

HOUSE BILL 459

Introduced by Whalen

1/30	Introduced
1/30	Referred to Highways & Transportation
1/30	First Reading
1/30	Fiscal Note Requested
2/04	Fiscal Note Received
2/13	Hearing
2/13	Fiscal Note Printed
3/27	Tabled in Committee

1 HOUSE BILL NO. 457  
2 INTRODUCED BY Whalen

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING FINES  
5 ASSESSED FOR A MOTOR VEHICLE OWNER'S FAILURE TO COMPLY WITH  
6 THE MOTOR VEHICLE SAFETY-RESPONSIBILITY ACT TO BE DEPOSITED  
7 INTO AN ACCOUNT TO BE USED TO SATISFY JUDGMENTS FOR DAMAGES  
8 AGAINST UNINSURED MOTORISTS; PROVIDING CRITERIA FOR PAYMENTS  
9 FROM THE ACCOUNT AND APPLICABILITY DATES FOR PAYMENTS;  
10 INCREASING THE MINIMUM REQUIRED MOTOR VEHICLE LIABILITY  
11 INSURANCE COVERAGE; EXPANDING THE DEFINITION OF AN UNINSURED  
12 MOTOR VEHICLE TO INCLUDE AN UNDERINSURED MOTOR VEHICLE;  
13 REQUIRING MOTOR VEHICLE LIABILITY POLICIES TO INCLUDE  
14 UNINSURED MOTORIST COVERAGE; PROVIDING A STATUTORY  
15 APPROPRIATION; AND AMENDING SECTIONS 17-7-502, 33-23-201,  
16 61-6-103, AND 61-6-304, MCA."

17  
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 NEW SECTION. Section 1. Uninsured motorist's judgment  
20 satisfaction account -- statutory appropriation -- deposit  
21 earnings of account -- redemptions must be deposited in  
22 account. (1) There is in the fiduciary fund category an  
23 uninsured motorist's judgment satisfaction account into  
24 which fines assessed under 61-6-304 must be deposited.

25 (2) The money in the uninsured motorist's judgment

1 satisfaction account is statutorily appropriated to the  
2 commissioner of insurance, as provided in 17-7-502, to be  
3 used, under rules adopted by the commissioner, to satisfy  
4 judgments for damages caused by uninsured motorists as  
5 provided in [section 2].

6 (3) Interest, if any, earned on the balance in the  
7 account must be deposited in the account.

8 (4) Repayment received from a judgment debtor in  
9 satisfaction of the debt after payment was made as provided  
10 in subsection (2) must be deposited in the account until the  
11 repayment deposited equals the payment from the account  
12 under the judgment.

13 NEW SECTION. Section 2. Payments from uninsured  
14 motorist's judgment satisfaction account -- applicability  
15 dates. The commissioner may not disburse money from the  
16 uninsured motorist's judgment satisfaction account:

17 (1) before July 1, 1993, or before the balance on  
18 deposit in the account exceeds \$250,000, whichever comes  
19 first;

20 (2) to compensate a judgment creditor whose claims  
21 arise from an event that occurred before [the effective date  
22 of sections 1 through 7];

23 (3) until submission of the record of a final judgment  
24 in favor of a claimant against a person subject to a penalty  
25 under 61-6-304 arising from an event that occurred while the



1 person was in violation of 61-6-301; and

2 (4) until submission of proof as required by the  
3 commissioner that the judgment creditor has exhausted the  
4 remedies provided under Title 25, chapter 13, without  
5 satisfaction of the judgment.

6 NEW SECTION. Section 3. Priority for payments. (1) The  
7 commissioner shall settle the claims in an order of priority  
8 established by the judgment date of each claim, ranking the  
9 earliest as first to be paid.

10 (2) At the end of each calendar quarter following the  
11 date provided in [section 2(1)(a)], the commissioner shall  
12 compute from the claims filed and verified by him as  
13 qualified for payment under [section 2] and the rules  
14 adopted by him, the total amount of:

15 (a) all claims arising from the judgments; and

16 (b) the total of the portion of all claims attributable  
17 to medical expenses.

