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**William D. Hager**

*President*

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April 26, 2108

Via PDF to Committee Staff below  
Pat Murdo, Research Analyst  
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Senator Gordon Vance  
Chairman, Montana  
Economic Affairs Interim Committee  
P.O. Box 1  
Belgrade, Montana 59714-0001

Re: SJR 27—EAIC Workers' Compensation Study

Dear Chairman Vance:

The study now being conducted by the Montana Economic Affairs Interim Committee (EAIC) holds the potential to improve the workers compensation insurance market in Montana to a great extent - and for years to come.

As I understand it, in very general terms, under your Chairmanship, the EAIC is considering three options:

- Whether the current system, with the Montana State Fund, a state agency, dominating the market by controlling about 66% of it - should be maintained; or
- Should the market be privatized by dissolving the State Fund, thereby removing its advantaged and dominant position and opening state and private employers to competition among private insurance companies; or

Should some hybrid system be considered - allowing the State Fund to remain in the market in some altered way.

Consistent with my attached workers compensation background (Exhibit A) I am professionally very familiar with this discussion and how it has taken place elsewhere in the United States.

I strongly recommend true privatization of the workers compensation market in Montana if the state, in particular its employers, want to garner the advantages of the modern market place for providing insurance, particularly lower rates. Allow me to briefly state the reasons for my strong recommendation that Montana modernize its market by privatizing it, which entails eliminating state-government competition from that marketplace.

- Montana has some of the highest workers compensation premiums in the U.S. Part of the reason is the inefficiency of the Montana State Fund. It is not believable at this late date, that a state government agency, here the Montana State Fund, can deliver a product (here insurance coverage and all that it entails) in a superior manner and at a superior price to that of the most efficient of insurers using the most efficient of tools to contemporary commerce.
- State funds themselves, like the Montana State Fund, are a relic of the past. The fact is that contemporary private insurers, with all of the current tools of business, are able to deliver – and do deliver - a superior insurance product at a high speed with the greatest of efficiencies, and the most competitive of prices.
- Eliminating government dominance of workers compensation insurance, a product available in a plentiful manner in the private marketplace, will benefit Montana policyholders.
- One anecdotal example of the inefficiency of the Montana State Fund, is that it boasts about overcharging its insureds. Oh – not directly of course, but nonetheless, in fact. In October of 2017, the Montana State Fund announced a \$40 million dividend to its policyholders. And concurrently stated it was the 19<sup>th</sup> consecutive year it had provided a dividend back to policyholders.

Here's a little inside baseball - a \$40 million dividend means the Montana State Fund overcharged its policyholders - \$40 million more in premium than it should have. Any yet, instead of saying "Whoops, we overcharged you our insureds by \$40 million" the Montana State Fund boasts of providing a \$40 million dividend to its insureds.

- Imagine by comparison, if, through a quirk in Montana law, a Montana state agency had the right to sell two-thirds of all of the pickup trucks in Montana and in doing so – overcharged Montana buyers by \$40 million in sales prices. No one would tolerate it. And in fact, Montana voters would soon require the elimination of the quirky state law that permitted a state agency to sell a product in the marketplace at an overinflated price - that was otherwise available through numerous private sellers.
- The fact is, that state funds have been successfully eliminated in other state with good results to policyholders.

- Based on my experience this is a reasonable outcome for Montana to expect with the elimination of the State Fund.
- Further, eliminating the Montana State Fund removes the risk to Montana tax payers of dealing with an always present circumstance and risk of the State Fund encountering financial difficulties. Setting aside whatever the Montana law may be in that regard, I note the following (1) even the most well heeled insurers have encountered financial difficulties when catastrophes strike (e.g., workers compensation insurers following 9/11) and (2) regardless of Montana's law as to liability to the State of Montana in such a circumstance, based on my political experience, the Montana Legislature would be compelled to step in and appropriate monies to shore up the Montana State Fund if it were to encounter solvency problem. Only the naïve say "it could never happen here".
- There are of course, other advantages to eliminating the Montana State Fund (which I believe Montana should do); but I am confident others providing testimony have or will bring those forward.

