

HOUSE BILL NO. 453
INTRODUCED BY MOLNAR, DRISCOLL

IN THE HOUSE

FEBRUARY 3, 1993	INTRODUCED AND REFERRED TO SELECT COMMITTEE ON WORKERS' COMPENSATION. FIRST READING.
MARCH 13, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED. ON MOTION, REREFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS.
MARCH 20, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 22, 1993	PRINTING REPORT.
MARCH 24, 1993	SECOND READING, DO PASS.
MARCH 25, 1993	ENGROSSING REPORT. THIRD READING, PASSED. AYES, 94; NOES, 2. TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 26, 1993	INTRODUCED AND REFERRED TO SELECT COMMITTEE ON WORKERS' COMPENSATION. FIRST READING.
APRIL 7, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 8, 1993	SECOND READING, CONCURRED IN.
APRIL 12, 1993	THIRD READING, CONCURRED IN. AYES, 48; NOES, 0. RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 14, 1993

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 19, 1993

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 21, 1993

SECOND READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

APRIL 22, 1993

THIRD READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE SENATE

APRIL 22, 1993

CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE HOUSE

APRIL 23, 1993

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 453
 2 INTRODUCED BY Brad Nelson
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING CIVIL
 5 PENALTIES TO BE ASSESSED BY THE DEPARTMENT OF LABOR AND
 6 INDUSTRY AGAINST PERSONS CONVICTED OF THEFT FOR WORKERS'
 7 COMPENSATION FRAUD; CREATING A REWARD SYSTEM FOR PERSONS
 8 SUPPLYING INFORMATION LEADING TO THE CONVICTION OF A PERSON
 9 FOR WORKERS' COMPENSATION FRAUD; DIRECTING THAT ANY EXCESS
 10 MONEY COLLECTED FROM PERSONS CONVICTED OF WORKERS'
 11 COMPENSATION FRAUD BE USED TO REDUCE THE UNFUNDED LIABILITY
 12 OF THE STATE FUND'S OLD FUND; AND AMENDING SECTIONS
 13 39-71-316 AND 45-6-301, MCA."

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 **Section 1.** Section 39-71-316, MCA, is amended to read:

17 "39-71-316. Filing true claim -- obtaining benefits
 18 through deception or other fraudulent means. (1) A person
 19 filing a claim under this chapter or chapter 72 of this
 20 title, by signing the claim, affirms the information filed
 21 is true and correct to the best of that person's knowledge.

22 (2) A person who obtains or assists in obtaining
 23 benefits to which the person is not entitled or who obtains
 24 or assists another person in obtaining benefits to which the
 25 other person is not entitled under this chapter or chapter

1 72 of this title may be guilty of theft under 45-6-301. A
 2 county attorney may initiate criminal proceedings against
 3 the person.

4 (3) (a) The department may require a person convicted
 5 of theft under 45-6-301(5) to pay to the department an
 6 amount equal to 10 times the amount paid by an insurer on
 7 the false claim. If upon demand of the department the person
 8 refuses to pay the fine, the department may institute suit
 9 to collect the money owed.

10 (b) The department shall use the money collected
 11 pursuant to subsection (3)(a):

12 (i) to administer and enforce the provisions of this
 13 section;

14 (ii) to create a reward system that pays 10% of the
 15 money collected from a person convicted under 45-6-301(5) to
 16 a person or persons supplying information leading to the
 17 conviction; and

18 (iii) to reduce the unfunded liability of claims arising
 19 before July 1, 1990, by forwarding any surplus money to the
 20 state fund, as defined in 39-71-2312.

21 (c) This section does not limit an insurer's civil
 22 remedies to collect for money paid to a person convicted
 23 under 45-6-301(5)."