18 (3) If the total of claims arrived at under subsection  
19 (2)(a) is greater than the amount of the balance in the  
20 uninsured motorist's judgment satisfaction account, the  
21 commissioner shall first pay the portions of the claims  
22 under subsection (2)(b), up to the limits of insurance  
23 required in an owner's policy of liability insurance in  
24 61-6-103(2)(b)(i) and (2)(b)(ii), to the extent that the  
25 money in the account allows. After payment of all medical

1 expense claims, the commissioner shall apply the balance, if  
2 any, in the account to settlement of the remainder of each  
3 claim, in the order of priority established under subsection  
4 (1), up to the limits of insurance required in an owner's  
5 policy of liability insurance in 61-6-103(2)(b).

6 (4) A judgment claim that is not among those settled  
7 must be included by the commissioner among the claims for  
8 settlement at the end of the next calendar quarter.

9 **Section 4.** Section 17-7-502, MCA, is amended to read:

10 **"17-7-502. Statutory appropriations -- definition --**  
11 **requisites for validity.** (1) A statutory appropriation is an  
12 appropriation made by permanent law that authorizes spending  
13 by a state agency without the need for a biennial  
14 legislative appropriation or budget amendment.

15 (2) Except as provided in subsection (4), to be  
16 effective, a statutory appropriation must comply with both  
17 of the following provisions:

18 (a) The law containing the statutory authority must be  
19 listed in subsection (3).

20 (b) The law or portion of the law making a statutory  
21 appropriation must specifically state that a statutory  
22 appropriation is made as provided in this section.

23 (3) The following laws are the only laws containing  
24 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;  
25 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;

1 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;  
 2 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;  
 3 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;  
 4 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;  
 5 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111;  
 6 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016;  
 7 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150;  
 8 53-24-206; 61-2-406; 61-5-121; [section 1]; 67-3-205;  
 9 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103;  
 10 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613;  
 11 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws  
 12 of 1985.

13 (4) There is a statutory appropriation to pay the  
 14 principal, interest, premiums, and costs of issuing, paying,  
 15 and securing all bonds, notes, or other obligations, as due,  
 16 that have been authorized and issued pursuant to the laws of  
 17 Montana. Agencies that have entered into agreements  
 18 authorized by the laws of Montana to pay the state  
 19 treasurer, for deposit in accordance with 17-2-101 through  
 20 17-2-107, as determined by the state treasurer, an amount  
 21 sufficient to pay the principal and interest as due on the  
 22 bonds or notes have statutory appropriation authority for  
 23 such payments. (In subsection (3), pursuant to sec. 10, Ch.  
 24 664, L. 1987, the inclusion of 39-71-2504 terminates June  
 25 30, 1991.)"

1 **Section 5.** Section 33-23-201, MCA, is amended to read:

2 "33-23-201. Motor vehicle liability policies to include  
 3 uninsured motorist coverage ~~---rejection-by-insured. {1}--No~~  
 4 A motor vehicle liability policy insuring against loss  
 5 resulting from liability imposed by law for bodily injury or  
 6 death suffered by any person arising out of the ownership,  
 7 maintenance, or use of a motor vehicle may not be delivered  
 8 or issued for delivery in this state, with respect to any  
 9 motor vehicle registered and principally garaged in this  
 10 state, unless coverage is provided therein in or  
 11 supplemental thereto to the policy, in limits for bodily  
 12 injury or death set forth in 61-6-103, under provisions  
 13 filed with and approved by the commissioner, for the  
 14 protection of persons insured thereunder under the policy  
 15 who are legally entitled to recover damages from owners or  
 16 operators of uninsured motor vehicles because of bodily  
 17 injury, sickness, or disease, including death, resulting  
 18 therefrom, caused by an accident arising out of the  
 19 operation or use of such the vehicle. An uninsured motor  
 20 vehicle is a land motor vehicle, the ownership, the  
 21 maintenance, or the use of which is not insured or bonded  
 22 for bodily injury liability at the time of the accident or  
 23 which is insured or bonded for less than the limits set  
 24 forth in 61-6-103.

25 ~~{2}--The--named--insured--shall--have--the--right--to--reject~~

1 such--coverage--Unless--the--named--insured--requests--such  
 2 coverage-in-writing,--such-coverage-need-not-be--provided--in  
 3 or--supplemental-to-a-renewal-policy-where-the-named-insured  
 4 had-rejected-the-coverage--in--connection--with--the--policy  
 5 previously-issued-to-him-by-the-same-insurer:"

6 **Section 6.** Section 61-6-103, MCA, is amended to read:

7 "61-6-103. Motor vehicle liability policy defined. (1)  
 8 A "motor vehicle liability policy", as the term is used in  
 9 this part, means an owner's or operator's policy of  
 10 liability insurance, certified as provided in 61-6-133 or  
 11 61-6-134 as proof of financial responsibility and issued,  
 12 except as otherwise provided in 61-6-134, by an insurance  
 13 carrier duly authorized to transact business in this state,  
 14 to or for the benefit of the person named therein in the  
 15 policy as insured.

16 (2) The owner's policy of liability insurance must:

17 (a) designate by explicit description or by appropriate  
 18 reference all motor vehicles with respect to which coverage  
 19 is thereby to be granted by the policy; and

20 (b) insure the person named therein in the policy and  
 21 any other person, as insured, using any motor vehicle or  
 22 motor vehicles with the express or implied permission of the  
 23 named insured, against loss from the liability imposed by  
 24 law for damages arising out of the ownership, maintenance,  
 25 or use of the motor vehicle or motor vehicles within the

1 United States of America or the Dominion of Canada, subject  
 2 to limits exclusive of interest and costs, with respect to  
 3 each motor vehicle, as follows:

4 (i) ~~\$25,000~~ \$50,000 because of bodily injury to or  
 5 death of one person in any one accident and subject to said  
 6 limit for one person;

7 (ii) ~~\$50,000~~ \$100,000 because of bodily injury to or  
 8 death of two or more persons in any one accident; and

9 (iii) ~~\$10,000~~ \$20,000 because of injury to or  
 10 destruction of property of others in any one accident.

11 (3) An operator's policy of liability insurance must  
 12 insure the person named as insured therein in the policy  
 13 against loss from the liability imposed upon him by law for  
 14 damages arising out of the use by him of any motor vehicle  
 15 not owned by him, within the same territorial limits and  
 16 subject to the same limits of liability as are set forth  
 17 above with respect to the operator's policy of liability  
 18 insurance.

19 (4) A motor vehicle liability policy must state the  
 20 name and address of the named insured, the coverage afforded  
 21 by the policy, the premium charged therefor for the  
 22 coverage, the policy period, and the limits of liability and  
 23 contain an agreement or be endorsed that insurance is  
 24 provided thereunder under the policy in accordance with the  
 25 coverage defined in this part as respects bodily injury and

1 death or property damage, or both, and is subject to all the  
2 provisions of this part.

3 (5) A motor vehicle liability policy need not insure  
4 any liability under any workers' compensation law or any  
5 liability on account of bodily injury to or death of an  
6 employee of the insured while engaged in the employment,  
7 other than domestic, of the insured or while engaged in the  
8 operation, maintenance, or repair of a motor vehicle or any  
9 liability for damage to property owned by, rented to, in  
10 charge of, or transported by the insured.

11 (6) A motor vehicle liability policy is subject to the  
12 following provisions, which need not be contained therein in  
13 the policy:

14 (a) The liability of the insurance carrier with respect  
15 to the insurance required by this part becomes absolute  
16 whenever injury or damage covered by the motor vehicle  
17 liability policy occurs. The policy may not be canceled or  
18 annulled as to the liability by any agreement between the  
19 insurance carrier and the insured after the occurrence of  
20 the injury or damage. No A statement made by the insured or  
21 on his behalf and no or a violation of the policy may not  
22 defeat or void the policy.

23 (b) The satisfaction by the insured of a judgment for  
24 the injury or damage may not be a condition precedent to the  
25 right or duty of the insurance carrier to make payment on

1 account of the injury or damage.

2 (c) The insurance carrier has the right to settle any  
3 claim covered by the policy, and if the settlement is made  
4 in good faith, the amount is deductible from the limits of  
5 liability specified in subsection (2)(b).

6 (d) The policy, the written application therefor for  
7 the policy, if any, and any rider or endorsement which that  
8 does not conflict with the provisions of this part  
9 constitute the entire contract between the parties.

10 (7) A motor vehicle policy is not subject to  
11 cancellation, termination, nonrenewal, or premium increase  
12 due to injury or damage incurred by the insured or operator  
13 unless the insured or operator is found to have violated a  
14 traffic law or ordinance of the state or a city, is found  
15 negligent or contributorily negligent in a court of law or  
16 by the arbitration proceedings contained in chapter 5 of  
17 Title 27, or pays damages to another party, whether by  
18 settlement or otherwise. ~~In no event may a~~ A premium may not  
19 be increased during the term of the policy unless there is a  
20 change in exposure.

21 (8) Any policy which that grants the coverage required  
22 for a motor vehicle liability policy may also grant any  
23 lawful coverage in excess of or in addition to the coverage  
24 specified for a motor vehicle liability policy, and the  
25 excess or additional coverage is not subject to the

1 provisions of this part. With respect to a policy which  
 2 grants the excess or additional coverage, the term "motor  
 3 vehicle liability policy" applies only to that part of the  
 4 coverage which is required by this section.

5 (9) Any motor vehicle liability policy may provide that  
 6 the insured shall reimburse the insurance carrier for any  
 7 payment the insurance carrier would not have been obligated  
 8 to make under the terms of the policy except for the  
 9 provisions of this part.

10 (10) Any motor vehicle liability policy may provide for  
 11 the prorating of the insurance thereunder under the policy  
 12 with other valid and collectable insurance.

13 (11) The requirements for a motor vehicle liability  
 14 policy may be fulfilled by the policies of one or more  
 15 insurance carriers, which policies together meet such the  
 16 requirements.

17 (12) Any binder issued pending the issuance of a motor  
 18 vehicle liability policy fulfills the requirements for such  
 19 a the policy.

20 (13) A reduced limits endorsement may not be issued by  
 21 any a company to be attached to any a policy issued in  
 22 compliance with this section."

23 **Section 7.** Section 61-6-304, MCA, is amended to read:

24 "61-6-304. Penalties -- disposition. It is unlawful for  
 25 any person to operate a motor vehicle upon ways of this

1 state open to the public without a valid policy of liability  
 2 insurance in effect in an amount not less than that provided  
 3 in 61-6-301 or unless such the person has been issued a  
 4 certificate of self-insurance pursuant to 61-6-143 or has  
 5 previously posted an indemnity bond with the department as  
 6 provided by 61-6-301 or is operating a vehicle exempt under  
 7 61-6-303. A violation of 61-6-301 through 61-6-304 is a  
 8 misdemeanor punishable by a fine of not less than \$250 and  
 9 not to exceed \$500 or by imprisonment in the county jail for  
 10 not more than 10 days, or both. A fine assessed under this  
 11 section must be deposited in the uninsured motorist's  
 12 judgment satisfaction account established under [section  
 13 1]."

14 **NEW SECTION. Section 8. Saving clause.** [This act] does  
 15 not affect rights and duties that matured, penalties that  
 16 were incurred, or proceedings that were begun before [the  
 17 effective date of this act].

18 **NEW SECTION. Section 9. Severability.** If a part of  
 19 [this act] is invalid, all valid parts that are severable  
 20 from the invalid part remain in effect. If a part of [this  
 21 act] is invalid in one or more of its applications, the part  
 22 remains in effect in all valid applications that are  
 23 severable from the invalid applications.

24 **NEW SECTION. Section 10. Codification instruction.** (1)  
 25 [Section 1] is intended to be codified as an integral part

LC 1332/01

1 of Title 61, chapter 6, part 3, and the provisions of Title  
2 61, chapter 6, part 3, apply to [section 1].

3 (2) [Sections 2 and 3] are intended to be codified as  
4 an integral part of Title 33, chapter 1, part 3, and the  
5 provisions of Title 33, chapter 1, part 3, apply to  
6 [sections 2 and 3].

-End-



STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0459, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The bill would require that fines assessed for a motor vehicle owner's failure to comply with the Motor Vehicle Safety-Responsibility Act be deposited into an account to be used to satisfy judgments for damages against uninsured motorists; provides criteria for payments from the account and applicability dates for payments; increases the minimum required motor vehicle liability insurance coverage; expands the definition of an uninsured motor vehicle to include an underinsured motor vehicle; requires motor vehicle liability policies to include uninsured motorist coverage, and provides a statutory appropriation for the uninsured motorist's judgment satisfaction account.

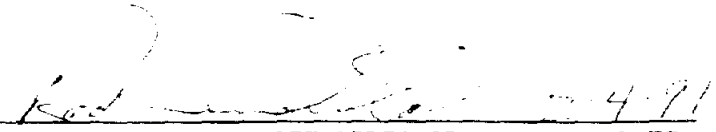
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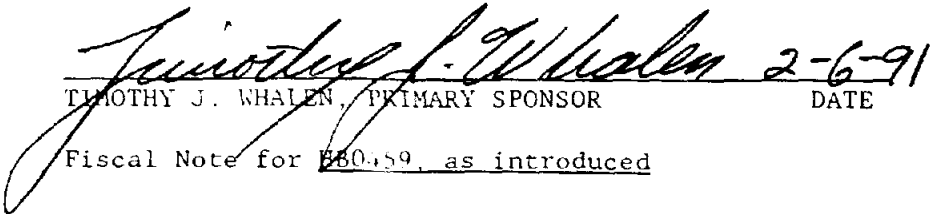
Department of Justice

1. 6,400 uninsured motor vehicle summons will be issued each year of the 1993 biennium by the Highway Patrol and county sheriff's departments, and 25% of those summons will be charged and collected. The average fine which will be collected is estimated to be \$250.
2. The bill intends for revenue from uninsured motor vehicle fines initiated by city police to also be deposited to the state fiduciary fund. Total city fine revenue is based upon the assumption that the ratio of total statewide city police tickets to total City of Helena tickets is 8.2 to 1.0, and that the City of Helena has issued an average of 1,617 uninsured vehicle tickets per year with an average collection per ticket of \$51.
3. In the absence of an effective date for the bill, it is assumed that the effective date will be October 1, 1991, and that the revenue diverted to the uninsured motorist's judgment satisfaction account (UMJSA) will be estimated on the basis of nine months during FY92 and twelve months during FY93.
4. The bill prohibits disbursements from the UMJSA until the earlier of the date the account balance exceeds \$250,000 or July 1, 1993. On the basis of estimated revenue for FY92 and in the absence of claims data to reasonably estimate the amount of payments to project for the 1993 biennium, it is assumed that all revenue deposited in the account will be paid out in the same fiscal year.

State Auditor

1. 1.00 FTE Compliance Specialist Grade 12 will be added to both years of the biennium to review and settle the claims against the UMJSA. Employee benefits are calculated at 22%.
2. Current law is represented by the executive budget for the Insurance Program in the State Auditor's Office.

  
\_\_\_\_\_  
ROD SUNDSTED, BUDGET DIRECTOR                      DATE  
Office of Budget and Program Planning

  
\_\_\_\_\_  
TIMOTHY J. WHALEN, PRIMARY SPONSOR                      DATE

Fiscal Note for HB0459, as introduced

**HB 459**

FISCAL IMPACT:

State Auditors Office-Insurance Program and Uninsured Motorist's Judgment Satisfaction Account

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
FTE	30.00	31.00	1.00	30.00	31.00	1.00
Personal Services	854,693	879,443	24,750	853,719	879,769	26,050
Operating Costs	144,677	150,877	6,200	145,901	152,101	6,200
Benefits and Claims	<u>0</u>	<u>806,000</u>	<u>806,000</u>	<u>0</u>	<u>1,075,000</u>	<u>1,075,000</u>
Total	999,370	1,836,320	836,950	999,620	2,106,870	1,107,250
<u>Funding:</u>						
General Fund (01)	999,370	1,030,320	30,950	999,620	1,031,870	32,250
Uninsured Motorist JSA (08)	<u>0</u>	<u>806,000</u>	<u>806,000</u>	<u>0</u>	<u>1,075,000</u>	<u>1,075,000</u>
Total	999,370	1,836,320	836,950	999,620	2,106,870	1,107,250
<u>Revenues:</u>						
General Fund (01)	46,000	11,500	(34,500)	46,000	0	(46,000)
State Special (02)	154,000	38,500	(115,500)	154,000	0	(154,000)
Uninsured Motorist JSA (08)	<u>0</u>	<u>806,000</u>	<u>806,000</u>	<u>0</u>	<u>1,075,000</u>	<u>1,075,000</u>
Total	200,000	856,000	656,000	200,000	1,075,000	875,000
General Fund Impact			(65,450)			(78,250)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

50% of uninsured motorist's fines currently retained by counties, estimated to be about \$200,000 per year, would be forwarded to the state uninsured motorist's judgment satisfaction account. Approximately \$675,000 per year currently collected and retained by cities would also be forwarded to the same account. The effect would be to reduce county and city revenue by these amounts.