In all of this, thank you for your consideration of my letter.

Respectfully,

*Bill Hager*

Bill Hager

**Exhibit A**  
**Background of**  
**William D. Hager**



**William D. Hager**

***Montana Related Workers Compensation Expertise.***

In connection with the views I have set forth in my letter to which this Exhibit A is attached, I have drawn on my expertise as summarized immediately including my related websites as follows:

***Workers Compensation Expertise: Websites of Bill Hager***

- Workers Compensation: <http://www.comppremiumwizards.com>;
- Insurance expertise: <http://www.expertinsurancewitness.com>
- Reinsurance Expertise: <http://www.arias-us.org>
- Reinsurance Expertise: <http://www.insurance-metrics.com>.
- Ratemaking Expertise: <http://expertinsurancewitness.com/rate-regulation-and-rate-making/>
- Producer/Agent Expertise: <http://expertinsurancewitness.com/insurance-agent-liability-expert/>

***Workers Compensation Expertise: State Insurance Regulation.*** My expertise as to these matters can be found as follows: I am a former:<sup>1</sup>

- Commissioner of Insurance (Iowa); this position includes insurance regulatory responsibilities parallel to that of the Matt Rosendale, as Commissioner of Securities and Insurance, Office of the *Montana* State Auditor.
- First Deputy Commissioner of Insurance,
- Administrative Law Judge (“ALJ”), f/k/a Hearing Officer, to the Department of Insurance,
- Assistant Attorney General assigned on a full-time basis to the Department of Insurance.

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<sup>1</sup> Because the commercial property casualty insurance, including workers compensation insurance, is conducted across state lines and more specifically, nationally, the rules and regulations (by whatever name) are substantially similar state over state. My point is that my experience in Iowa as Commissioner of Insurance and in Florida as an elected Member of the Florida House of Representatives where I have provided insurance leadership - is substantially similar to parallel experience and positions in Montana and the balance of the states for that matter. This experience is bolstered by my 44 years of direct insurance experience, including that of being the President and CEO of a major insurance company doing business throughout the U.S., including in the state of Montana, and my eight years of experience as an elected Member of the Florida House of Representatives where I currently serve or have served as a Member and Vice Chairman of the Insurance Committee and its upstream parent committee, Commerce.

In those capacities, daily, I had full regulatory oversight and responsibility for and I dealt directly with (i) workers compensation insurance policies including the regulations of such policies, (ii) exposures, classifications and premium matters that come to bear as to such policies and (iii) insurance companies, and their ability to deliver to insureds, competent and efficient policyholder services.

***Workers Compensation Expertise: National and Multi-State Insurance Regulation.***

My expertise as to these matters can be found as follows: I am a former:

- Member of the National Association of Insurance Commissioners (“NAIC”); of which *Montana* is also a member;
- Elected Member of the NAIC’s Executive Committee.
- As an Elected Member of the Executive Committee, that oversight included responsibility for the so-called “C Committee” relating to Property and Casualty Insurance, inclusive of the Workers Compensation Task Force.

***Workers Compensation Expertise: Current Legislative.*** In addition to my regulatory background, I have served or am serving in the following capacities, each of which included daily knowledge of and interaction with (i) workers compensation insurance policies including the regulations of such policies, (ii) exposures, classifications and premium matters that come to bear as to such policies and (iii) insurance companies, and their ability to deliver to insureds, competent and efficient policyholder services.

- Elected Member of the Florida House of Representatives (currently – I was first elected in 2010 and re-elected in 2012 and 2014 and 2016) where I serve or have served as a Member and Vice Chairman of the Insurance Committee as well as its upstream parent committee, the Commerce Committee, which collectively have legislative oversight over all insurance issues in the state (as administered by the Florida Office of Insurance Regulation) including those relating to workers compensation insurance and related insurer and insured obligations. Florida’s workers compensation statutory and regulatory framework parallels in most ways, those of the states referenced in this matter, namely *Montana*.
- In addition, I have sat as Vice Chairman of the Civil Justice Subcommittee of the Florida House, which has responsibilities as to Florida laws that establish (among other things) liability.

