited loss are in thousands of dollars.
2. Loss is limited to \$300,000 per claim.
3. Estimates in column (4) are from Exhibit 7.
4. Averages in column (5) are the total in column (3) projected at +9.0% per annum.

SENATE JUDICIARY

EXHIBIT NO. 4DATE 06-25-86

STATE OF MONTANA -- General Liability
 Estimated Ultimate Limited Loss Based on Paid and Incurred Development
 Bodily Injury Claims

Accident Year	Months of Development	Unlimited Losses Payments (1)	Unlimited Losses Incurred (2)	Limited Losses Payments (3)	Limited Losses Incurred (4)	Selected Paid Factor to Ultimate (5)	Selected Incurred Factor to Ultimate (6)	Estimated Limited Ultimate Loss (3) X (5) (7)	Estimated Limited Ultimate Loss (4) X (6) (8)	Selected Limited Ultimate Loss (9)
1977-1978	106	\$ 296.9	\$3,397.9	\$ 296.9	\$ 697.0	1.20	1.10	\$ 356.3	\$ 766.7	\$ 725.0
1978-1979	94	1,050.2	1,225.2	1,050.2	1,225.2	1.30	1.12	1,365.3	1,372.2	1,370.0
1979-1980	82	1,548.6	1,662.1	1,548.6	1,662.1	1.40	1.16	2,168.0	1,928.0	1,950.0
1980-1981	70	1,034.0	4,311.5	1,034.0	1,611.5	1.55	1.20	1,602.7	1,933.8	1,775.0
1981-1982	58	596.8	4,585.7	596.8	1,490.7	1.80	1.30	1,074.2	1,937.9	1,650.0

NOTES:

1. Amounts in columns (1), (2), (3) and (4) are developed through April 30, 1986.
2. Amounts in columns (1), (2), (3), (4), (7), (8) and (9) are in thousands of dollars.
3. Losses in columns (3) and (4) are limited to \$300,000 per claim.

STATE OF MONTANA -- General Liability

Ratio of Number of Claims Closed with Loss Payments to Reported Claims

Bodily Injury Claims

<u>Accident Year</u>	<u>Closed with Payments</u> (1)	<u>Reported</u> (2)	<u>Ratio (1)/(2)</u> (3)	<u>Ultimate Closed with Payments</u> (4)	<u>Ultimate Reported</u> (5)	<u>Ratio (4)/(5)</u> (6)
1977-1978	17	42	.40	23	42	.55
1978-1979	20	35	.57	23	35	.66
1979-1980	23	47	.49	28	47	.60
1980-1981	14	37	.38	24	37	.65
1981-1982	14	56	.25	36	59	.61
1982-1983	17	60	.28	38	74	.51
1983-1984	10	72	.14	45	109	.41
1984-1985	6	68	.09	50	143	.35
1985-1986	2	24	.08	41	120	.34

Note:

1. Claims reported as of April 30, 1986

SENATE JUDICIARY

EXHIBIT NO. 4DATE 06-25-86BILL NO. S.B. 22

STATE OF MONTANA -- General Liability

Ultimate Claims Based on
Reported Claim Development

Bodily Injury Claims

Accident Year =====	Cumulative Claims =====	Selected Development Factor =====	Cumulative Development Factor =====	Adjusted Cumulative Development Factor* =====	Ultimate Claims (1) X (4) =====
	(1)	(2)	(3)	(4)	(5)
1978	42	1.000	1.000	1.000	42
1979	35	1.000	1.000	1.000	35
1980	47	1.000	1.000	1.000	47
1981	37	1.000	1.000	1.010	37
1982	56	1.040	1.040	1.047	58
1983	60	1.100	1.144	1.227	73
1984	72	1.275	1.459	1.515	109
1985	68	1.300	1.896	2.105	143
1986	24	2.000	3.792	5.000	120
Total	441				666

Notes:

1. Accident years end June 30.
2. * - the cumulative development factors in column (3) reflect an evaluation as of June 30. The data is actually evaluated as of April 30, 1986, so the development factors in column (4) are adjusted and used in the calculation of ultimate claims as shown in column (5).

