MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
SECOND SPECIAL 49th LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

March 27, 1986

The meeting of the State Administration committee was called to order by Chairman Walter Sales on the above date at 10:00 a.m. in Room 317 of the State Capitol.

ROLL CALL: All members were present with the exceptions of Representatives Kennerly, O'Connell and Pistoria who were absent. Members of the Local Government committee were also present at this joint meeting with the exception of Rep. Kitselman, who was excused. Reps. Wallin, Brandewie, Fritz, Gilbert, Hansen, Kadas and Poff were attending the Business and Labor committee hearing.

CONSIDERATION OF SENATE BILL NO. 2: On behalf of Senator Crippen, District 45, chief sponsor of SB 2, Senator Fuller, District 22, presented this bill to the committee and stressed the significance of SB 2 in addressing the current liability problems by authorizing political subdivisions to issue bonds or notes, individually or jointly, to establish self-insurance reserve funds. To further explain SB 2, the bill authorizes local governments to issue and sell bonds or notes for the purpose of funding a self-insurance or deductible reserve fund. The bonds thus issued may not exceed three percent of the taxable valuation of the local government, but other restrictions relating to debt limits do not apply. The bond interest and principal is to be repaid under the property tax authority for insuring the local government. That provision is outside of the all-purpose mill levy for cities and a separate levy for other local governments.

PROPONENTS: Alec Hansen, Montana League of Cities and Towns, expressed his concern for the seven unprotected cities in Montana that do not have liability insurance, ranging in size from Billings to Judith Gap. The possibility of claims could lead to judgment levies that would be imposed on taxpayers of those jurisdictions for over three years resulting in enormous consequences on the property tax rates in those respective communities. Mr. Hansen stated that this bill is essential to culminate efforts to establish practical, affordable, and reliable insurance coverage for local governments. He pointed out that this authority would also apply to counties, school districts and other political subdivisions, possibly including conservation districts. Local governments need the capacity to develop these insurance programs for protection against large liability judgments. This bill is intended as a mechanism for capitalization of the self-insurance program to provide that extra measure of protection necessary to guard against judgment levies. In the last four months, the League of City and Towns has worked with Marsh McLennan, insurance brokers, searching every market in this country and overseas to find a company that will reinsure the self-insurance pool for the cities and towns of Montana. Without that additional insurance coverage, we can only go to a straight self-insurance pool and only offer up to possible $300,000 in coverage. The sky is the limit in liability cases, and therefore this coverage is not adequate.

Hansen further stated that this program is intended to save tax dollars by protecting cities, towns, counties, and school districts against major judgments and by providing a reliable, affordable source of liability coverage. He felt that the League can provide adequate insurance coverage at a rate that is competitive or lower than the current commercial market rate. See exhibit A.

John Lawton, Finance Director of the city of Billings, stated that there are two parts of the liability problem. Local governments do not have liability insurance and there are no limits on liability. The supreme court in its Pfost decision removed limitations on governmental liability previously established by the legislature. Since that decision, Billings, to name one Montana city, has no present insurance to pay possible liability claims except by levying taxes directly against the taxpayers or by drawing against reserve funds, if indeed, there are reserve funds. The problem is getting worse. More cities will lose their insurance by the end of this fiscal year, and those not losing it at this time will suffer cost increases in their insurance ranging from 200 - 500%, As far as the limits are concerned, it will be nine to ten months before limits can be reestablished in the general session of the legislature. The taxpayers' risk in the interim will be unlimited, and the problem of having no insurance will continue.

Lawton explained that the Montana League of Cities and Towns Insurance Trust was set up last year to provide pooled self-insurance in the workers' compensation, property, and liability areas. As of January 1, 1985, League membership included 39 members and over $1.6 million in annualized premiums, managed by insurance professionals. Liability insurance was to have been established on March 1, 1986, but efforts were not successful; the umbrella insurance or the reinsurance were not available. Plans to pool the premiums and offer coverage up to $250,000 to $300,000 and plans to buy reinsurance to cover losses above $1 million were not possible. There were no prospects of getting reinsurance in the near future. Without reinsurance, the taxpayers would be directly exposed to the losses.

Issuing bonds to provide liability coverage appears to be the best solution to the insurance problem. The concept is that bonds would be issued in the amount of, say, $20 million. Coverage would be provided to member cities on an actuarially sound basis up to the limits that we hope are established by the legislature. By selling bonds, money would be realized and would be used to provide the capital for the insurance program. Premiums would be paid just as they would be paid ordinarily to the insurance company, but this would supply the program with cash reserves. The money earned would be sufficient to repay the bonds over 20 years and would be able to generate free reserves of about $18 million in 12 years. Senate Bill 2 would allow bonds to be issued to establish the reserve outside of normal debt limits and would allow premiums to be paid outside normal levy limitations. To protect the taxpayers, each jurisdiction's share of debt could not exceed three percent of its taxable value. We ask for a simple statutory change to let us solve our own problem. If reinsurance again becomes available, the cash reserve could be further protected by buying the reinsurance. Mr. Lawton urges the passage of SB 2. See exhibit B.

Bill Johnstone, representing Dorsey and Whitney, prepared the legislation on behalf of the League of City and Towns. Johnstone pointed out the existing legislation authorizes political subdivisions to self-insure and create self-insurance reserve funds. This is necessary because if you are self-insured, you need the reserve funds. This bill allows the cities and towns to establish the reserve funds immediately; the need is immediate. This bill, he explained, does not increase governmental authority to levy taxes in order to cover their insurance needs; by limiting the amount of debt that can be incurred to three percent, SB 2 imposes a limitation on the amount of taxes that can be levied that does not presently exist. Montana is leading the nation in developing the self-insurance program. Johnstone said that he has discussed similar programs with Iowa, Minnesota and California, states that are looking at the merits of self-insurance policies.

Jim Van Arsdale, Mayor of the city of Billings, offered support of SB 2. Van Arsdale stated that the city of Billings is presently uninsured since losing its insurance last year. The city went directly to a self-insurance program to protect itself against lawsuits. Because the city has 40 or 50 pending claims against it, immediate steps must be taken for protection. The taxpayers of Billings are in "limbo" because a large claim would have to go to the taxpayers in the form of a large levy. Mayor Van Arsdale supports SB 2. See exhibit C.

Don Peoples, Chief Executive of Butte-Silver Bow, stated that Butte is also faced with the insurance crisis. Butte-Silver Bow is losing most of the insurance coverage that had been available, and the coverage that is still available faces a 400-500% rise in insurance costs. Chief Executive Peoples supports SB 2 and describes the bill as a sensible approach for local government in establishing a sufficient self-insurance pool. The bonding authority requested provides funds for the possible claims and provides a vehicle for local governments to shoulder their respective problems. See exhibit D.