***Workers Compensation Expertise: Other Legislative.*** In addition to my state and national insurance regulatory background and my current legislative background, I have served in the past in the following capacities, each of which included daily knowledge of and interaction with (i) workers compensation insurance policies including the regulations of such policies, (ii) exposures, classifications and premium matters that come to bear as to such policies and (iii) insurance companies, and their ability to deliver to insureds, competent and efficient policyholder services.



- Legal Counsel to the Iowa House of Representatives;
- Chief of Staff, f/k/a Administrative Assistant, at the U.S. House of Representatives,
- Deputy Mayor and Council Member of the Boca Raton City Council, where I served as the Council's lead on insurance issues;

***Workers Compensation Expertise: Actuarial.*** In addition to my regulatory background at both the state and national levels and my legislative background as to workers compensation matters, I have served or am serving in the following capacities, each of which included daily knowledge of and interaction (i) workers compensation insurance policies including the regulations of such policies, (ii) exposures, classifications and premium matters that come to bear as to such policies and (iii) insurance companies, and their ability to deliver to insureds, competent and efficient policyholder services.

- American Academy of Actuaries, Washington D.C. General Counsel and Chief Lobbyist for the American Academy of Actuaries, Washington, D.C., whose members establish the rates for workers compensation at both the primary and reinsurance levels;
- Actuarial Standards Board (ASB), Washington D.C. I served as counsel to the forerunner of ASB, namely the Interim Actuarial Standards Board. ASB promulgates professional standards for the actuarial profession and runs parallel to Financial Accounting Standards Board (FASB), which does the same work on the accounting side relating to accounting for American business.
- Commissioner of Insurance. As Commissioner, I approved and disapproved workers compensation proposed rates, as submitted by NCCI and did so by applying actuarial methodologies to the proposed rates. In addition, I had responsibility to approve or disapprove all prior approval rates, which at that time, included most all personal and commercial property and casualty premiums used by most of the insurers in the state.

***Workers Compensation Expertise: Industry.*** In addition to my regulatory background at both the state and national levels and my legislative background and my actuarial background as to workers compensation matters, I served in the following capacity, which called upon daily knowledge of (i) workers compensation insurance policies including the regulations of such policies, (ii) exposures, classifications and premium matters that come to bear as to such policies and (iii) insurance companies, and their ability to deliver to insureds, competent and efficient policyholder services.

***Doing Business in Montana.*** President and Chief Executive Officer of the National Council on Compensation Insurance (NCCI), whose daily responsibilities intersected with most every matter at issue in this case including responsibility to formulate workers



comp policies in the first instance, prepare underwriting manuals and related descriptions thereof (the so-called "Scopes Manual"); prepare e-mods for insureds throughout much of the U.S.; prepare rates for approval to the Commissioners of Insurance throughout most of the U.S.; prepare reinsurance materials for reinsurers of workers compensation and make NCCI's expertise available to regulators and legislators throughout the U.S. as to matters such as those at issue here.

- Premium. As CEO of NCCI for a little less than 10 years, I had responsibility to assure accurate formulation of proposed workers compensation premium totaling some \$100 billion dollars of such premium.

***Workers Compensation Expertise: Insurance Arbitration.*** In addition to my regulatory background and my legislative and my industry background as to workers compensation matters, I have served or am serving in the following capacities *insurance* arbitration positions, each of which included daily knowledge of and interaction with (i) workers compensation insurance policies including the regulations of such policies, (ii) exposures, classifications and premium matters that come to bear as to such policies and (iii) insurance companies, and their ability to deliver to insureds, competent and efficient policyholder services.

- Nationally certified *Insurance Arbitrator* (ARIAS-US), where I sit as an arbitrator on disputes between (among others) workers compensation insurers and other insurers or insurer's agents.

