CHAPTER NO. 425.

SENATE BILL NO. 380

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INTRODUCED BY HAFFERMAN, TOWE, TURNAGE

IN THE SENATE

February 6, 1979	Introduced and referred to Committee on Judiciary.
February 14, 1979	Committee recommend bill do pass. Report adopted.
February 15, 1979	Printed and placed on members' desks.
February 16, 1979	Second reading, do pass.
February 19, 1979	Considered correctly engrossed.
February 20, 1979	Third reading, passed. Transmitted to second house.
IN THE	HOUSE
February 21, 1979	Introduced and referred to Committee on Judiciary.
March 19, 1979	Committee recommend bill be concurred in. Report adopted.
March 20, 1979	Motion pass consideration.
March 21, 1979	Second reading, concurred in.
March 24, 1979	Third reading, concurred in.
IN THE	SENATE
March 24, 1979	Returned from second house. Concurred in. Sent to enrolling.
	Reported correctly enrolled.

LC 1367/01

Marter BILL NO. 390 1 INTRODUCED BY 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE CERTAIN LAWS 4 RELATING TO CASUALTY INSURANCE AND SOVEREIGN IMMUNITY TO 5 MAKE THE LAW CONSISTENT WITH LIMITS SET BY STATUTE; AMENDING 6 SECTIONS 2-9-104, 20-3-331, AND 33-23-102, 7 HCA: AND я REPEALING SECTION 33-23-101. MCA.* 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 11 Section 1. Section 33-23-102, MCA, is amended to read: 12 *33-23-102. Immunity-defense-prohibited-when-liebility insured-----existence Existence of insurance not to be made 13 14 15 16 consideration--from--a--political--subdivision-of-the-states 17 municipalityy-or-any-public-bodyy--corporationy--compissiony 18 boordy--agencyy--organizationy--ar--ather--public-entity-for 19 cosuatty-or-tiobitity-insurance,~noither--such--insured--nor insurer--may--raise-the-defense-of-immunity-from-suit-in-any 20 21 damage-action-brought-against-such-insured-or--insurer---and 22 any--agreement--in--the--insurance--contract--permitting-the 23 defense-of-immunity-is-voide 24 ter No attempt may be made in the trial of an action

25 brought against such a political subdivision of the states

1 municipality, or any public body, corporation, commission,
2 board, agency, organization, or other public entity to
3 suggest the existence of any insurance which covers in whole
4 or in part any judgment or award which may be rendered in
5 favor of plaintiff.

6 (3)--if--the--court-determines-that-the-defendent-could 7 have-successfully-raised-the-defense-of-immunity-and-if--the 8 verdict--exceeds-the-limits-of-the-applicable-insurancey-the 9 court-shell-reduce-the-amount-of-such-judgment-or-award-to-a 10 sum-equal-to-the-applicable-limit-stated-in-the-policyw"

Section 2- Section 2-9-104, MCA+ is amended to read: #2-9-104. Limitation on governmental liability for damages in tort -- petition for relief in excess of limits. (1) Neither the state+ a county+ municipality+ taxing district+ nor any other political subdivision of the state is liable in tort action for:

17 (a) noneconomic damages; or

18 (b) economic damages suffered as a result of an act or omission of an officer, agent, or employee of that entity in excess of \$300,000 for each claimant and \$1 million for each occurrence.

(2) The legislature or the governing body of a county.
municipality, taxing district, or other political
subdivision of the state may, in its sole discretion.
authorize payments for noneconomic damages or economic

-2- SE 579

INTRODUCED BILL

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damages in excess of the sum authorized in subsection (1)(b) 1 of this section, or both, upon petition of plaintiff 2 following a final judgment. No insurer is liable for such 3 noneconomic damages or excess economic damages unless 4 specifically--outhorized--in--the-contract-of-insurance such 5 6 insurer specifically agrees by written endorsement to 7 provide coverage to the governmental agency involved in 8 amounts in excess of the limitation stated in this section 9 or specifically agrees to provide coverage for noneconomic 10 damages, in which case the insurer may not claim the 11 benefits of the limitation specifically waived." 12 Section 3. Section 20-3-331, MCA, is amended to read: #20-3-331. Purchase of liability insurance. The 13 trustees of any district may purchase insurance coverage for 14 the district, trustees, and employees against liability for 15 the death, injury, or disability of any person or damage to 16 property. If such insurance is purchased, the trustees shall 17 pay the insurance premium cost from the general fund. The 18 provisions of 33-23-102 and 2-9-104 shall apply to the 19 20 provisions of this section." Section 4. Repealer. Section 33-23-101. MCA. is 21

22 repealed.