Bob Mullen, representing The Montana Association of Counties, stated that the Association is finding it more and more difficult to find liability insurance. Almost without exception, counties are operating without environmental impairment liability for such operations as land fill and weed spraying programs. He stated that they are in the process of trying to put together a pooled insurance program, but one that is somewhat different than the program the League of Cities and Towns put together. His Association still has the excess insurance carrier; the League has been denied the excess insurace carrier. If this insurance program was not available, they would become involved in the pooled insurance program over night. Eventually, the Association will more than likely be forced to use this basic concept of insurance. Mullen supports SB 2. See exhibit E.

Debi Brammer, Executive Vice-President of the Montana Association of Conservation Districts, urged support of SB 2. Ms. Brammer stated that they have lost just about all the liability insurance they had in almost every one of their 59 conservation districts. She stated that there has been an increased demand on their workload in the last few years, and liability insurance is a necessity. Since they cannot get the liability insurance, they welcome this option. See exhibit F.

Bill Verwolf, City Manager of the city of Helena, stated that Helena is also without liability insurance. Helena is currently self-insured because, even though they had found an insurance carrier, the premiums skyrocketed from $57,000 to $280,000 and the deductible went from $1,000 to $25,000. Verwolf explained that a reserve must be built in order to have the self-insurance fund, but whether cities have the bond issuance option or not, there must be a reserve fund. He further stated that the principal and the interest earnings brought about by the bond issuance can actually help build the reserve fund. This will put the cities in a position to pay annually into the self-insurance program because this generated money will help pay the excess over claims creating a solid business climate. Verwolf supports the authority given in SB 2 to issue and sell bonds and notes to fund the reserve because it creates the ability to pay big claims immediately.

OPPONENTS: Julie Hacker, representing Missoula county Free-holders Association, has some concerns with SB 2. She stated that the Association questions whether bonds amounting to 3% of the taxable valuation of the local government can be issued by more than one political subdivision at the same time and asked the legislature to clarify how many times the limitation can be used on a single piece of property. She also asked who will administer the program, the public or private sector.

QUESTIONS ASKED ON SENATE BILL 2: Chairman Walter Sales asked Bill Johnstone to respond to Ms. Hacker's concern. Johnstone explained that each unit of local government currently has authority to levy taxes to pay premiums. If the units overlap, they levy those taxes against the same piece of property. The fact that there is a three percent limitation does not mean that the borrowing is going to be three percent from each participant. It may be significantly less depending on the needs and taxable valuation. In a local government agreement, there would have to be an agreement reached on each unit's respective participation. Quite likely, it would be less than the three percent.

Rep. Campbell questioned Verwolf concerning last year's premium cost of $57,000 and asked what Helena anticipated as far as the cost involved in participating in the self-insurance pool. Verwolf explained the cost will go somewhat over $100,000, but this amount will be substantially less than the $280,000 premium required to continue coverage under the former insurer. It may be that a tax increase will be necessary to pay the program insurance rates, but it will not be an increase over what we would have had to pay if we were in the insurance market today.

Rep. Garcia questioned Mayor VanArsdale about the 40 or 50 claims processed this year. Van Arsdale explained that the number of claims were actually the number of claims that were pending at any one time against the city of Billings, either active or pending actions.

Rep. Cody questioned Johnstone concerning line 19: ", and may contain such other terms and provisions as the governing body determines . . . ," Johnstone replied that when you issue bonds there would have to be a bond resolution outlining other terms and provisions that are appropriated to secure the bonds and to describe a clear payment.

Rep. Sands asked John Lawton about the envisioned plan concerning retro-rated premiums and asked if they had to be retro-rated. Lawton responded that they did not have to be; that there are a number of different ways the premiums could be structured. The bill does not specify how the premiums are to be structured, but they offered the structure that provided the maximum security for the funds.

Rep. Nelson queried Lawton concerning a way to keep an overall tab on the administration of the different reserve funds. Lawton explained that the League of City and Towns has established a trust of approximately 60 members and that one group of insurance professionals will administer the trust. He explained that the counties have also set up self-insurance administering arrangements but could not answer for the other political subdivisions. Lawton said that it was conceivable that tab-keeping entities would be established for each subdivision, but that SB 2 does not call for such arrangements. He went on to explain that there is nothing to prevent the cities, counties, school districts, and conservation districts from going together to form a trust.

In responseto another question by Rep. Nelson, Lawton said that because of the success of this program, there may not be a need to have to compete with the traditional insurance market. As a matter of economics, if the insurance company has competitive rates, we may consider doing business with the insurance market. Perhaps the first need would be buying reinsurance to protect the funds in the pool.

Mr. Hanson commented on Rep. Nelson's question, stating that beginning in September, the League will have a nine-member board of trustees to run its insurance program. These members will be volunteers, and such a program will work because the administrative costs will be reduced. The economics of this plan are solvent.

Rep. Jenkins addressed Alec Hanson and asked if it would be better to work on a statewide basis with all counties and include those who wanted to join, than to try to divide into smaller pools. Hanson replied that when you are dealing with different types of exposures, it is difficult to rate the premiums. John Lawton added that the cities and counties are ready to move because they need immediate protection. At a later date, there is no reason to prevent the counties and cities from merging their programs or from merging with the school districts, but they would want to scrutinize the risks and complications of administration and the loss projections.

Rep. Switzer questioned Lawton about the provisions of salvage concerning any funds initially used to begin the pool if a certain political subdivision wanted to pull out of the group, go into another group, or exist by itself. Lawton explained that the city members own the program and that they must be in it for a minimum of three years. After three years, they would be able to leave. They own the rights to the program that they have built.

DISPOSITION OF SENATE BILL NO. 2: Representative Phillips moved that SB 2 BE CONCURRED IN. Rep. Jenkins seconded the motion which carried unanimously.

There being no further business before the committee, the meeting adjourned.