24 **Section 2.** Section 45-6-301, MCA, is amended to read:

25 "45-6-301. Theft. (1) A person commits the offense of

1 theft when he the person purposely or knowingly obtains or
2 exerts unauthorized control over property of the owner and:

3 (a) has the purpose of depriving the owner of the
4 property;

5 (b) purposely or knowingly uses, conceals, or abandons
6 the property in such a manner as to deprive the owner of the
7 property; or

8 (c) uses, conceals, or abandons the property knowing
9 such the use, concealment, or abandonment probably will
10 deprive the owner of the property.

11 (2) A person commits the offense of theft when he the
12 person purposely or knowingly obtains by threat or deception
13 control over property of the owner and:

14 (a) has the purpose of depriving the owner of the
15 property;

16 (b) purposely or knowingly uses, conceals, or abandons
17 the property in such a manner as to deprive the owner of the
18 property; or

19 (c) uses, conceals, or abandons the property knowing
20 such the use, concealment, or abandonment probably will
21 deprive the owner of the property.

22 (3) A person commits the offense of theft when he the
23 person purposely or knowingly obtains control over stolen
24 property knowing the property to have been stolen by another
25 and:

1 (a) has the purpose of depriving the owner of the
2 property;

3 (b) purposely or knowingly uses, conceals, or abandons
4 the property in such a manner as to deprive the owner of the
5 property; or

6 (c) uses, conceals, or abandons the property knowing
7 such the use, concealment, or abandonment probably will
8 deprive the owner of the property.

9 (4) A person commits the offense of theft when he the
10 person purposely or knowingly obtains or exerts unauthorized
11 control over any part of any public assistance provided
12 under Title 53 by a state or county agency, regardless of
13 the original source of assistance, by means of:

14 (a) a knowingly false statement, representation, or
15 impersonation; or

16 (b) a fraudulent scheme or device.

17 (5) A person commits the offense of theft when he the
18 person purposely or knowingly obtains or exerts or helps
19 another obtain or exert unauthorized control over any part
20 of any benefits provided under Title 39, chapter 71 or 72,
21 by means of:

22 (a) a knowingly false statement, representation, or
23 impersonation; or

24 (b) deception or other fraudulent action.

25 (6) (a) A person convicted of the offense of theft of

1 property not exceeding \$300 in value shall be fined not to
2 exceed \$500 or be imprisoned in the county jail for any term
3 not to exceed 6 months, or both. A person convicted of a
4 second offense shall be fined \$500 or be imprisoned in the
5 county jail for a term not to exceed 6 months, or both. A
6 person convicted of a third or subsequent offense shall be
7 fined \$1,000 and be imprisoned in the county jail for a term
8 of not less than 30 days or more than 6 months.

9 (b) A person convicted of the offense of theft of
10 property exceeding \$300 in value or theft of any commonly
11 domesticated hoofed animal shall be fined not to exceed
12 \$50,000 or be imprisoned in the state prison for any term
13 not to exceed 10 years, or both.

14 (7) Amounts involved in thefts committed pursuant to a
15 common scheme or the same transaction, whether from the same
16 person or several persons, may be aggregated in determining
17 the value of the property."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0453, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act creating civil penalties to be assessed by the Department of Labor and Industry against persons convicted of theft or workers' compensation fraud; creating a reward system for persons supplying information leading to the conviction of a person for workers' compensation fraud; directing that any excess money collected from persons convicted of workers' compensation fraud be used to reduce the unfunded liability of the state funds's old fund; and amending sections.


ASSUMPTIONS:

1. There will be no appreciable impact to the Department of Labor and Industry as the number of workers' compensation fraud cases is minimal. The cost of any increases in workload from historic levels would be recovered from the civil penalties.
2. The bill creates a new revenue source to reduce the unfunded liability of the State Fund's old fund; however, there is insufficient information available to estimate this potential revenue.

FISCAL IMPACT: Unknown.

TECHNICAL NOTES:

The bill provides an allocation of revenues from the civil penalties but does not contain authority to spend the expected proceeds for administrative costs or rewards.