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-End-

LC 1367/01

1 BILL NO. 380 1 INTRODUCED BY X 2 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE CERTAIN LAWS RELATING TO CASUALTY INSURANCE AND SOVEREIGN IMMUNITY TO 5 MAKE THE LAW CONSISTENT WITH LIMITS SET BY STATUTE; AMENDING 6 SECTIONS 2-9-104, 20-3-331, AND 33-23-102, MCA; AND 7 8 REPEALING SECTION 33-23-101. MCA.* 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 33-23-102, MCA, is amended to read: 12 "33-23-102. Jumunity-defense-prehibited-when-liebility 13 insured-----existence Existence of insurance not to be made 14 an--insurer---accepts---any----presiusy----Roney----or---other 15 consideration--from--a-political--subdivision-of-the-states 16 17 municipalityy-or-any-public-bodyy--corporationy--commissiony 18 boordy--sgency--organization--or--sther--public-entity-for 19 casuatty-or-tiabitity-insurancey-neither--such--insured--nor 20 insurer--may--roise-the-defense-of-immunity-from-suit-in-ony 21 damage-action-brought-against-such-insured-or--insurer---and 22 ony--eqreexent--+n--the---insurence--contract--permitting-the 23 defense-of-immunity-is-void. 24

24 (2) No attempt may be made in the trial of an action
25 brought against such g political subdivision of the state.

1 municipality, or any public body, corporation, commission, 2 board, agency, organization, or other public entity to succest the existence of any insurance which covers in whole з or in part any judgment or award which may be rendered in . 5 favor of plaintiff. 6 +31--If--the--court-determines-that-the-defendent-could 7 have-successfully-roised-the-defense-of-immunity-ond-if--the verdict--exceeds-the-isits-of-the-applicable-insurancey-the A court-shall-reduce-the-amount-of-such-judgment-or-award-to-e • 10 sum-equal-to-the-applicable-limit-stated-in-the-policy." 11 Section 2. Section 2-9-104, NCA, is amended to read: 12 #2-9-104. Limitation on governmental liability for 13 damages in tort -- petition for relief in excess of limits. (1) Neither the state, a county, municipality, taxing 14 district, nor any other political subdivision of the state 15 16 is liable in tort action for: 17 (a) noneconomic damagest or (b) economic damages suffered as a result of an act or 18 19 omission of an officer, agent, or employee of that entity in 20 excess of \$300.000 for each claimant and \$1 million for each 21 OCCUTTONCe. (2) The legislature or the governing body of a county, 22 23 municipality, taxing district, or other political

subdivision of the state may, in its sole discretion.

authorize payments for noneconomic damages or economic

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-2- SB 380 THIRD READING

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1	damages in excess of the sum authorized in subsection (1)(b)
2	of this section, or both, upon petition of plaintiff
3	following a final judgment. No insurer is liable for such
4	noneconomic damages or excess economic damages unless
5	specifically-authorized-in-the-contract-of-insurance <u>such</u>
6	insurer_specifically_agrees_by_written_endorsementto
7	provide coverage to the governmental agency involved in
8	amounts in excess of the limitation stated in this section
9	or specifically agrees to provide coverage for noneconomic
10	damages, in which case the insurer may not claim the
11	benefits of the limitation specifically waived."
12	Section 3. Section 20-3-331, MCA, is amonded to read:
13	=20-3-331. Purchase of liability insurance. The
14	trustees of any district may purchase insurance coverage for
15	the districty trusteesy and employees against liability for
16	the deathe injurye or disability of any person or damage to
17	property. If such insurance is purchased, the trustees shall
18	pay the insurance premium cost from the general fund. The
19	provisions of 33-23-102 and 2-9-104 shall apply to the
20	provisions of this section."
21	Section 4. Repeater. Section 33-23-101. MCA. is

22 repealed.

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SB 0380/02

1 SENATE BILL NO. 380 2 INTRODUCED BY HAFFERMAN, TOWE, TURNAGE 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE CERTAIN LAWS 4 RELATING TO CASUALTY INSURANCE AND SOVEREIGN IMMUNITY TO 5 MAKE THE LAW CONSISTENT WITH LIMITS SET BY STATUTE; AMENDING 6 SECTIONS 2-9-104+ 20-3-331, AND 33-23-102+ MCA; AND 7 REPEALING SECTION 33-23-101, MCA.* 8 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 33-23-102. MCA. is amended to read: 12 "33-23-102. Immunity-defense-prohibited-when-lightity 13 insured----existence Existence of insurance not to be made 14 evident --- reduction-of-award-to-policy-limits. (1)-Whenever 15 on--insurer---occepts---ony---premiumy---moneyy---other 16 consideration--from--a--political--subdivision-of-the-statev 17 municipalityy-or-any-public-bodyy--corporationy--commissiony 18 boardy--agencyy--organizationy--or--other--public-entity-for 19 casualty-or-liability-insurancev-neither--such--insured--nor 20 insurer--may--raise-the-defense-of-immunity-from-suit-in-any 21 demage-action-brought-against-such-insured-or--insurery--and 22 any--agreement--in--the--insurance--contract--permitting-the 23 defense-of-immunity-is-void. 24 (2) No attempt may be made in the trial of an action

brought against such a political subdivision of the state,

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1	municipality, or any public body, corporation, commission,
2	board, agency, organization, or other public entity to
3	suggest the existence of any insurance which covers in whole
4	or in part any judgment or award which may be rendered in
5	favor of plaintiff.
6	t3jifthecourt-determines-that-the-defendant-could
1	hove-successfully-reised-the-defense-of-immunity-end-lfthe
8	verdictexceeds-the-limits-of-the-opplicable-insurancer-the
9	court-shatt-reduce-the-amount-of-such-judgment-or-averd-to-a
10	sum-equal-to-the-applicable-limit-stated-in-the-policy="
11	Section 2. Section 2-9-104, MCA, is amended to read:
12	#2-9-104. Limitation on governmental liability for
13	damages in tort petition for relief in excess of limits.
14	(1) Neither the state, a county, municipality, taxing
15	district, nor any other political subdivision of the state
16	is liable in tort action for:
17	(a) noneconomic damages; or
18	(b) economic damages suffered as a result of an act or
19	omission of an officer, agent, or employee of that entity in
20	excess of \$300,000 for each claimant and \$1 million for each
21	occurrence.
22	(2) The legislature or the governing body of a county,
23	municipality, taxing district, or other political
24	subdivision of the state may, in its sole discretion,

25 authorize payments for noneconomic damages or economic

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REFERENCE BILL

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damages in excess of the sum authorized in subsection (1)(b) Ł 2 of this section, or both, upon petition of plaintiff following a final judgment. No insurer is liable for such 3 noneconomic damages or excess economic damages unless 4 specifically--authorized--in--the-contract-of-insurance such 5 6 insurer_specifically_agrees_by_written_endorsement___to 7 provide coverage to the governmental agency involved in 8 amounts in excess of the limitation stated in this section 9 or specifically agrees to provide coverage for noneconomic 10 damagess in which case the insurer may not claim the 11 benefits of the limitation specifically waived." Section 3. Section 20-3-331, MCA, is amended to read: 12 13 #20-3-331. Purchase of Tiability Insurance. The 14 trustees of any district may purchase insurance coverage for the district, trustees, and employees against liability for 15

21 Section 4. Repealer. Section 33-23-101.

provisions of this section."

22 repealed.

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-End-

the death, injury, or disability of any person or damage to

property. If such insurance is purchased, the trustees shall

pay the insurance premium cost from the general fund. The provisions of 33-23-102 and 2-9-104 shall apply to the

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SB 380

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