STATE OF MONTANA -- General Liability

Reported Claim Development

Bodily Injury Claims

Accident Year	Months of Development								
	12	24	36	48	60	72	84	96	108
-----	--	--	--	--	--	--	--	--	---
1978	1.786	1.280	1.156	1.081	1.025	1.024	1.000	1.000*	
1979	2.000	1.056	1.474	1.179	1.061	1.000	1.000*		
1980	1.857	1.346	1.286	1.000	1.044	1.000*			
1981	1.600	1.375	1.364	1.233	1.000*				
1982	1.941	1.273	1.310	1.018*					
1983	1.826	1.286	1.111*						
1984	2.200	1.309*							
1985	1.659*								
1986									
Average	1.859	1.275	1.283	1.102	1.033	1.008	1.000	1.000	
Average Excluding High/Low	1.845	1.299	1.279	1.093	1.035	1.000			
Weighted Average	1.864	1.292	1.268	1.097	1.028	1.004	1.000	1.000	
3 Year Average	1.895	1.289	1.261	1.084	1.035	1.008	1.000	1.000	
Linear Trend									
Slope	0.004	0.017	-0.018	-0.007	-0.009	-0.012			
Intercept	1.839	1.207	1.347	1.124	1.055	1.033	1.000		
R Squared	0.003	0.124	0.066	0.012	0.203	0.750			
Projected	1.878	1.343	1.219	1.081	1.010	0.984	1.000		
Exponential Curve									
Slope %	0.122	1.460	-1.403	-0.742	0.944				
Intercept	1.840	1.199	1.342	1.150	1.024				
R Squared	0.001	0.131	0.064	0.025	0.302				
Projected	1.860	1.347	1.216	1.100	1.063				
Selected	<u>2.000</u>	<u>1.300</u>	<u>1.275</u>	<u>1.100</u>	<u>1.040</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>

Notes:

1. Accident years end June 30.
2. * - Evaluated as of April 30, 1986.

SENATE JUDICIARY

EXHIBIT NO. 4DATE 06-25-86BILL NO. S.B. 22

STATE OF MONTANA -- General Liability

Cumulative Reported Claims

Bodily Injury Claims

Accident Year	Months of Development								
	12	24	36	48	60	72	84	96	108
-----	--	--	--	--	--	--	--	--	----
1978	14	25	32	37	40	41	42	42	42 ⁷
1979	9	18	19	28	33	35	35	35*	
1980	14	26	35	45	45	47	47*		
1981	10	16	22	30	37	37*			
1982	17	33	42	55	56*				
1983	23	42	54	60*					
1984	25	55	72*						
1985	41	68*							
1986	24*								

Notes:

1. Accident years end June 30.
2. * - Evaluated as of April 30, 1986.

STATE OF MONTANA -- General Liability

Number of Reported Claims

Bodily Injury Claims

Accident Year	Months of Development								
	12	24	36	48	60	72	84	96	108
-----	--	--	--	--	--	--	--	--	----
1978	14	11	7	5	3	1	1		*
1979	9	9	1	9	5	2		*	
1980	14	12	9	10		2	*		
1981	10	6	6	8	7	*			
1982	17	16	9	13	1*				
1983	23	19	12	6*					
1984	25	30	17*						
1985	41	27*							
1986	24*								

Notes:

1. Accident years end June 30.
2. * - Evaluated as of April 30, 1986.

SENATE JUDICIARY
 EXHIBIT NO. 4
 DATE 06-25-86
 BILL NO. S.B. 22

STATE OF MONTANA -- General Liability

Estimated Size-of-Loss Distribution
for Accident Year 1979-1980

Bodily Injury Claims

<u>Size-of-Loss Category</u>	<u>Estimated Percentage</u>	<u>Estimated Average Loss</u>
\$ 0	.380	\$ 0
1-1,000	.070	300
1,001-5,000	.155	2,900
5,001-10,000	.060	8,500
10,001-25,000	.090	17,000
25,001-50,000	.070	35,000
50,001-100,000	.070	75,000
100,001-300,000	.055	170,000
300,001-500,000	.020	340,000
500,000-1,000,000	.015	700,000
1,000,000+	.015	1,900,000
Total	1.000	-

(1) Average Unlimited Claim Closed with Loss Payment	\$105,420
(2) Average Claim Closed with Loss Payment Limited to \$300,000	\$55,743
(3) Ratio [(1)/(2)]	1.89

Notes:

1. The distribution was estimated using the reported distributions for accident years 1977-1978 through 1981-1982, estimated development factors and data from other sources. Actuarial judgment was also applied.
2. The average claim calculations above exclude claims with zero amounts.