 2-8-93

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2-9-93

BRAD MOLNAR, PRIMARY SPONSOR DATE

Fiscal Note for HB0453, as introduced

HB 453

APPROVED BY THE SELECT COMMITTEE
ON WORKER'S COMPENSATION

HOUSE BILL NO. 453

INTRODUCED BY MOLNAR, DRISCOLL

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING CIVIL PENALTIES TO BE ASSESSED BY THE DEPARTMENT OF LABOR AND INDUSTRY AGAINST PERSONS CONVICTED OF THEFT FOR WORKERS' COMPENSATION FRAUD; ~~CREATING A REWARD SYSTEM FOR PERSONS SUPPLYING INFORMATION LEADING TO THE CONVICTION OF A PERSON FOR WORKERS' COMPENSATION FRAUD~~; DIRECTING THAT ANY EXCESS MONEY COLLECTED FROM PERSONS CONVICTED OF WORKERS' COMPENSATION FRAUD BE USED TO ~~REDUCE THE UNFUNDED LIABILITY OF THE STATE FUND'S OLB FUND~~ SUPPORT THE INVESTIGATION AND PROSECUTION OF WORKERS' COMPENSATION FRAUD; AND AMENDING SECTIONS 39-71-316 AND 45-6-301, MCA."

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

Section 1. Section 39-71-316, MCA, is amended to read:

"39-71-316. Filing true claim -- obtaining benefits through deception or other fraudulent means. (1) A person filing a claim under this chapter or chapter 72 of this title, by signing the claim, affirms the information filed is true and correct to the best of that person's knowledge.

(2) A person who obtains or assists in obtaining benefits to which the person is not entitled or who obtains or assists another person in obtaining benefits to which the

other person is not entitled under this chapter or chapter 72 of this title may be guilty of theft under 45-6-301. A county attorney may initiate criminal proceedings against the person.

(3) (a) The department may require a person convicted of theft under 45-6-301(5) to pay to the department an amount equal to 10 times the amount paid by an insurer on the false claim. If upon demand of the department the person refuses to pay the fine, the department may institute suit to collect the money owed.

(b) The department shall:

(i) use the money collected pursuant to subsection (3)(a):

(i) to administer and enforce the provisions of this section; AND

(ii) to create a reward system that pays 10% of the money collected from a person convicted under 45-6-301(5) to a person or persons supplying information leading to the conviction; and

(iii) to reduce the unfunded liability of claims arising before July 1, 1998, by forwarding any surplus money to the state fund, as defined in 39-71-2312 FORWARD ANY SURPLUS MONEY TO THE DEPARTMENT OF JUSTICE. THE FORWARDED MONEY MUST BE USED EXCLUSIVELY FOR THE STAFFING AND OPERATION OF THE WORKERS' COMPENSATION FRAUD INVESTIGATION AND PROSECUTION

1 OFFICE ESTABLISHED IN [SECTION 1 OF SENATE BILL NO. 164].

2 (c) This section does not limit an insurer's civil
 3 remedies to collect for money paid to a person convicted
 4 under 45-6-301(5)."

5 **Section 2.** Section 45-6-301, MCA, is amended to read:

6 "45-6-301. Theft. (1) A person commits the offense of
 7 theft when he the person purposely or knowingly obtains or
 8 exerts unauthorized control over property of the owner and:

9 (a) has the purpose of depriving the owner of the
 10 property;

11 (b) purposely or knowingly uses, conceals, or abandons
 12 the property in such a manner as to deprive the owner of the
 13 property; or

14 (c) uses, conceals, or abandons the property knowing
 15 such the use, concealment, or abandonment probably will
 16 deprive the owner of the property.

17 (2) A person commits the offense of theft when he the
 18 person purposely or knowingly obtains by threat or deception
 19 control over property of the owner and:

20 (a) has the purpose of depriving the owner of the
 21 property;

22 (b) purposely or knowingly uses, conceals, or abandons
 23 the property in such a manner as to deprive the owner of the
 24 property; or

25 (c) uses, conceals, or abandons the property knowing

1 such the use, concealment, or abandonment probably will
 2 deprive the owner of the property.