Walter R. Sales

WALTER R. SALES, Chairman

DAILY ROLL CALL

STATE ADMINISTRATION COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date March 27, 1986

NAME	PRESENT	ABSENT	EXCUSED
SALES, WALTER CHAIRMAN	✓		
O'CONNELL, HELEN, VICE CHAIRMAN		✓	
CAMPBELL, BUD	✓		
COMPTON, DUANE	✓		
CODY, DOROTHY	✓		
GARCIA, RODNEY	✓		
HAYNE, HARRIET	✓		
HARBIN, RAYMOND	✓		
HOLLIDAY, GAY	✓		
JENKINS, LOREN	✓		
KENNERLY, ROLAND	✓		
MOORE, JANET	✓		
NELSON, RICHARD	✓		
PETERSON, MARY LOU	✓		
PHILLIPS, JOHN	✓		
PISTORIA, PAUL		✓	
SMITH, CLYDE	✓		
VELEBER, DENNIS	✓		

CS-30

March 27, 1986

TO: Chair and Members, House Local Government Committee
FROM: Lee Heiman, Committee Counsel

BILL SUMMARY -- Senate Bill 2, Sponsor Sen. Crippen

Senate Bill 2 authorizes local governments to issue and sell bonds or notes for the purposes of funding a self-insurance or deducible reserve fund. The bonds thus issued may not exceed 3% of the taxable valuation of the local government but other restrictions relating to debt limits do no apply. The bond interest and principal is to be repaid under the property tax authority for insuring the local government. That provision is outside of the all-purpose mill levy for cities and a separate levy for other local governments.

lh:AT2\dw3\lee\sum.004

Exhibit A
3-27-86

WITNESS STATEMENT

NAME Alec Hansen BILL NO. SB-2

ADDRESS 130 [illegible] Ave - Helena DATE 3-27-86

WHOM DO YOU REPRESENT? Montana League of Cities & Towns

SUPPORT ✓ OPPOSE ________ AMEND ________

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: The authority that will be provided by this bill is [illegible] liability [illegible] bill [illegible] security of these programs and without this bill, local governments [illegible] develop insurance programs [illegible] possibility of [illegible] judgements.

CS-34

Exhibit B

WITNESS STATEMENT

NAME John Lawton BILL NO. S-2

ADDRESS 545 Highland Park Dr. Billings DATE 3/27/86

WHOM DO YOU REPRESENT? City of Billings, Finance Director

SUPPORT ✓ OPPOSE ______ AMEND ______

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

John Lawton

Montana cities have a two-fold liability problem. First, due to the Supreme Court's Pfost decision, liability is now unlimited. Second, many cities have lost their liability insurance coverage altogether and many more have suffered staggering premium increases.

Even if the legislature intends to reestablish liability limits they can't be reestablished for 9 to 10 months. Meanwhile, taxpayers will be directly exposed to large losses. Large claims must be directly levied as a tax if there ~~is~~ are no other means to pay them. Even if limits were reestablished, there still would be no insurance to protect the taxpayers for judgments below those limits.

The ~~Montana~~ Montana League of Cities and Towns Insurance Trust is proposing a solution to the insurance problem.

~~judgments below those limits.~~

~~THE INSURANCE SOLUTION~~

~~The Montana League of Cities and Towns Insurance Trust is proposing a solution to the other half of the problem.~~ This is a simple change in the local government insurance law to allow bonds to be issued to provide insurance coverage.

The Insurance Trust was formed by the League of Cities and Towns to provide pooled insurance coverage in the workers' compensation and liability areas. This response to the insurance crisis was formed with the idea that there would be strength in numbers in the absence of liability coverage. The trust has already established a self-insured workers' compensation program with ~~86~~ 37 members, over ~~$5~~ 6 million in premiums and professional insurance management.

Issuing bonds to provide liability coverage for cities appears to provide the best available solution to the insurance problem. The concept is that bonds would be issued in the amount of, say, $20 million. Coverage would be provided to member cities on an actuarially sound basis up to the limits that are (hopefully) established by the Legislature.

The money realized from selling bonds would be used to provide capital for the insurance program. Member cities would pay premiums just as they would to an insurance company. Substantial interest would be earned on cash reserves. Financial projections done by insurance consultants show that premiums and interest earnings would be sufficient not only to repay the bonds over 20 years, but also to generate free reserves of about $18 million by about the 12th year of the program.

To allow bonds to be issued for this purpose, a simple law change is needed. The proposed law would allow debt to be issued outside normal debt limits and would allow premiums to be paid outside normal levy limitations. These provisions are necessary to provide security to enable the bonds to be sold but, in fact, the premiums could be paid just like normal insurance premiums and would not require levies over and above any limits. To protect the taxpayers, each jurisdiction's share of the debt could not exceed 3 percent of its taxable value.

While not necessarily perfect, this solution is probably the best way to protect the taxpayers from financial losses due to lawsuits at this time. It provides long-term coverage, it is self-supporting, and it was designed by insurance and financial experts. We are not asking the state for special programs or assistance — just a simple law change to allow us to solve our own problem. The program can be used by other governments, and if reinsurance ever becomes available again, the cash reserve could be further protected by buying reinsurance.

In short, we believe we have found workable solutions to a serious problem. We hope the Legislature will deal with them quickly and positively. ~~The city of Billings has 40 to 45 active or threatened lawsuits going at any one time. Eventually, one of these claims could result in a major loss for the city.~~ We need to take every step possible to protect the taxpayers in the event of a major loss.

John Lawton is the finance director for the city of Billings and chairman of the Montana League of Cities and Towns Insurance Trust.

Exhibit 6
3/27/86
John [illegible]

SOLUTIONS TO THE
GOVERNMENTAL LIABILITY CRISIS

<u>Two-Fold Problem</u>

- No Limits on Liability
  - Supreme Court Decision
- No Liability Insurance
  - Several Governments Have Lost Coverage
  - More Will Lose It
  - Others Face Staggering Premium Increases

Taxpayers at Risk

- Direct Assessment of Judgments

<u>Two-Part Solution</u>

I. Limits on Governmental Liability

- Legislature will Deal with Limits
- If Successful
  - 9-10 Months to Reestablish Limits
  - Unlimited Risk for Taxpayers During this Period
  - Insurance Problem Would Continue
- If Not Successful
  - Unlimited Risk for Taxpayers
  - Insurance Solution More Difficult

II. Insurance Solution

The Montana League of Cities and Towns Insurance Trust is proposing a solution.

The Trust was established to provide pooled self-insurance.

- Workers' Compensation
- Property/Liability

Workers' Compensation began January 1, 1986

- 39 Members
- Over $1.6 Million in Annual Premiums
- Professional Insurance Management

Liability scheduled to begin March 1, 1986, <u>But</u>

- Umbrella or "reinsurance" not available

Coverage will be Pooled Anyway, but

- Losses covered to a Lower Level
- Higher Risk to Members
- Above Limits, Taxpayers Fully Exposed