STATE OF MONTANA -- General Liability
 Reported Claims Arranged by Size-of-Loss Category
 Bodily Injury Claims

Ratio of Number of Claims to Total Claims

Size-of-Loss Category	Accident Year					Total
	77/78	78/79	79/80	80/81	81/82	
\$ 0	.48	.34	.39	.38	.37	.40
1-1,000	.07	.06	.07	.11	.05	.07
1,001-5,000	.19	.14	.21	.08	.14	.16
5,001-10,000	.00	.03	.04	.08	.13	.06
10,001-25,000	.12	.06	.07	.05	.13	.09
25,001-50,000	.07	.14	.04	.05	.05	.07
50,001-100,000	.05	.11	.07	.11	.05	.07
100,001-300,000	.00	.09	.07	.08	.04	.05
300,001-500,000	.00	.03	.04	.03	.02	.02
500,001-1,000,000	.00	.00	.00	.00	.00	.00
1,000,001+	.02	.00	.00	.03	.02	.01
Total	1.00	1.00	1.00	1.00	1.00	1.00

Note:

1. Number of claims are estimated as of April 30, 1986.

SENATE JUDICIARY

EXHIBIT NO. 4

DATE 06-25-86

BILL NO. S.B. 22

STATE OF MONTANA -- General Liability
 Reported Claims Arranged by Size-of-Loss Category
 Bodily Injury Claims

<u>Size-of-Loss Category</u>	<u>Number of Claims</u>					<u>Total</u>
	<u>Accident Year</u>					
	<u>77/78</u>	<u>78/79</u>	<u>79/80</u>	<u>80/81</u>	<u>81/82</u>	
\$ 0	20	12	19	14	21	86
1-1,000	3	2	3	4	3	15
1,001-5,000	8	5	10	3	8	34
5,001-10,000	0	1	2	3	7	13
10,001-25,000	5	2	3	2	7	19
25,001-50,000	3	5	2	2	3	15
50,001-100,000	2	4	3	4	3	16
100,001-300,000	0	3	3	3	2	11
300,001-500,000	0	1	2	1	1	5
500,001-1,000,000	0	0	0	0	0	0
1,000,001+	1	0	0	1	1	3
Total	42	35	47	37	56	217

Note:

1. Reported claims are estimated as of April 30, 1986.

STATE OF MONTANA -- General Liability

Estimated Limited Ultimate Loss

Property Damage Claims

<u>Accident Year</u>	<u>Ultimate Limited Loss</u> (1)	<u>Ultimate Number of Claims Closed with Payments</u> (2)	<u>Average (1)/(2)</u> (3)
1977-1978	\$ 99.1	24	\$ 4,129
1978-1979	224.7	10	22,470
1979-1980	590.0	19	31,053
1980-1981	475.0	16	29,688
1981-1982	75.0	16	4,688
1982-1983	75.0	21	3,571
1983-1984	150.0	35	4,286
Total	\$1,688.8	141	\$11,977

<u>Accident Year</u>	<u>Ultimate Number of Claims Closed with Payments</u> (4)	<u>Average</u> (5)	<u>Ultimate Limited Loss (4)x(5)</u> (6)
1984-1985	26	\$16,907	\$439.6
1985-1986	32	18,428	589.7

Total Limited Loss: \$2,718.1

Notes:

1. Amounts in columns (1), (3) and (6) and the total limited loss are in thousands of dollars.
2. Loss is limited to \$300,000 per claim.
3. Estimates in column (4) are from Exhibit 17.
4. Averages in column (5) are the total in column (3) projected at +9.0% per annum.