3 (3) A person commits the offense of theft when he the
 4 person purposely or knowingly obtains control over stolen
 5 property knowing the property to have been stolen by another
 6 and:

7 (a) has the purpose of depriving the owner of the
 8 property;

9 (b) purposely or knowingly uses, conceals, or abandons
 10 the property in such a manner as to deprive the owner of the
 11 property; or

12 (c) uses, conceals, or abandons the property knowing
 13 such the use, concealment, or abandonment probably will
 14 deprive the owner of the property.

15 (4) A person commits the offense of theft when he the
 16 person purposely or knowingly obtains or exerts unauthorized
 17 control over any part of any public assistance provided
 18 under Title 53 by a state or county agency, regardless of
 19 the original source of assistance, by means of:

20 (a) a knowingly false statement, representation, or
 21 impersonation; or

22 (b) a fraudulent scheme or device.

23 (5) A person commits the offense of theft when he the
 24 person purposely or knowingly obtains or exerts or helps
 25 another obtain or exert unauthorized control over any part

1 of any benefits provided under Title 39, chapter 71 or 72,
2 by means of:

3 (a) a knowingly false statement, representation, or
4 impersonation; or

5 (b) deception or other fraudulent action.

6 (6) (a) A person convicted of the offense of theft of
7 property not exceeding \$300 in value shall be fined not to
8 exceed \$500 or be imprisoned in the county jail for any term
9 not to exceed 6 months, or both. A person convicted of a
10 second offense shall be fined \$500 or be imprisoned in the
11 county jail for a term not to exceed 6 months, or both. A
12 person convicted of a third or subsequent offense shall be
13 fined \$1,000 and be imprisoned in the county jail for a term
14 of not less than 30 days or more than 6 months.

15 (b) A person convicted of the offense of theft of
16 property exceeding \$300 in value or theft of any commonly
17 domesticated hoofed animal shall be fined not to exceed
18 \$50,000 or be imprisoned in the state prison for any term
19 not to exceed 10 years, or both.

20 (7) Amounts involved in thefts committed pursuant to a
21 common scheme or the same transaction, whether from the same
22 person or several persons, may be aggregated in determining
23 the value of the property."

24 NEW SECTION. SECTION 3. COORDINATION INSTRUCTION. IF
25 SENATE BILL NO. 164 IS NOT PASSED AND APPROVED OR DOES NOT

1 ESTABLISH A WORKERS' COMPENSATION FRAUD INVESTIGATION AND
2 PROSECUTION OFFICE, THEN SUBSECTION (3)(B)(II) OF [SECTION 1
3 OF THIS ACT], AMENDING 39-71-316, MUST READ: "(II) FORWARD
4 ANY SURPLUS MONEY TO THE STATE FUND, AS DEFINED IN
5 39-71-2312, TO REDUCE THE UNFUNDED LIABILITY OF CLAIMS
6 ARISING BEFORE JULY 1, 1990".

-End-

HOUSE BILL NO. 453
INTRODUCED BY MOLNAR, DRISCOLL

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING CIVIL PENALTIES TO BE ASSESSED BY THE DEPARTMENT OF LABOR AND INDUSTRY AGAINST PERSONS CONVICTED OF THEFT FOR WORKERS' COMPENSATION FRAUD; CREATING A REWARD SYSTEM FOR PERSONS SUPPLYING INFORMATION LEADING TO THE CONVICTION OF A PERSON FOR WORKERS' COMPENSATION FRAUD; DIRECTING THAT ANY EXCESS MONEY COLLECTED FROM PERSONS CONVICTED OF WORKERS' COMPENSATION FRAUD BE USED TO REDUCE THE UNFUNDED LIABILITY OF THE STATE FUND'S OLD FUND SUPPORT THE INVESTIGATION AND PROSECUTION OF WORKERS' COMPENSATION FRAUD; AND AMENDING SECTIONS 39-71-316 AND 45-6-301, MCA."