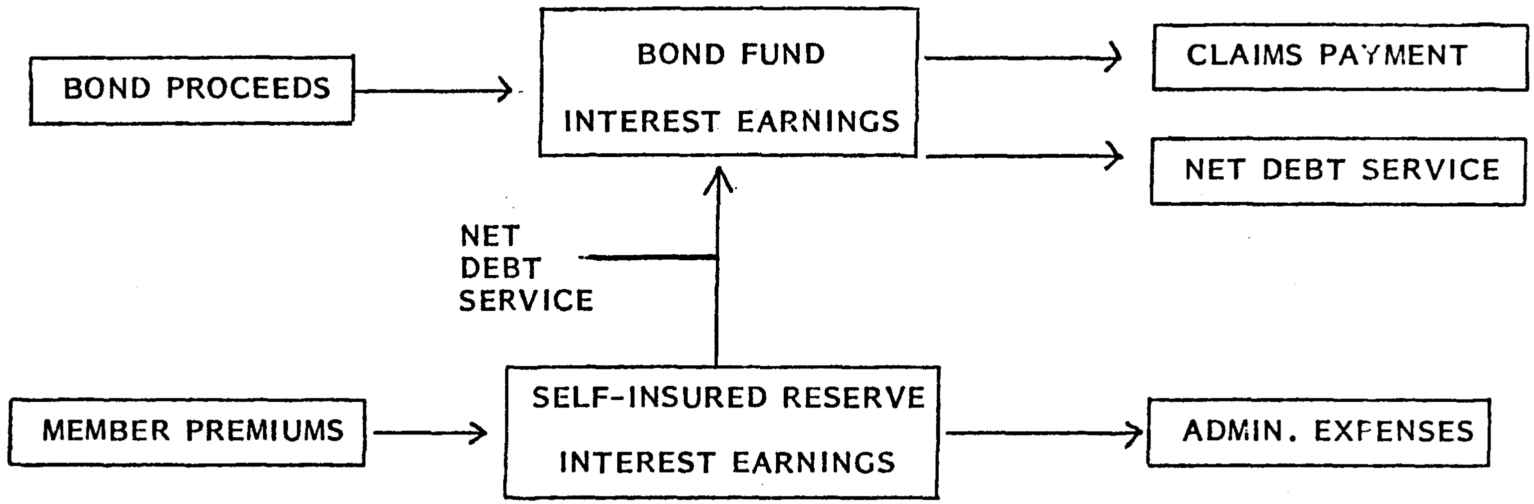
The Solution

Issue revenue bonds to capitalize the liability program

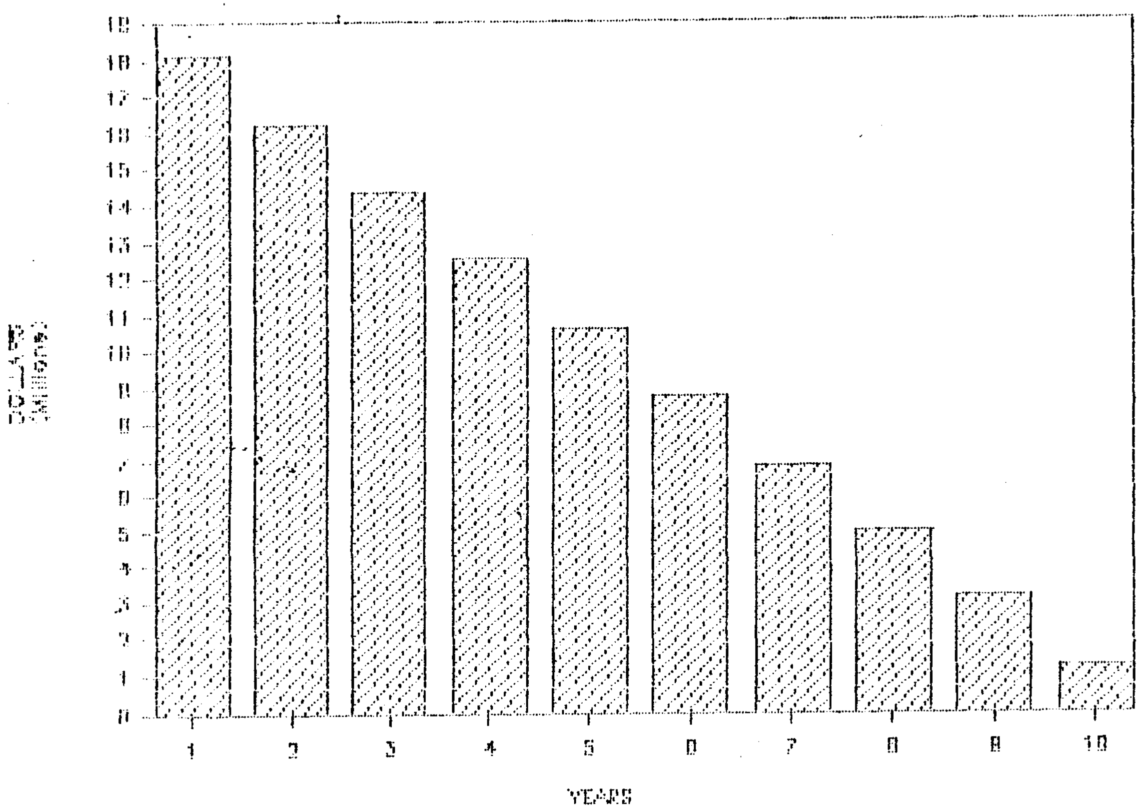
- Provide reserves to insure Cities to liability limits
- Actuarially sound funding basis

Two Funds would be set up

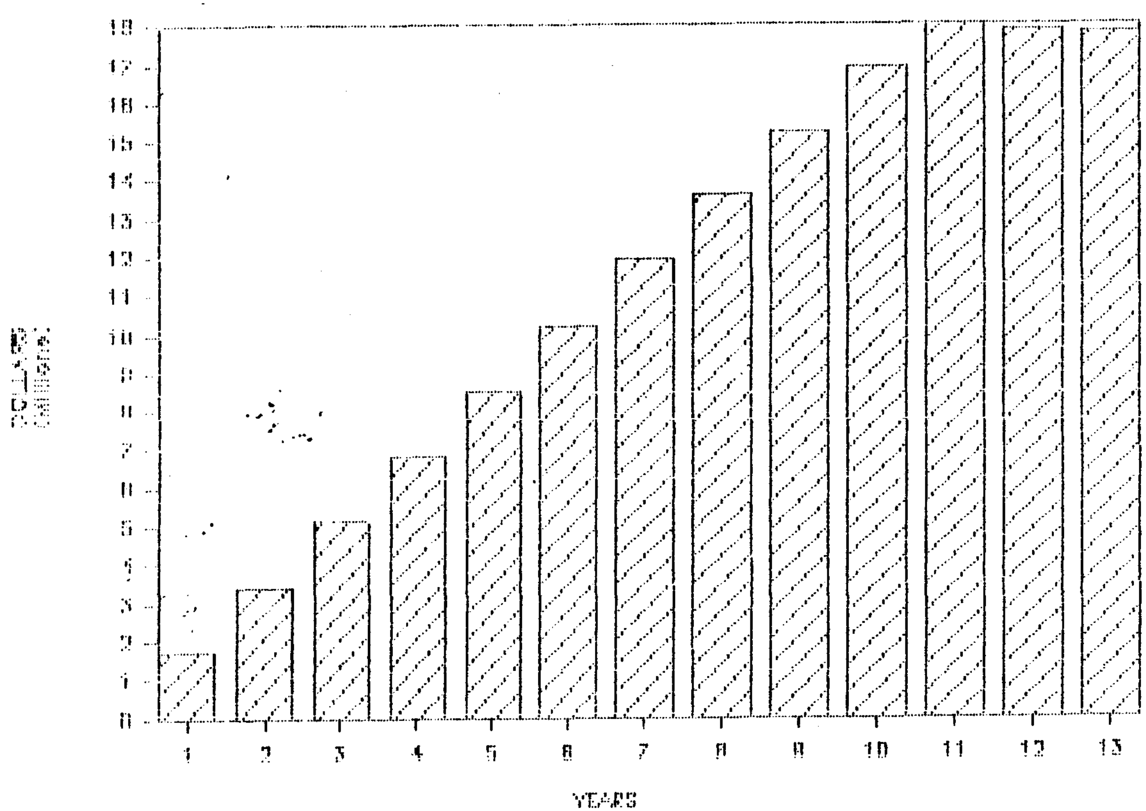
- Bond Fund
- Self Insured Reserve (SIR) Fund


