## Program Description

The Risk Management & Tort Defense Division administers a comprehensive plan of property/casualty insurance protection on behalf of state government. The division purchases commercial insurance, where cost-effective, to cover catastrophic losses above high deductibles. State risks that are currently insured through commercial insurance carriers include aircraft, airports, boilers & machinery, bonds (various), crime, fine art, property, professional liability, and miscellaneous. The state self-insures most commercial insurance risks under $500,000 per occurrence as well as auto, general liability, inland marine (i.e. property in-transit), mobile/specialized equipment, and foster care risks. The division also provides consultative services that include training, inspections, program reviews, contract administration, claims administration, and legal defense to prevent or minimize the adverse effects of physical or financial loss. The division investigates, evaluates, and resolves tort claims (i.e. personal injury or property damage to third parties) and coordinates the adjudication and settlement of other claims involving property damage. This division operates under the authority of §2-9-101 through §2-9-305, MCA.

## Program Highlights

**Risk Management & Tort Defense**
**Major Budget Highlights**

- The division is solely funded through proprietary funds generated through state agencies and the Montana University System premium payments
- The legislature increased insurance costs to state agencies by $2.8 million each year of the biennium or 24.1 %
- The legislature approved $13.4 million in the supplemental bill (HB 3) to replenish the fund following payments awarded as part of a settlement in the Libby asbestos lawsuit

## Program Narrative

The state of Montana self-insures for risks including automobile, aviation, general liability, and property. State agencies and the Montana University System pay premiums to the Risk Management and Tort Defense Division (division). General liability claims include settlements of lawsuits in which the state is found at fault. In September 2011 Judge Sherlock approved a $43.0 million settlement with the victims in Libby who had been impacted by asbestos. $26.8 million of the settlement was paid from the State Property/Casualty Insurance Fund (fund).

The effect the settlement payment of $26.8 million for Montana asbestos victims had on the fund was that it:

- Eliminated reserves for all insurance risks for FY 2012, not only general liability but automobile, aviation, and property
- Reduced assets in the account to $3.5 million at the end of FY 2012
- Created an unfunded liability of ($17.1) million at FYE 2012

In addition a large hail storm in Bozeman resulted in high property claims for the state buildings in the area, most notably the campus of the Montana State University.

Premium amounts for state agencies are determined based on the predicted costs of losses the state may incur as a result of claims and the costs for operating the division. Payments for claims and the operational expenses incurred by the division are expended from the fund. In addition, reserves for each insurance risk are maintained within the fund. Reserves are used for higher than anticipated claims costs or loss adjustment expenses and for incurred but not yet reported claims. The legislature approved $13.4 million in general fund in the supplemental bill (HB 3) to pay a portion of the state's settlement costs on the Libby asbestos case. The funding will be deposited into the proprietary fund and used to:

- Restore reserves for automobile, aviation, and property risks
- Reduce the unfunded liability for general liability to an estimated ($7.1) million at FYE 2015

## Funding

The following table shows program funding by source of authority for the 2015 biennium as adopted by the legislature.

| Total Department Of Administration Funding by Source of Authority<br>2015 Biennium Budget - Risk Management & Tort Defense | | | | | | | |
|---|---|---|---|---|---|---|---|
| Funds | HB 2 | Non-Budgeted Proprietary | Statutory Appropriation | Total All Sources | % Total All Funds | MCA Reference | Statutory Category |
| State Special Total | $0 | $0 | $900,000 | $900,000 | 3.3% | | |
| 02098 Insurance Proceeds - State B | $0 | $0 | $900,000 | $900,000 | 3.3% | 2-17-105 | Direct |
| Proprietary Total | $0 | $26,761,885 | $0 | $26,761,885 | 96.7% | | |
| 06532 Agency Insurance Int. Svc. | $0 | $26,761,885 | $0 | $26,761,885 | 96.7% | | |
| Total All Funds | $0 | $26,761,885 | $900,000 | $27,661,885 | 100.0% | | |
| **Percent - Total All Sources** | **0.0%** | **96.7%** | **3.3%** | | | | |

It should be noted that the $13.4 million in general fund approved in HB 3 is not included in the table.

*Proprietary Funding*

The majority of the division budget is supported by proprietary funds that are derived from premium assessments on insurance risks paid by state agencies and the Montana University System. These funds are considered and approved as rates charges to other state agencies and are discussed in the “Proprietary Rates” section of the narrative.

*Statutory Appropriations*

Less than 4% of the division’s funding is derived from statutory appropriations for the receipts of insurance reimbursements on state agency buildings.