SENATE JUDICIARY

EXHIBIT NO. 4DATE 06-25-86BILL NO. S.B. 22

STATE OF MONTANA -- General Liability
 Estimated Ultimate Limited Loss Based on Paid and Incurred Development
 Property Damage Claims

Accident Year	Months of Development	Unlimited Losses Payments (1)	Limited Losses Incurred (2)	Limited Losses Incurred (4)	Selected Paid Factor to Ultimate (5)	Selected Incurred Factor to Ultimate (6)	Estimated Limited Ultimate Loss (3) X (5) (7)	Estimated Limited Ultimate Loss (4) X (6) (8)	Selected Limited Ultimate Loss (9)
1977-1978	106	\$ 98.6	\$ 98.6	\$ 98.6	1.01	1.005	\$ 99.6	\$ 99.1	\$ 99.1
1978-1979	94	22.5	222.5	22.5	1.05	1.01	23.6	224.7	224.7
1979-1980	82	493.2	588.2	493.2	1.15	1.03	567.2	605.8	590.0
1980-1981	70	13.5	1,653.5	13.5	1.27	1.05	17.1	476.2	475.0
1981-1982	58	53.1	53.6	53.1	1.41	1.10	74.9	59.0	75.0
1982-1983	46	9.2	-	9.2	-	-	-	-	75.0
1983-1984	34	20.3	-	20.3	-	-	-	-	150.0

Notes:

1. Amounts in columns (1), (2), (3) and (4) are developed through April 30, 1986.
2. Amounts in columns (1), (2), (3), (4), (7), (8) and (9) are in thousands of dollars.
3. Losses in columns (3) and (4) are limited to \$300,000 per claim.

STATE OF MONTANA -- General Liability

Ratio of Number of Claims Closed with Loss Payments to Reported Claims

Property Damage Claims

<u>Accident Year</u>	<u>Closed with Payments</u> (1)	<u>Reported</u> (2)	<u>Ratio (1)/(2)</u> (3)	<u>Ultimate Closed with Payments</u> (4)	<u>Ultimate Reported</u> (5)	<u>Ratio (4)/(5)</u> (6)
1977-1978	24	57	.42	24	57	.42
1978-1979	9	57	.16	10	57	.18
1979-1980	18	67	.27	19	67	.28
1980-1981	10	47	.21	16	47	.34
1981-1982	14	37	.38	16	37	.43
1982-1983	18	41	.44	21	41	.51
1983-1984	33	97	.34	33	100	.33
1984-1985	15	76	.20	26	87	.30
1985-1986	13	64	.20	35	116	.30

Note:

1. Claims reported as of April 30, 1986

SENATE JUDICIARY

EXHIBIT NO. 4DATE 06-25-86BILL NO. S.B. 22

STATE OF MONTANA -- General Liability

Ultimate Claims Based on
Reported Claim Development

Property Damage Claims

Accident Year =====	Cumulative Claims =====	Selected Development Factor =====	Cumulative Development Factor =====	Adjusted Cumulative Development Factor* =====	Ultimat Claims (1) X (1) =====
	(1)	(2)	(3)	(4)	(5)
1978	57	1.000	1.000	1.000	57
1979	57	1.000	1.000	1.000	57
1980	67	1.000	1.000	1.000	67
1981	47	1.000	1.000	1.000	47
1982	37	1.000	1.000	1.000	37
1983	41	1.000	1.000	1.005	41
1984	97	1.020	1.020	1.030	100
1985	76	1.090	1.112	1.150	87
1986	64	1.400	1.557	1.818	116
Total	543				600

Notes:

1. Accident years end June 30.
2. * - the cumulative development factors in column (3) reflect an evaluation as of June 30. The data is actually evaluated as of April 30, 1986, so the development factors in column (4) are adjusted and used in the calculation of ultimate claims as shown in column (5).

STATE OF MONTANA -- General Liability

Reported Claim Development

Property Damage Claims

Accident Year	Months of Development								
	12	24	36	48	60	72	84	96	108
1978	1.200	1.083	1.058	1.036	1.000	1.000	1.000	1.000*	
1979	1.200	1.037	1.018	1.000	1.000	1.000	1.000*		
1980	1.123	1.047	1.000	1.000	1.000	1.000*			
1981	1.414	1.098	1.044	1.000	1.000*				
1982	1.435	1.121	1.000	1.000*					
1983	1.267	1.079	1.000*						
1984	1.540	1.000*							
1985	1.118*								
1986									
Average	1.287	1.066	1.020	1.007	1.000	1.000	1.000	1.000	
Average Excluding High/Low	1.273	1.069	1.016	1.000	1.000	1.000			
Weighted Average	1.309	1.063	1.013	1.002	1.000	1.000	1.000	1.000	
3 Year Average	1.308	1.067	1.015	1.000	1.000	1.000	1.000	1.000	
Linear Trend									
Slope	0.019	-0.003	-0.009	-0.007					
Intercept	1.203	1.080	1.050	1.029	1.000	1.000	1.000		
R Squared	0.085	0.030	0.393	0.500					
Projected	1.371	1.053	0.990	0.985	1.000	1.000	1.000		
Exponential Curve									
Slope %	1.348	0.749	-0.176						
Intercept	1.204	1.049	1.044						
R Squared	0.075	0.229	0.019						
Projected	1.358	1.106	1.035						
Selected	<u>1.400</u>	<u>1.090</u>	<u>1.020</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>