BOND PROCEEDS
BOND FUND
INTEREST EARNINGS
CLAIMS PAYMENT
NET DEBT SERVICE
NET
DEBT
SERVICE
MEMBER PREMIUMS
SELF-INSURED RESERVE
INTEREST EARNINGS
ADMIN. EXPENSES

BOND FUND



SELF INSURED RESERVE FUND



As Bond Funds Decrease - Reserve Funds Increase

- Spends Bond Funds
- Allows Unrestricted Interest Yields

By Year 12 - Based on $20 million Example

- Bond Proceeds Paid Out
- $18 Million in free reserves in SIR Fund

Program Designed to Handle "Big Hits"

In Unlikely Event of Catastrophe

- Issue More Bonds
- Raise Premiums

Bond Security

- Funds Designed to have 100% of Outstanding Principle at all times
- Premiums will be "retro rated"

Legislation Needed

- Simple amendment to political subdivision insurance law
  - Allows claims to be paid from borrowings
  - Allows debt to be issued
    - Debt would be outside debt limits
    - Can't exceed 3% Assessed Valuation
    - Premiums would be outside levy limits

Advantages

- Best Available Solution for Liability coverage;
- Designed by and for cities and towns with insurance experts

  No special programs from State

  Need only simple legislation to solve own problem
- Can be used by other governments;
- Guaranteed long-term coverage;
- Rates based on actual losses;
- More premium dollars stay in Montana;
- Premiums generate revenue to provide self-sustaining capital within 10 - 15 years;
- If reinsurance becomes available, funds could be protected further.

"HEAR YE, HEAR YE! DUE TO LACK OF LIABILITY INSURANCE..."

Legislature holds liability key

Guest columnist

John Lawton

TAXPAYERS AT RISK

Montana taxpayers are at risk. They are at risk of directly having to pay judgments resulting from lawsuits against their local governments. Fortunately, solutions are at hand that the Legislature will be asked to make possible through a constitutional amendment and a simple law change.

A year ago cities, counties and school districts were insured, premiums were reasonable, and state law limited the amounts that could be collected from them through lawsuits. The situation today could not be more different.

Billings and several other cities have lost all or part of their liability insurance. Remaining policies have doubled, tripled or quadrupled in price. More local governments will lose their insurance or suffer staggering cost increases. To make matters worse, the Supreme Court in its Pfost decision removed limitations on governmental liability previously established by the Legislature.

TWO-FOLD PROBLEM

For Billings the problem then is two-fold. We have no insurance and we have no limits on liability. The taxpayers are directly exposed to financial loss because state law requires levying a tax on real property to pay judgments that the city does not have the means to pay otherwise. Such levies are over and above mill levy limits.

The special session of the Legislature was already scheduled to deal with the liability limits. Now, thanks to the efforts of the mayor and City Council, Governor Schwinden, Sens. Blaylock and Crippen, Rep. Ramirez and other legislative leaders around the state, it will also deal with the problem of having no insurance.

LIABILITY LIMITS

The special session of the Legislature will be asked to place an amendment to the Constitution on the ballot for the November general election. This amendment would allow the Legislature to reestablish limits on the amount of damages that could be collected by anyone suing the city or other governments.

The reestablishment of limits is an important part of the solution to the insurance crisis. By reestablishing limits, the Legislature would be protecting the interests of all the taxpayers by limiting their financial exposure to huge losses. The rights of individuals suffering losses would be protected by setting the limits high enough to reasonably compensate them for damages.

Even if the constitutional amendment were passed, however, limits could not be reenacted until the general session of the Legislature in January 1987. This means that there will be at least nine or 10 months of continued exposure to unlimited losses. Even if limits were reestablished, there still would be no insurance to protect the taxpayers for judgments below those limits.

THE INSURANCE SOLUTION

The Montana League of Cities and Towns Insurance Trust is proposing a solution to the other half of the problem. This is a simple change in the local government insurance law to allow bonds to be issued to provide insurance coverage.

The Insurance Trust was formed by the League of Cities and Towns to provide pooled insurance coverage in the workers' compensation and liability areas. This response to the insurance crisis was formed with the idea that there would be strength in numbers in the absence of liability coverage. The trust has already established a self-insured workers' compensation program with 26 members, over $1 million in premiums and professional insurance management.

Issuing bonds to provide liability coverage for cities appears to provide the best available solution to the insurance problem. The concept is that bonds would be issued in the amount of, say, $20 million. Coverage would be provided to member cities on an actuarially sound basis up to the limits that are (hopefully) established by the Legislature.

The money realized from selling bonds would be used to provide capital for the insurance program. Member cities would pay premiums just as they would to an insurance company. Substantial interest would be earned on cash reserves. Financial projections done by insurance consultants show that premiums and interest earnings would be sufficient not only to repay the bonds over 20 years, but also to generate free reserves of about $18 million by about the 12th year of the program.

To allow bonds to be issued for this purpose, a simple law change is needed. The proposed law would allow debt to be issued outside normal debt limits and would allow premiums to be paid outside normal levy limitations. These provisions are necessary to provide security to enable the bonds to be sold but, in fact, the premiums could be paid just like normal insurance premiums and would not require levies over and above any limits. To protect the taxpayers, each jurisdiction's share of the debt could not exceed 3 percent of its taxable value.

While not necessarily perfect, this solution is probably the best way to protect the taxpayers from financial losses due to lawsuits at this time. It provides long-term coverage, it is self-supporting, and it was designed by insurance and financial experts. We are not asking the state for special programs or assistance — just a simple law change to allow us to solve our own problem. The program can be used by other governments, and if reinsurance ever becomes available again, the cash reserve could be further protected by buying reinsurance.