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

Section 1. Section 39-71-316, MCA, is amended to read:

"39-71-316. Filing true claim -- obtaining benefits through deception or other fraudulent means. (1) A person filing a claim under this chapter or chapter 72 of this title, by signing the claim, affirms the information filed is true and correct to the best of that person's knowledge.

(2) (A) A person who obtains or assists in obtaining benefits to which the person is not entitled or who obtains or assists another person in obtaining benefits to which the

other person is not entitled under this chapter or chapter 72 of this title may be guilty of theft under 45-6-301. A county attorney may initiate criminal proceedings against the person.

(B) AS USED IN SUBSECTION (2)(A), "PERSON" INCLUDES BUT IS NOT LIMITED TO AN EMPLOYEE, EMPLOYER, OR MEDICAL SERVICE PROVIDER.

(3) (a) The department may require a person convicted of theft under 45-6-301(5) to pay to the department an amount equal to 10 times the amount paid by an insurer on the false claim. If upon demand of the department the person refuses to pay the fine, the department may institute suit to collect the money owed.

(b) The department shall:

(i) use the money collected pursuant to subsection (3)(a);

(ii) to administer and enforce the provisions of this section; AND

(iii) to create a reward system that pays 10% of the money collected from a person convicted under 45-6-301(5) to a person or persons supplying information leading to the conviction; and

(iv) to reduce the unfunded liability of claims arising before July 17, 1990, by forwarding any surplus money to the state fund, as defined in 39-71-2312 FORWARD ANY SURPLUS

MONEY TO THE DEPARTMENT OF JUSTICE, THE FORWARDED MONEY MUST
BE USED EXCLUSIVELY FOR THE STAFFING AND OPERATION OF THE
WORKERS' COMPENSATION FRAUD INVESTIGATION AND PROSECUTION
OFFICE ESTABLISHED IN [SECTION 1 OF SENATE BILL NO. 164].

(c) This section does not limit an insurer's civil
remedies to collect for money paid to a person convicted
under 45-6-301(5)."

Section 2. Section 45-6-301, MCA, is amended to read:

"45-6-301. **Theft.** (1) A person commits the offense of theft when he the person purposely or knowingly obtains or exerts unauthorized control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in such a manner as to deprive the owner of the property; or

(c) uses, conceals, or abandons the property knowing such the use, concealment, or abandonment probably will deprive the owner of the property.

(2) A person commits the offense of theft when he the person purposely or knowingly obtains by threat or deception control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons

the property in such a manner as to deprive the owner of the property; or

(c) uses, conceals, or abandons the property knowing such the use, concealment, or abandonment probably will deprive the owner of the property.

(3) A person commits the offense of theft when he the person purposely or knowingly obtains control over stolen property knowing the property to have been stolen by another and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in such a manner as to deprive the owner of the property; or

(c) uses, conceals, or abandons the property knowing such the use, concealment, or abandonment probably will deprive the owner of the property.

(4) A person commits the offense of theft when he the person purposely or knowingly obtains or exerts unauthorized control over any part of any public assistance provided under Title 53 by a state or county agency, regardless of the original source of assistance, by means of:

(a) a knowingly false statement, representation, or impersonation; or

(b) a fraudulent scheme or device.

1 (5) A person commits the offense of theft when he the
 2 person purposely or knowingly obtains or exerts or helps
 3 another obtain or exert unauthorized control over any part
 4 of any benefits provided under Title 39, chapter 71 or 72,
 5 by means of:

6 (a) a knowingly false statement, representation, or
 7 impersonation; or

8 (b) deception or other fraudulent action.