***Workers Compensation Expertise: Reinsurance Arbitration.*** In addition to my regulatory background and my legislative and my industry background as to workers compensation matters and service as an insurance arbitrator, I also serve as a *reinsurance* arbitrator, I am serving in the following capacities, each of which included daily knowledge of and interaction with (i) workers compensation insurance policies including the regulations of such policies, (ii) exposures, classifications and premium matters that come to bear as to such policies and (iii) insurance companies, and their ability to deliver to insureds, competent and efficient policyholder services.

- Nationally certified *Reinsurance Arbitrator* (ARIAS-US), where I sit as an arbitrator on disputes between (among others) workers compensation insurers and their reinsurers,

***Workers Compensation Expertise: Current Practice of Law: Insurance and Reinsurance Lawyer.*** In addition to my regulatory background and my legislative background and my industry background and my reinsurance arbitration background as to workers compensation matters, I have served or am serving in the following legal capacities, each of which included daily knowledge of and interaction with (i) workers compensation insurance policies including the regulations of such policies, (ii) exposures, classifications and premium matters that come to bear as to such policies and (iii) insurance companies, and their ability to deliver to insureds, competent and efficient policyholder services.



As stated, I am an insurance lawyer admitted to practice, all by examination in Iowa, Illinois<sup>2</sup> and Florida.

- Practicing attorney at the Hager Law Firm, Boca Raton, Florida, currently in private practice;

***Workers Compensation Expertise: Previous Position as to the Practice of Law: Insurance and Reinsurance Lawyer.*** In addition to my regulatory background and my legislative background and my industry background and my reinsurance arbitration background and my current legal background as to workers compensation matters, I have served in the following prior legal capacities, each of which included daily knowledge of and interaction with (i) workers compensation insurance policies including the regulations of such policies, (ii) exposures, classifications and premium matters that come to bear as to such policies and (iii) insurance companies, and their ability to deliver to insureds, competent and efficient policyholder services.

- Legal Counsel to the Iowa House of Representatives;
- Iowa Assistant Attorney General;
- Counsel to the Professional Insurance Agents Association (IA), many of whose members as agents sold workers compensation insurance;
- Iowa Counsel to the Property Casualty Insurance Association of America (PCIAA), an organization of smaller stock property casualty insurers, many of whose members sold workers compensation insurance;
- Insurance and reinsurance lawyer with the firm of Hager and Schachterle;
- General Counsel to the American Academy of Actuaries, Washington D.C.;

***Workers Compensation Expertise: Undergraduate Educational Background.*** In addition to my regulatory background and my legislative background and my industry background and my actuarial background and my insurance and reinsurance arbitration background and my legal background as to workers compensation matters, the following formal undergraduate education was helpful in this matter:

- Bachelor's degree (B.A.) in mathematics (University of Northern Iowa)<sup>3</sup>;

***Workers Compensation Expertise: Graduate Educational Background.*** In addition to my regulatory background and my legislative background and my industry background

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<sup>2</sup> This license is currently in inactive status at my request and is eligible for reactivation at any time upon my request. This is so because I am in good standing with the Illinois Bar.

<sup>3</sup> Secondary mathematics education.

and my reinsurance arbitration background and my legal background and my undergraduate background as to workers compensation matters, the following formal graduate education was helpful in this matter:

- Master's degree (M.Ed.) in education (University of Hawaii);
- Juris Doctorate: (J.D.) University of Illinois, Champaign Urbana;

***Workers Compensation Expertise: Insurance Certificates.*** In addition, and as stated, the following insurance certifications also support my expertise in these matters.

- Reinsurance Arbitrator, certified by ARIAS-US;
- Insurance Arbitrator, certified by ARIAS-US;

***Workers Compensation Expertise, CV.*** The above expertise should be read together with the balance of my background as set forth in my attached CV, which can be viewed at <https://expertinsurancewitness.com/wp-content/uploads/2018/04/William-D-Hager-Appendix-A-September-13-2013.pdf>

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