In short, we believe we have found workable solutions to a serious problem. We hope the Legislature will deal with them quickly and positively. The city of Billings has 40 to 45 active or threatened lawsuits going at any one time. Eventually, one of these claims could result in a major loss for the city. We need to take every step possible to protect the taxpayers in the event of a major loss.

John Lawton is the finance director for the city of Billings and chairman of the Montana League of Cities and Towns Insurance Trust.

________ BILL NO. ______

INTRODUCED BY Pepp, Fuller

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING POLITICAL SUBDIVISIONS TO ISSUE BONDS OR NOTES, INDIVIDUALLY OR JOINTLY, TO ESTABLISH SELF-INSURANCE RESERVE FUNDS; AMENDING SECTIONS 2-9-211 AND 2-9-212, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 2-9-211, MCA, is amended to read:

"2-9-211. Political subdivision insurance. (1) All political subdivisions of the state may procure insurance separately or jointly with other subdivisions and may elect to use a deductible or self-insurance plan, wholly or in part.

(2) A political subdivision that elects to establish a deductible plan may establish a deductible reserve <u>separately or jointly with other subdivisions</u>.

(3) A political subdivision that elects to establish a self-insurance plan may accumulate a self-insurance reserve fund<u>, separately or jointly with other subdivisions,</u> sufficient to provide self-insurance for all liability coverages that, in its discretion, the political subdivision considers should be self-insured. Payments into the reserve

fund must be made from local legislative appropriations for that purpose or from the proceeds of bonds or notes authorized by subsection (5). Proceeds of the fund may be used only to pay claims under parts 1 through 3 of this chapter and for actual and necessary expenses required for the efficient administration of the fund.

(4) Money in reserve funds established under this section not needed to meet expected expenditures shall be invested and all proceeds of the investment credited to the fund.

(5) A political subdivision may issue and sell its bonds or notes for purposes of funding a self-insurance or deductible reserve fund and costs incident thereto in an amount not exceeding 3% of the taxable value of the political subdivision as of the date of issuance. The bonds or notes must be authorized by resolution of the governing body, are payable from the taxes authorized by 2-9-212, may be sold at public or private sale, do not constitute debt within the meaning of any statutory debt limitation, and may contain such other terms and provisions as the governing body determines. Two or more political subdivisions may agree pursuant to an interlocal agreement to exercise their respective borrowing powers hereunder jointly and may authorize a joint board created pursuant to such agreement to exercise such powers on their behalf."

Section 2. Section 2-9-212, MCA, is amended to read:

"2-9-212. Political subdivision tax levy to pay premiums. Notwithstanding any provisions of law to the contrary, all political subdivisions may levy an annual property tax in the amount necessary to fund the premium for insurance, deductible reserve fund, and self-insurance reserve fund as herein authorized and to pay the principal and interest on bonds or notes issued pursuant to 2-9-211(5), even though as a result of such levy the maximum levy as otherwise restricted by law is exceeded thereby, provided that the revenues derived therefrom may not be used for any other purpose."

NEW SECTION. Section 3. Effective date. This act is effective on passage and approval.

-End-

Product Update

The Pooled Government Liability Insurance Program

First Boston

The Pooled Government Liability Insurance Program

Objective

To provide local governments with affordable, self-sufficient liability insurance coverage.

Description

An issuer, acting on behalf of local government participants, issues either variable rate or fixed rate securities. The proceeds are then deposited into a self-insurance reserve fund. The local governments pay an insurance premium to the issuer, which consists of debt service on the securities, administrative costs of the program and a risk allocation based on an historical risk analysis of each participant.

Benefits

The Pooled Government Liability Insurance Program is extremely attractive to local governments because:

- Premium payments charged by the program are always lower than premiums charged by commercial carriers;
- The bond proceeds permit immediate establishment of self-insurance reserves, thus providing adequate coverage against losses from the outset of the program;
- Pooled financing enables local governments to build up their own self-insurance reserves at a faster rate than without such a large financing; and
- The reserves establish the credibility of the pool, thereby enabling the program to obtain reinsurance from outside carriers at a future date, in the event such insurance again becomes readily available at competitive rates.

Example

Step 1.
First Boston and the program sponsor identify an entity that can issue debt and make the proceeds available to various governmental units interested in pooling their insurance risk. The issuer and the program sponsor decide whether to issue fixed or variable rate securities.

Step 2.
It may be necessary to obtain credit support for the program, either in the form of a municipal bond insurance policy or a letter of credit from a commercial bank. If the issuer and program sponsor choose to issue variable rate securities, then a bank must provide liquidity support to the program. Liquidity support guarantees the issuer an uninterrupted source of funds, despite potential disruptions in the tax-exempt market, or problems in remarketing variable rate securities that have been tendered by investors.

Step 3.

The issuer selects an insurance consultant for the pool who will evaluate all claims on a standardized basis. The insurance consultant conducts a thorough insurance review of each participant and recommends an equitable premium structure for that participant. Each participant executes an insurance purchase agreement obligating itself to make premium payments from general revenues.

Step 4.

Fixed rate or variable rate securities are issued and the proceeds are used by the issuer to pay initial issuance costs and to establish the self-insurance reserves. The earnings on the self-insurance reserves are restricted to the yield on the securities and are used to pay debt service.

Step 5.

The local government participants make regular premium payments consisting of (1) a payment relating to debt service on the securities (including the securities used to pay the initial issuance costs); (2) administrative costs of the program; and (3) a risk premium payment that will be used to further increase the self-insurance reserves.

Step 6.

First Boston actively remarkets variable rate program securities that have been tendered by investors, and provides the issuer and participants with regular reports on the condition of the tax-exempt market. First Boston immediately notifies the issuer and the participants of attractive opportunities to convert the program securities to the interest rate period most advantageous to the program. The insurance consultant conducts an annual review of the program's risk experience and recommends appropriate adjustments to premium payments. This consultant also monitors the feasibility of obtaining reinsurance from outside carriers and advises the issuer and participants when such coverage becomes available at rates that benefit the program.

For additional information on the Pooled Government Liability Insurance Program, please contact your First Boston account officer or any of the following individuals in First Boston's Municipal Securities Division:

New York	Jonathan Plutzik	(212) 909-2823
Atlanta	Steven Pischke	(404) 656-9508
Chicago	George Popoff	(312) 750-3136
Houston	John Kreft	(713) 220-6735
San Francisco	Michael George	(415) 765-7047

March 1986.

The First Boston Corporation
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The First Boston Capital Group Inc.