Notes:

1. Accident years end June 30.
2. * - Evaluated as of April 30, 1986.

SENATE JUDICIARY

EXHIBIT NO. 4DATE 06-25-86BILL NO. S.B. 22

STATE OF MONTANA -- General Liability

Cumulative Reported Claims

Property Damage Claims

Accident Year	Months of Development								
	12	24	36	48	60	72	84	96	108
-----	--	--	--	--	--	--	--	--	---
1978	40	48	52	55	57	57	57	57	57*
1979	45	54	56	57	57	57	57	57*	
1980	57	64	67	67	67	67	67*		
1981	29	41	45	47	47	47*			
1982	23	33	37	37	37*				
1983	30	38	41	41*					
1984	63	97	97*						
1985	68	76*							
1986	64*								

Notes:

1. Accident years end June 30.
2. * - Evaluated as of April 30, 1986.

STATE OF MONTANA -- General Liability

Number of Reported Claims

Property Damage Claims

Accident Year	Months of Development									
	12	24	36	48	60	72	84	96	108	
-----	--	--	--	--	--	--	--	--	---	
1978	40	8	4	3	2					*
1979	45	9	2	1					*	
1980	57	7	3				*			
1981	29	12	4	2		*				
1982	23	10	4		*					
1983	30	8	3	*						
1984	63	34	*							
1985	68	8*								
1986	64*									

Notes:

1. Accident years end June 30.
2. * - Evaluated as of April 30, 1986.

SENATE JUDICIARY

EXHIBIT NO. 4DATE 06-25-86BILL NO. S.R. 22

STATE OF MONTANA -- General Liability

Estimated Size-of-Loss Distribution
for Accident Year 1979-1980

Property Damage Claims

<u>Size-of-Loss Category</u>	<u>Estimated Percentage</u>	<u>Estimated Average Loss</u>
\$ 0	.652	\$ 0
1-1,000	.185	300
1,001-5,000	.060	2,600
5,001-10,000	.030	7,000
10,001-25,000	.030	16,000
25,001-50,000	.015	35,000
50,001-100,000	.013	70,000
100,001-300,000	.007	180,000
300,001-500,000	.003	380,000
500,001-1,000,000	.0025	700,000
1,000,001+	.0025	1,500,000
Total	1.000	-

(1) Average Unlimited Claim Closed with Loss Payment	\$29,415
(2) Average Claim Closed with Loss Payment Limited to \$300,000	\$17,231
(3) Ratio [(1)/(2)]	1.71

Notes:

1. The distribution was estimated using the reported distributions for accident years 1977-1978 through 1981-1982, estimated development factors and data from other sources. Actuarial judgment was also applied.
2. The average claim calculations above exclude claims with zero amounts.

STATE OF MONTANA -- General Liability
 Reported Claims Arranged by Size-of-Loss Category
 Property Damage Claims

Ratio of Number of Claims to Total Claims

Size-of-Loss Category	Accident Year					Total
	77/78	78/79	79/80	80/81	81/82	
\$ 0	.59	.81	.67	.66	.59	.69
1-1,000	.33	.11	.13	.15	.27	.19
1,001-5,000	.02	.04	.07	.11	.08	.06
5,001-10,000	.02	.00	.02	.00	.03	.01
10,001-25,000	.02	.02	.02	.00	.00	.01
25,001-50,000	.00	.00	.02	.06	.03	.02
50,001-100,000	.02	.00	.03	.00	.00	.01
100,001+	.00	.02	.02	.02	.00	.01
Total	1.00	1.00	1.00	1.00	1.00	1.00

Note:

1. Reported claims are estimated as of April 30, 1986.

SENATE JUDICIARY

EXHIBIT NO. 4

DATE 06-25-86

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STATE OF MONTANA -- General Liability
 Reported Claims Arranged by Size-of-Loss Category
 Property Damage Claims

<u>Size-of-Loss Category</u>	<u>Number of Claims</u>					<u>Total</u>
	<u>Accident Year</u>					
	<u>77/78</u>	<u>78/79</u>	<u>79/80</u>	<u>80/81</u>	<u>81/82</u>	
\$ 0	34	47	47	31	22	181
1-1,000	19	6	9	7	10	51
1,001-5,000	1	2	5	5	3	16
5,001-10,000	1	0	1	0	1	3
10,001-25,000	1	1	1	0	0	3
25,001-50,000	0	0	1	3	1	5
50,001-100,000	1	0	2	0	0	3
100,001+	0	1	1	1	0	3
Total	57	57	67	47	37	265

Note:

1. Reported claims are estimated as of April 30, 1986.

STATE OF MONTANA -- General Liability
 Estimated Ultimate Expenses and Attorneys Fees
 Property Damage and Bodily Injury Claims

Fiscal Year	Loss (1)	Expenses (2)	Ratio of Expenses to Loss (2)/(1) (3)	Attorneys Fees (4)	Ratio of Attorneys Fees to Loss (4)/(1) (5)
1978	\$ 3,057	\$ 25,023	8.185	\$ 7,957	2.603
1979	19,058	555	.029	11,999	.630
1980	10,584	3,806	.360	57,531	5.436
1981	133,755	10,201	.076	80,309	.600
1982	616,304	39,350	.064	142,190	.231
1983	1,270,785	55,626	.044	164,465	.129
1984	1,135,706	67,995	.060	274,836	.242
1985	2,096,214	130,147	.062	362,084	.173
1986*	835,963	59,841	.072	247,739	.296
Total	\$6,121,426	\$392,544	.064	\$1,349,110	.220

Selected Factor: 0.30

Selected Factor for Unlimited Loss: 0.15

Note:

1. Fiscal years are from July 1 through June 30.
2. * - Ten-month period from July 1, 1985 through April 30, 1986.

SENATE JUDICIARY
 EXHIBIT NO. 4
 DATE 06-25-86
 BILL NO. S.B. 22

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June 17, 1986

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TORT CLAIMS DIVISION
JUN 18 1986
HELENA, MONTANA

Mr. Steve Weber
Assistant Administrator
Department of Administration
Insurance and Legal Division
State of Montana
Room 111, Mitchell Building
Helena, Montana 59620

Dear Steve:

As you requested, we have estimated the expected ultimate loss and loss expense relativities for the State of Montana's Comprehensive General Liability Self-Insurance Fund at different retention levels as follows:

<u>Retention</u>	<u>Relativity</u>
\$300 thousand	1.00
\$500 thousand	1.25
\$1 million	1.55
Unlimited	2.35

These factors can be used to approximate the difference in the State's liability at different retention levels. For example, ultimate loss and loss expense for unlimited liability will be approximately 2.35 times larger than losses limited to \$300 thousand.

We estimated these relativities by using the State's size-of-loss distribution and by reviewing industry increased limits factors for general liability.

Please realize these are expected factors and could vary substantially from actual loss experience. This is due to the nature of general liability where large claims are expected and where claims take a long time to settle. Wide variability is not only possible, but quite probable.

We will be issuing our final report entitled "Actuarial Estimates of the Adequacy of the Comprehensive General Liability Self-Insurance Fund for the State of Montana, as of April 30, 1986", shortly. Meanwhile, please contact me if you have any questions regarding our analysis.

Sincerely,

Richard J. Fallquist
Richard J. Fallquist, FCAS, MAAA
Director, Actuarial Services

SENATE JUDICIARY
EXHIBIT NO. 5
DATE 06-25-86
BILL NO. S.B. 22

INTERIM STUDY
BY THE
SUBCOMMITTEE ON JUDICIARY

Limitations on the Waiver of Sovereign Immunity

December 1978

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State Capitol
Helena, Montana 59601

SENATE JUDICIARY

EXHIBIT NO. 6

DATE 06-25-86

BILL NO. S.B. 22

Rep. the Interim Study