

Montana State Legislature

Exhibit Number: 4

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EXHIBIT 4
DATE 2-7-05
HB 466

To: House Business and Labor Committee

From: Richard Martin

Re: HB466

I am in favor of HB466 because it increases settlements for partially disabled workers so that the settlements bear a more reasonable relationship to the wages lost by disabled workers.

Section 39-71-105 MCA is the declaration of public policy for workers compensation in Montana. It provides: "wage loss benefits are not intended to make an injured worker whole; they are intended to assist the worker at a reasonable cost to the employer. Within that limitation, the wage loss benefit should bear a reasonable relationship to actual wages lost as a result of work related injury or disease." (emphasis added)

Under Section 39-71-703 MCA, a person qualifies for a permanent partial disability settlement if he/she can not return to the time of injury job as a result of a work related injury. Because of the injury, the worker is forever precluded from engaging in certain occupations. Sometimes the worker loses his or her long-term career. When the worker then goes out into the labor market to get a job compatible with his/her physical limitations, a cut in pay is typically the result.

A worker who is eligible for permanent partial disability is typically under fifty years of age because workers over fifty years of age who can not return to their time of injury job are more likely to qualify for permanent total disability benefits. A younger worker who qualifies for permanent partial disability will likely experience 15, 20, or even 25 years of wage loss. I have attached several charts that calculate total wage loss over extended periods of time based on different hourly rates of wage loss. These lifetime wage losses are to be compared with the settlements available under Section 39-71-703.

Currently, Section 39-71-703 allows for a maximum permanent partial disabilities settlement of approximately \$33,000. The average settlement according to the Montana Department of Labor and Industry is closer to \$15,000 (please see attached excerpts from the Department of Labor and Industry annual work reports on workers compensation).

The result is that the permanent partial disability settlement typically approximates one year of wage loss which is not a reasonable relationship to the total loss of wage that the worker experiences.

The current law is very harsh on the higher wage earner because of the \$2.00 per hour cap at 20% in Section 39-71-703 (5)(c). Many workers have wage losses greatly exceeding \$2.00 per hour.

Beginning in 1987, injured workers have been asked to carry the burden of Montana's struggling economy by accepting disproportionately small workers compensation settlements in comparison to their wage loss benefits. This bill will allow injured workers, to receive workers compensation settlements that are more closely related to their lifetime loss of wages as a result of their permanent partial disability.

Richard Martin

Feb 4, 2005

Table of Annual Wage Loss Assuming 2000 hours per year of Work

\$ per Hour Loss	Annual Wage Loss	Wage Loss Over 5 Years	Wage Loss Over 10 Years	Wage Loss Over 20 Years
\$1.00	2,000	10,000	20,000	40,000
\$2.00	4,000	20,000	40,000	80,000
\$3.00	6,000	30,000	60,000	120,000
\$4.00	8,000	40,000	80,000	160,000
\$5.00	10,000	50,000	100,000	200,000
\$6.00	12,000	60,000	120,000	240,000
\$7.00	14,000	70,000	140,000	280,000
\$8.00	16,000	80,000	160,000	320,000
\$9.00	18,000	90,000	180,000	360,000
\$10.00	20,000	100,000	200,000	400,000

Annual Wages of Workers Paid Hourly Working 2000 hours per Year

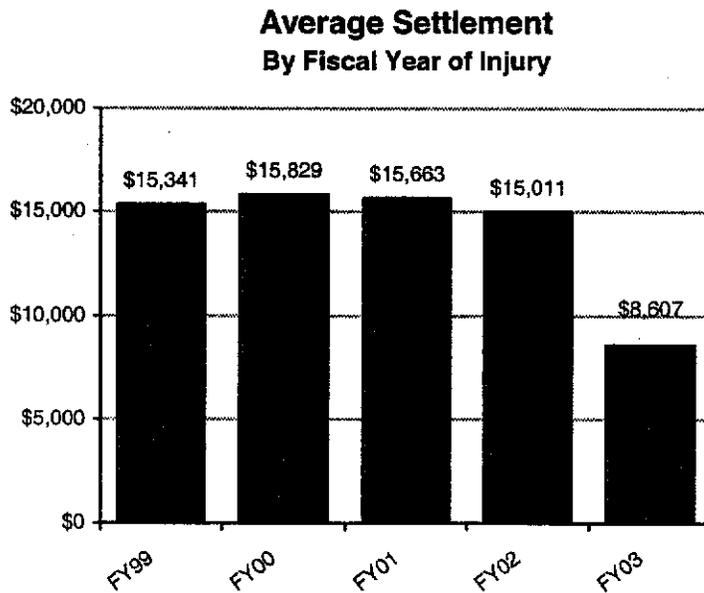
\$ per Hour	Annual Wages
\$5.25	\$10,500
\$6.00	\$12,000
\$7.00	\$14,000
\$8.00	\$16,000
\$9.00	\$18,000
\$10.00	\$20,000
\$11.00	\$22,000
\$12.00	\$24,000
\$13.00	\$26,000
\$14.00	\$28,000
\$15.00	\$30,000
\$16.00	\$32,000
\$17.00	\$34,000
\$18.00	\$36,000
\$19.00	\$38,000
\$20.00	\$40,000
\$25.00	\$50,000
\$30.00	\$60,000

2003 ANNUAL REPORT

Settlement Dollars

Settlements are lump sum payments of the claimant's workers' compensation benefits. Benefits are usually paid in periodic payments designed to sustain an injured worker over an extended period of time. Settlements can occur when the claimant and the insurer agree that benefits will be converted to a lump sum payment. If the claimant has more than one claim, a settlement may settle more than one of those claims. Settlements are subject to approval by the Department of Labor and Industry.

This graph displays average settlement amounts by fiscal year of injury for claims settled between 07-01-1998 and 06-30-2003. This information includes both injury and occupational disease settlements.



**Settlement Amounts For Claims Settled¹
By Plan Type² and Fiscal Year of Injury**

Plan Type ²	FY99		FY00		FY01		FY02		FY03	
	Amount	Count	Amount	Count	Amount	Count	Amount	Count	Amount	Count
Plan 1	\$2,416,409	148	\$2,339,884	152	\$1,891,593	122	\$991,050	85	\$209,520	33
Plan 2	\$6,575,021	467	\$6,776,351	442	\$5,081,825	360	\$3,366,830	220	\$406,299	48
Plan 3	\$4,478,084	263	\$4,101,396	241	\$4,022,053	220	\$2,502,334	152	\$418,001	39
Totals	\$13,469,524	878	\$13,217,631	835	\$10,995,271	702	\$6,860,214	457	\$1,032,810	120

Notes:

¹This chart does not include settlements ordered by the Workers' Compensation Court.

²Plan types: Plan 1 – Self-insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund.