

March 26, 2004

**Comments from Teamsters Local 190 regarding potential actions of the Senate Bill
304 Study Committee:**

Mr. Chairman, members of the committee, Teamsters Local 190 appreciates the opportunity to offer our comments on the important work of this committee and wants to thank the committee for its diligence in reviewing the very complex and demanding issues related to the provision of Workers' Compensation in Montana. Our comments will be brief, as we believe that our concerns have been discussed thoroughly throughout the committee's deliberations.

Teamsters Local 190 believes that it would not be in the best interests of the State of Montana to sell the Old Fund. Teamsters Local 190 firmly believes that it was, and is, the obligation of the State of Montana to assure that workers receive full and just compensation for injuries or illnesses incurred while on the job, regardless of that cost. It is our belief that the full force and resources of the State of Montana should remain in assuring that obligation. In addition, concerns raised about the potential impacts of a recent court decision and as yet-to-be-issued related decision on the ability of the Old Fund to fulfill its obligations to injured workers are likely to make the sale of the Old Fund much less appealing to any potential buyers.

Although the issues related to the administration of the Montana State Fund are more complex, Teamsters Local 190 believes that it would not be in the best interests of Montana workers or employers to make dramatic changes in its operation. It is clear that the State Fund operates as the insurer of last resort for some Montana employers and is the insurer of first resort for many others who are minimum premium payers who might find it difficult, if not more expensive, to obtain coverage in a totally-private sector market.

Therefore, we would be opposed to any efforts to further privatize the operations of the Montana State Fund. It should remain a State Agency with Legislative and Executive branch oversight.

While we recognize the arguments of some private sector insurance providers that the State Fund has some financial advantages impacting their ability to compete in the marketplace, it became clear during previous meetings that to substantially remove these advantages would simply result in higher premium costs for hundreds if not thousands of Montana employers. In the end, workers would not benefit from this change as increased WC costs would simply translate into a downward pressure on wages and other benefits.

It has also become clear that the creation of an assigned risk pool as replacement for the current status of the State Fund does not seem a viable option for our state. We have observed some hesitation of some private-sector insurers to take that route and, once again, it appears that such a move would likely result in higher premiums for many Montana employers. In addition, Montana's share of the national WC market is miniscule

and any substantial withdrawal of private-sector insurers could have a tremendous impact on the provision and cost of WC in our state with no public sector recourse.

We would not be opposed to regulation of the State Fund by Montana's Insurance Commissioner. In fact, such oversight might well help dispel appearances that the State Fund is granted overwhelming advantages to the private sector.

The issue of taxation of the premiums of the State Fund is a bit thornier, as it is clear that this is one place where a distinct competitive advantage can be claimed. Although any taxation of the State Fund would likely result in pass-through costs to employers, it is conceivable that some level of taxation might be required in order to fund the oversight of the Insurance Commissioner. Given the fact that the State Fund is a state agency with a legislative mandate to provide a service to Montanans without profit, any tax implemented should be sufficient only to cover the costs of the oversight.

In general, we believe that the operation and administration of the Montana State Fund should remain relatively close to the status quo. In saying that, make no mistake that Teamsters Local 190 continues to believe that the mission of the State Fund, and the provisions of Workers' Compensation in the main, is to provide injured and sick workers with the medical, wage loss and rehabilitation tools to make the worker as whole as possible. Unfortunately, Montana's laws regarding benefit levels and access to those benefits fall far short in this regard.

Dividend payments to employers and bonuses for officers and staff of the State Fund have done little to enhance our confidence in the system. However, we see no advantages to placing the administration of the state fund into the hands of the private sector where such policies originated. We would hope that this committee considers such practices in light of public displeasure and the fact that our judicial system appears to agree that the Workers' Compensation system in our state is failing to meet its obligations to injured workers required of it under the Montana Constitution.

Again, Mr. Chairman and members of the Committee, we want to thank you for your hard work and wish you the best as you complete your deliberations.

Respectfully submitted,



Don Judge, Representative
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Billings and Eastern Montana