First Boston International Limited

First Boston (Puerto Rico), Inc.
San Juan

First Boston Real Estate and Development Corporation

Affiliate

Credit Suisse First Boston Limited (London)
A member of the Financière Crédit Suisse-First Boston Group, which has offices in:

Frankfurt
Geneva
Singapore
Tokyo
Zurich

Montana League of Cities and Towns
P.O. Box 1704 Helena, MT 59624 Phone (406) 442-8768

MARCH 3, 1986

MEMORANDUM

TO: JIM WYSOCKI, JOHN LAWTON, DON PEOPLES, NATHAN TUBERGEN, JIM NUGENT AND DON SAVILLE

FROM: ALEC HANSEN Alec

RE: LIABILITY INSURANCE BONDING PROGRAM

THE FOLLOWING IS A LIST OF QUESTIONS THAT MAY COME UP IN DISCUSSIONS WITH LEGISLATORS ON THE LIABILITY INSURANCE BONDING PROGRAM:

1. WHY CAN'T THIS ISSUE WAIT FOR THE REGULAR SESSION NEXT WINTER?

BETWEEN NOW AND THE TIME THAT PROPOSED LIABILITY PROTECTION COULD BE REINSTATED BY CONSTITUTIONAL REFERENDUM, LOCAL GOVERNMENTS ARE OPEN TO MAXIMUM EXPOSURE. THE LEAGUE PLANS TO HAVE A STRAIGHT, UNSECURED LIABILITY POOL IN PLACE BY APRIL 1ST, BUT WILL ONLY BE ABLE TO OFFER $500,000 TO $1-MILLION IN COVERAGE DEPENDING ON PREMIUM VOLUME. DURING THIS TIME WHEN THE SKY IS THE LIMIT ON TORT CLAIMS, LOCAL GOVERNMENTS DESPERATELY NEED THE PROTECTION THAT WILL BE PROVIDED BY THE PROPOSED BONDING PROGRAM.

2. WHICH CITIES AND TOWNS DO NOT CURRENTLY HAVE LIABILITY COVERAGE?

BILLINGS, BUTTE, DEER LODGE, GREAT FALLS, HAVRE, HELENA AND WOLF POINT ARE CURRENTLY NOT COVERED AND WE EXPECT ADDITIONAL CANCELLATIONS AS POLICIES EXPIRE IN APRIL AND JUNE.

3. WILL THE FINANCIAL INTEREST OF THE CITIES AND THEIR TAXPAYERS BE ADEQUATELY PROTECTED IF THIS PROGRAM IS INITIATED?

THIS PROGRAM WAS DESIGNED TO BE SHOCK RESISTANT. THE LOSS RATIOS WERE VERY CONSERVATIVELY PROJECTED AT 75 PERCENT OF TOTAL PREMIUMS. IF THE PROGRAM DOES ABSORB SEVERAL CATASTROPHIC CLAIMS, BALANCE CAN BE RESTORED BY INCREASING PREMIUMS, WHICH IS A MUCH MORE ACCEPTABLE ALTERNATIVE THAN AN UNINSURED CITY COVERING THESE LOSSES THROUGH A THREE YEAR JUDGMENT LEVY THAT COULD RADICALLY INCREASE PROPERTY TAXES.

4. WHAT HAPPENS WHEN THE CYCLE IN THE INSURANCE INDUSTRY TURNS BACK TO A BUYER'S MARKET?

THE SEVEN CITIES THAT CURRENTLY DO NOT HAVE COVERAGE REPRESENT A MAJOR SHARE OF THE MUNICIPAL LIABILITY MARKET IN MONTANA. IF REINSURANCE BECOMES AVAILABLE, THIS GROUP WOULD BE IN A COMPETITIVE POSITION TO PURCHASE UMBRELLA COVERAGE. THIS WOULD REDUCE CLAIMS COSTS, WHICH WOULD MEAN LOWER PREMIUMS.

5. SHOULD THE CITIES, COUNTIES AND SCHOOLS BE COMPETING WITH COMMERCIAL INSURANCE COMPANIES?

THE LEAGUE OF CITIES AND TOWNS NEVER HAD ANY INTENTION OF GOING INTO THE INSURANCE BUSINESS, BUT THE FAILURE OF THE COMMERCIAL MARKET CANCELLED ALL OTHER OPTIONS. THERE ARE SEVEN CITIES THAT DON'T HAVE COVERAGE AND MOST OF THE REST HAVE EXPERIENCED DRAMATIC PREMIUM INCREASES. THIS SITUATION WAS UNACCEPTABLE, AND THIS PROGRAM REPRESENTS NOTHING MORE THAN AN ATTEMPT BY THE CITIES TO PROTECT THEIR TAXPAYERS FROM EXCESSIVE INSURANCE PREMIUMS OR THE POSSIBILITY OF JUDGMENT LEVIES TO PAY UNCOVERED CLAIMS. CONDITIONS IN THE INSURANCE INDUSTRY MAY IMPROVE IN THE NEXT SEVERAL YEARS, BUT THIS IS A CYCLICAL MARKET AND THE BAD TIMES WILL BE BACK. THIS PROGRAM WILL WORK TO ISOLATE LOCAL GOVERNMENTS FROM THESE FLUCTUATIONS AND ASSURE THE AVAILABILITY OF REASONABLY PRICED INSURANCE PROTECTION.

6. WILL THIS PROGRAM BE ALLOWABLE UNDER FEDERAL TAX REFORM LEGISLATION?

QUALIFIED ATTORNEYS HAVE INDICATED THAT REVENUE BONDS ISSUED TO PROVIDE INSURANCE COVERAGE WOULD BE ALLOWED UNDER THE DEFINITION OF "TRADITIONAL PUBLIC PURPOSE" AND WOULD BE TAX EXEMPT. THE BOND PROCEEDS WOULD BE INVESTED IN A RESTRICTED YIELD ACCOUNT BECAUSE OF ARBITRAGE REGULATIONS. ON THE OTHER SIDE, THE INSURANCE RESERVE FUND COULD BE INVESTED AT HIGHER TAXABLE RATES, AND THIS INTEREST ADVANTAGE IS ONE OF THE REASONS THAT THE PROGRAM WILL WORK.

7. IS THE PROJECTION OF CLAIMS COSTS AT THE SAME AMOUNT FOR 11 YEARS REALISTIC?

PREMIUMS ARE ALSO PROJECTED AT THE SAME AMOUNT FOR 11 YEARS. IF CLAIMS EXPERIENCE IS HIGHER OR LOWER THAN PROJECTIONS, PREMIUMS CAN BE ADJUSTED, AND THE PROGRAM WILL BE ACTUARILY SOUND AS LONG AS THE 75 PERCENT RATIO IS MAINTAINED.