9 (6) (a) A person convicted of the offense of theft of
 10 property not exceeding \$300 in value shall be fined not to
 11 exceed \$500 or be imprisoned in the county jail for any term
 12 not to exceed 6 months, or both. A person convicted of a
 13 second offense shall be fined \$500 or be imprisoned in the
 14 county jail for a term not to exceed 6 months, or both. A
 15 person convicted of a third or subsequent offense shall be
 16 fined \$1,000 and be imprisoned in the county jail for a term
 17 of not less than 30 days or more than 6 months.

18 (b) A person convicted of the offense of theft of
 19 property exceeding \$300 in value or theft of any commonly
 20 domesticated hoofed animal shall be fined not to exceed
 21 \$50,000 or be imprisoned in the state prison for any term
 22 not to exceed 10 years, or both.

23 (7) Amounts involved in thefts committed pursuant to a
 24 common scheme or the same transaction, whether from the same
 25 person or several persons, may be aggregated in determining

1 the value of the property."

2 NEW SECTION. SECTION 3. COORDINATION INSTRUCTION. IF
 3 SENATE BILL NO. 164 IS NOT PASSED AND APPROVED OR DOES NOT
 4 ESTABLISH A WORKERS' COMPENSATION FRAUD INVESTIGATION AND
 5 PROSECUTION OFFICE, THEN SUBSECTION (3)(B)(II) OF [SECTION 1
 6 OF THIS ACT], AMENDING 39-71-316, MUST READ: "(II) FORWARD
 7 ANY SURPLUS MONEY TO THE STATE FUND, AS DEFINED IN
 8 39-71-2312, TO REDUCE THE UNFUNDED LIABILITY OF CLAIMS
 9 ARISING BEFORE JULY 1, 1990".

-End-

HOUSE BILL NO. 453

INTRODUCED BY MOLNAR, DRISCOLL

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING CIVIL PENALTIES TO BE ASSESSED BY THE DEPARTMENT OF LABOR AND INDUSTRY AGAINST PERSONS CONVICTED OF THEFT FOR WORKERS' COMPENSATION FRAUD; ~~CREATING-A-REWARD-SYSTEM-FOR-PERSONS SUPPLYING- INFORMATION-LEADING-TO-THE-CONVICTION-OF-A-PERSON FOR-WORKERS'-COMPENSATION-FRAUD~~; DIRECTING THAT ANY EXCESS MONEY COLLECTED FROM PERSONS CONVICTED OF WORKERS' COMPENSATION FRAUD BE USED TO ~~REDUCE-THE-UNFUNDED-LIABILITY OF-THE-STATE-FUND+8-66B-FUND~~ SUPPORT THE INVESTIGATION AND PROSECUTION OF WORKERS' COMPENSATION FRAUD; AND AMENDING SECTIONS 39-71-316 AND 45-6-301, MCA."

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

Section 1. Section 39-71-316, MCA, is amended to read:

"39-71-316. Filing true claim -- obtaining benefits through deception or other fraudulent means. (1) A person filing a claim under this chapter or chapter 72 of this title, by signing the claim, affirms the information filed is true and correct to the best of that person's knowledge.

(2) (A) A person who obtains or assists in obtaining benefits to which the person is not entitled or who obtains or assists another person in obtaining benefits to which the

other person is not entitled under this chapter or chapter 72 of this title may be guilty of theft under 45-6-301. A county attorney may initiate criminal proceedings against the person.

(B) AS USED IN SUBSECTION (2)(A), "PERSON" INCLUDES BUT IS NOT LIMITED TO AN EMPLOYEE, EMPLOYER, OR MEDICAL SERVICE PROVIDER.

(3) (a) The department may require a person convicted of theft under 45-6-301(5) to pay to the department an amount equal to 10 times the amount paid by an insurer on the false claim. If upon demand of the department the person refuses to pay the fine, the department may institute suit to collect the money owed.