## Proprietary Rates
## Agency Insurance Internal Service - 06532

*Program Description*

The Risk Management and Tort Defense Division administers a comprehensive plan of property and casualty insurance protection on behalf of state government.

*Program Narrative*

In September 2011 Judge Sherlock approved a $43.0 million settlement with victims in Libby who had been impacted by asbestos. $26.8 million of the settlement was paid from the State Property/Casualty Insurance Fund (fund). The payment resulted in an unfunded liability within the fund of ($17.1) million and eliminated reserves for all four insurance risks within the program.

The legislature approved a two-step process to reduce the unfunded liability and establish reserves for the various risks:

- Increased premium rates for state agencies’ general liability insurance by 20% compared to those charged in the 2013 biennium
- Included $13.4 million in general fund in HB 3 as a supplemental appropriation

The effect of the process is that reserves for automobile, aviation, and property insurance risks will be reestablished to the level prior to the settlement payment. For general liability, given the increased premium revenues and establishment of reserves for the other risks, the unfunded liability for the program is estimated to be ($7.1) million at the end of FY 2015.

Expenses

Significant costs for the program are for:

- Personal services of $2.4 million for 17.00 FTE over the biennium
- Operating expenses of $11.8 million over the biennium including
  - $5.6 million for commercial insurance
  - $3.4 million for legal fees and court costs
  - $0.5 million for application development of computer systems
- Benefits and claims costs estimated at $11.5 million over the biennium

Payments for claims and the operational expenses incurred by the division are expended from the fund. In addition, reserves for each insurance risk are maintained within the fund. Reserves are used for higher than anticipated claim costs or loss adjustment expenses and for incurred but not yet reported claims.

Revenues

Montana self-insures its insurance risks for automobile, aviation, general liability, and property via this program so all state agencies pay insurance premiums to the Risk Management and Tort Defense Division. Depending on the type of property owned or on the agency's claims history, insurance premiums paid by agencies can vary.

Premium amounts for state agencies are determined based on the predicted costs of losses the state may incur as a result of claims and the costs for operating the division. Budget authority to pay insurance premiums is a fixed cost item in the agencies' budgets. The statewide fixed cost in the legislative budget increases from the 2013 biennium due to an increase in all insurance risks.

The legislature approved rate increases insurance costs to state agencies by $2.8 million each year of the biennium or 24.1 %. Increases by risk are shown in the figure.

Department of Administration
Risk Management and Tort Defense Division
Changes to Premium Costs for State Agencies

| Insurance Risk | FY 2014 | FY 2015 |
|---|---|---|
| Auto/Comp/Collision | $217,153 | $217,153 |
| Aviation | (42,490) | (42,490) |
| General Liability | 1,350,000 | 1,350,000 |
| Property/Miscellaneous | 1,306,980 | 1,306,980 |
| Total Increase | $2,831,643 | $2,831,643 |

Premiums for the 2015 biennium are apportioned based upon exposure and uniform reductions in loss experience as follows:

- Automobile - comprised of two separate components: 1) comprehensive and collision based upon total values of reported vehicles; and 2) auto liability premium based upon agency losses and the number of vehicles reported
- Aviation - allocated to those agencies that have aircraft based upon charges from commercial insurance carriers for each aircraft, depending on the year, make, model, and value of the aircraft. Airport premium is apportioned to those agencies that have airports based upon the number of airports
- General Liability - comprised of commercial coverage, which is based on commercial coverage negotiated with commercial insurance carriers and self-insured
- Property - allocated to each agency based on its percentage of reported exposures (e.g. building replacement cost values, boilers and machinery, etc.).

*Proprietary Rates*

For the 2015 biennium the rates adopted by the legislature are shown on the following page. The rates charged in the base year are shown for comparison purposes.

| Department of Administration<br>Risk Management and Tort Defense Division | | | | | |
|---|---|---|---|---|---|
| | | Actual FYE 12 | Budgeted FY 13 | Budgeted FY 14 | Budgeted FY 15 |
| Premium | | | | | |
| | Auto/Comp/Collision | $1,031,347 | $1,037,665 | $1,248,500 | $1,248,500 |
| | Aviation | 212,451 | 212,451 | 169,961 | 169,961 |
| | General Liability | 6,750,000 | 6,750,000 | 8,100,000 | 8,100,000 |
| | Property/Miscellaneous | 3,733,020 | 3,783,090 | 5,040,000 | 5,040,000 |
| | Total | $11,726,818 | $11,783,206 | $14,558,461 | $14,558,461 |

The rates approved by the legislature are the maximum the program may charge during the biennium. They are not the rates the program must charge.