8. HOW CAN THIS PROGRAM WORK WHEN COMMERCIAL INSURANCE COMPANIES CANNOT WRITE MUNICIPAL LIABILITY COVERAGE?

THIS PROGRAM HAS SEVERAL IMPORTANT ADVANTAGES. THERE WILL BE NET INVESTMENT EARNINGS THAT WILL BE RETAINED BY THE POOL. ADMINISTRATIVE COSTS WILL BE CONSIDERABLY LOWER THAN THE 40 PERCENT THAT IS NORMAL IN THE INSURANCE INDUSTRY. THERE WILL BE NO COMMISSIONS, AND THERE WILL BE AN EMPHASIS ON LOSS CONTROL AND CLAIMS MANAGEMENT.

9. WILL THIS PROGRAM HAVE ANY EFFECT ON THE STATE BUDGET OR INDIRECT CONSEQUENCES SUCH AS ADMINISTRATIVE OR REGULATORY COSTS?

NO. THIS WILL HAVE NO FINANCIAL EFFECT ON STATE GOVERNMENT. IT IS SIMPLY AN ATTEMPT BY THE CITIES TO SOLVE A SERIOUS PROBLEM ON THEIR OWN INITIATIVE.

WITNESS STATEMENT

NAME Bill Johnstone BILL NO. ______

ADDRESS 4531 Dupont Ave. So. DATE 3-27-86

WHOM DO YOU REPRESENT? League of Cities + Towns

SUPPORT X OPPOSE ______ AMEND ______

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Thanks Jim

JAMES W. "JIM" VAN ARSDALE
MAYOR

CITY HALL
220 NORTH 27TH ST.
P.O. BOX 1178
BILLINGS, MT 59103
OFFICE: 406-657-8296

HOME: 1705 MARIPOSA
BILLINGS, MT 59102
406-245-7019

Exhibit #3
Mar 27, 1986

TNESS STATEMENT

sdale

Committee On Adm. + Local Gov.

Address City of Billings

Date 3-27

Representing City of Billings

Support ✓

Bill No. Senate #2

Oppose

Amend

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. City of Billings is without liability insurance. We are self insured

2. We support Senate Bill #2 so that we can solve our own problem to help provide liability insurance.

3. We do not want to be in the insurance business but are forced to to protect our tax payers

4. We (The city) have from 40 to 50 active or pending law suits at any given time. Some may be justified and some are not but Thousands of dollars liability are at stake. Senate Bill #2 will help us with this risk.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34
1-83

Exhibit D
3-27-86

WITNESS STATEMENT

NAME Don Peoples BILL NO. SB-2

ADDRESS [illegible] DATE 3-27-86

WHOM DO YOU REPRESENT? Butte

SUPPORT ✓ OPPOSE ______ AMEND ______

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Butte Silver Bow, like every unit of local government in Montana, is faced with an insurance crisis. Cities ~~[illegible]~~ because have been cancelled, or the premium cost have risen 400% or 9 with deductable limit rising significantly. In many areas more or some forced to "go bare".

SB-2 provides a sensible approach for local governments to establish a sufficient self insurance pool. The bonding authority being requested would provide the needed source of funds to create a pool for claim payment. ~~The~~

The proposed legislation returns some sense to the system, and allows local governments to handle their own problem.

State Admin

3/12-C

Gary Florence

WITNESS STATEMENT

NAME Bob Mullen BILL NO. ______

ADDRESS 903 8 Ave SE Sidney Mt. 59270 DATE 3/27/86

WHOM DO YOU REPRESENT? MACo

SUPPORT X OPPOSE ______ AMEND ______

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Montana Association of Counties is finding it more and more difficult to find liability insurance. Almost without exception, Counties are operating bare without environmental impairment liability for such operations as landfills and weed spraying programs and some counties have begun to experience difficulty in placing other liability coverages in such areas as Police & Sheriff liability and Elected Officials E&O. Montana Counties may be forced to use this basic concept, if we cannot secure "excess" or "umbrella" insurance to assist our "pooling program".

CS-34

WITNESS STATEMENT

NAME Debi Brammer BILL NO. SB2

ADDRESS Helena, Mt DATE 3-27-86

WHOM DO YOU REPRESENT? Montana Assoc. of Conservation Districts

SUPPORT X OPPOSE ______ AMEND ______

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Montana Association Of Conservation Districts

Power Block
Bldg. Suite 4G
Sixth and Last Chance Gul
Helena, Montana 59601
Ph. 406-443-5711

SB#2

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

Although there has not been a significant liability suit impact in the Conservation Districts within Montana, the liability threat is becoming a very large concern of most of our supervisors. Each Conservation District has five to seven supervisors who serve basically on a volunteer basis. There are, in many cases, farmers, ranchers, and or professionals who are deeply concerned with losing their positions and or livelihoods. An increasing amount of demands are being placed upon Conservation Districts and their supervisors by federal, state and local laws. This, along with the public's demands on soil and water resources put demands on supervisors that require personal and professional judgments. Basically, our supervisors feel that the demands put on them in their voluntary capacity creates needs for liability protection. Many of our supervisors are considering resigning due directly to the increasing threat of liability suits. We feel that this is a valuable human resource that has helped protect the soil and water resources of Montana Since the 1930's, and that it would be devastating to the state if it were lost. We urge your support of Senate Bill Number ~~Five~~. Two.

Thank you.

Debi Brammer

Debi Brammer
Executive Vice President
Montana Association of Conservation Districts

Re: Senate Bill #2

DATE: 3/27/86 TO: ~~[illegible]~~

SUBJECT: Senate Bill #2

It is our concern that the 3% taxable value may be imposed by more than one political subdivision at the same time. If this is the case, and is allowed, it could incur quite a large amount of indebtedness on a single piece of property.

It also concerns us that there appears to be no cap on the levy of taxes.

Vera Cahoon
Missoula County
Freeholders Assn. Inc.

WITNESS STATEMENT

Name Julie Hacker | Committee On
Address SR Box 335 | Date 3/27
Representing Msla Co. Freeholders | Support
Bill No. SB #2 | Oppose
Amend X

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Limit no of times 3% assessed valuation tax levy can be
2. imposed on a single piece of property for purpose of ins. bonds.
3.

4. Who will administer the program — public or private sector?

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34
1-83

WITNESS STATEMENT

NAME JANET JESSUP BILL NO. SB2

ADDRESS City of Helena DATE

WHOM DO YOU REPRESENT? City of Helena

SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WITNESS STATEMENT

NAME Brookes Morin BILL NO. SB 2

ADDRESS City of Helena 316 N. Park, Helena DATE 3/27/86

WHOM DO YOU REPRESENT? City of Helena

SUPPORT ✓ OPPOSE ______ AMEND ______

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

STANDING COMMITTEE REPORT

March 27 19 86

Mr. Speaker: We, the committee on State Administration

report SB 2

☐ do pass
☐ do not pass

☒ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

Walter Sales Chairman

XXXXXXXX

Act Authorizing Political Subdivisions to issue bonds or Notes.

Third reading copy (Blue)
color