(b) The department shall:

(I) use the money collected pursuant to subsection

(3)(a):

{i} to administer and enforce the provisions of this section; AND

(ii) to--create-a--reward--system--that-pays-10%--of--the money-collected-from-a-person-convicted-under-45-6-301(5)--to a-person-or-persons-supplying--information--leading--to--the conviction;--and

{iii}--to-reduce-the-unfunded-liability-of-claims-arising before--July-17-1998--by-forwarding-any-surplus-money-to-the state-fund--as-defined-in--39-71-2312 FORWARD ANY SURPLUS

MONEY TO THE DEPARTMENT OF JUSTICE. THE FORWARDED MONEY MUST
BE USED EXCLUSIVELY FOR THE STAFFING AND OPERATION OF THE
WORKERS' COMPENSATION FRAUD INVESTIGATION AND PROSECUTION
OFFICE ESTABLISHED IN [SECTION 1 OF SENATE BILL NO. 164].

(c) This section does not limit an insurer's civil
remedies to collect for money paid to a person convicted
under 45-6-301(5)."

Section 2. Section 45-6-301, MCA, is amended to read:

"45-6-301. Theft. (1) A person commits the offense of theft when he the person purposely or knowingly obtains or exerts unauthorized control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in such a manner as to deprive the owner of the property; or

(c) uses, conceals, or abandons the property knowing such the use, concealment, or abandonment probably will deprive the owner of the property.

(2) A person commits the offense of theft when he the person purposely or knowingly obtains by threat or deception control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons

the property in such a manner as to deprive the owner of the property; or

(c) uses, conceals, or abandons the property knowing such the use, concealment, or abandonment probably will deprive the owner of the property.

(3) A person commits the offense of theft when he the person purposely or knowingly obtains control over stolen property knowing the property to have been stolen by another and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in such a manner as to deprive the owner of the property; or

(c) uses, conceals, or abandons the property knowing such the use, concealment, or abandonment probably will deprive the owner of the property.

(4) A person commits the offense of theft when he the person purposely or knowingly obtains or exerts unauthorized control over any part of any public assistance provided under Title 53 by a state or county agency, regardless of the original source of assistance, by means of:

(a) a knowingly false statement, representation, or impersonation; or

(b) a fraudulent scheme or device.

(5) A person commits the offense of theft when he the person purposely or knowingly obtains or exerts or helps another obtain or exert unauthorized control over any part of any benefits provided under Title 39, chapter 71 or 72, by means of:

(a) a knowingly false statement, representation, or impersonation; or

(b) deception or other fraudulent action.

(6) (a) A person convicted of the offense of theft of property not exceeding \$300 in value shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. A person convicted of a second offense shall be fined \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be fined \$1,000 and be imprisoned in the county jail for a term of not less than 30 days or more than 6 months.

(b) A person convicted of the offense of theft of property exceeding \$300 in value or theft of any commonly domesticated hoofed animal shall be fined not to exceed \$50,000 or be imprisoned in the state prison for any term not to exceed 10 years, or both.

(7) Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining

the value of the property."

NEW SECTION. SECTION 3. COORDINATION INSTRUCTION. IF SENATE BILL NO. 164 IS NOT PASSED AND APPROVED OR DOES NOT ESTABLISH A WORKERS' COMPENSATION FRAUD INVESTIGATION AND PROSECUTION OFFICE, THEN SUBSECTION (3)(B)(II) OF [SECTION 1 OF THIS ACT], AMENDING 39-71-316, MUST READ: "(II) FORWARD ANY SURPLUS MONEY TO THE STATE FUND, AS DEFINED IN 39-71-2312, TO REDUCE THE UNFUNDED LIABILITY OF CLAIMS ARISING BEFORE JULY 1, 1990".

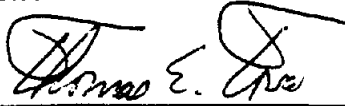
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SENATE SELECT COMMITTEE REPORT

Page 1 of 1
April 6, 1993

MR. PRESIDENT:

We, your select committee on Worker's Compensation, having had under consideration House Bill No. 453 (third reading copy -- blue), respectfully report that House Bill No. 453 be amended as follows and as so amended be concurred in.

Signed: 
Senator Thomas E. "Tom" Towe, Chair

That such amendments read:

1. Page 2, line 6.
Following: "EMPLOYER,"
Insert: "insurer,"


2. Page 2, line 11.
Following: "claim"
Insert: ", provided that the amount does not exceed \$50,000"

-END-

HB 453

SENATE

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 Amd. Coord.
Sec. of Senate


Senator Carrying Bill

HOUSE BILL NO. 453

INTRODUCED BY MOLNAR, DRISCOLL

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING CIVIL PENALTIES TO BE ASSESSED BY THE DEPARTMENT OF LABOR AND INDUSTRY AGAINST PERSONS CONVICTED OF THEFT FOR WORKERS' COMPENSATION FRAUD; ~~CREATING-A--REWARD--SYSTEM--FOR--PERSONS SUPPLYING--INFORMATION-LEADING-TO-THE-CONVICTION-OF-A-PERSON FOR-WORKERS'-COMPENSATION-FRAUD~~; DIRECTING THAT ANY EXCESS MONEY COLLECTED FROM PERSONS CONVICTED OF WORKERS' COMPENSATION FRAUD BE USED TO ~~REDUCE-THE-UNFUNDED--LIABILITY OF--THE--STATE-FUND'S-OLD-FUND~~ SUPPORT THE INVESTIGATION AND PROSECUTION OF WORKERS' COMPENSATION FRAUD; AND AMENDING SECTIONS 39-71-316 AND 45-6-301, MCA."

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

Section 1. Section 39-71-316, MCA, is amended to read:

"39-71-316. Filing true claim -- obtaining benefits through deception or other fraudulent means. (1) A person filing a claim under this chapter or chapter 72 of this title, by signing the claim, affirms the information filed is true and correct to the best of that person's knowledge.

(2) (A) A person who obtains or assists in obtaining benefits to which the person is not entitled or who obtains or assists another person in obtaining benefits to which the

other person is not entitled under this chapter or chapter 72 of this title may be guilty of theft under 45-6-301. A county attorney may initiate criminal proceedings against the person.

(B) AS USED IN SUBSECTION (2)(A), "PERSON" INCLUDES BUT IS NOT LIMITED TO AN EMPLOYEE, EMPLOYER, INSURER, OR MEDICAL SERVICE PROVIDER.

(3) (a) The department may require a person convicted of theft under 45-6-301(5) to pay to the department an amount equal to 10 times the amount paid by an insurer on the false claim, PROVIDED THAT THE AMOUNT DOES NOT EXCEED \$50,000. If upon demand of the department the person refuses to pay the fine, the department may institute suit to collect the money owed.

(b) The department shall:

(i) use the money collected pursuant to subsection (3)(a);

(ii) to administer and enforce the provisions of this section; AND

(iii) to--create--a--reward--system--that--pays--10%--of--the money--collected--from--a--person--convicted--under--45-6-301(5)--to a--person--or--persons--supplying--information--leading--to--the conviction;--and

(iv) to--reduce--the--unfunded--liability--of--claims--arising before--July--17--1990;--by--forwarding--any--surplus--money--to--the

~~state-fund, as defined in --99-71-2312~~ FORWARD ANY SURPLUS MONEY TO THE DEPARTMENT OF JUSTICE. THE FORWARDED MONEY MUST BE USED EXCLUSIVELY FOR THE STAFFING AND OPERATION OF THE WORKERS' COMPENSATION FRAUD INVESTIGATION AND PROSECUTION OFFICE ESTABLISHED IN [SECTION 1 OF SENATE BILL NO. 164].

(c) This section does not limit an insurer's civil remedies to collect for money paid to a person convicted under 45-6-301(5)."

Section 2. Section 45-6-301, MCA, is amended to read:

"45-6-301. Theft. (1) A person commits the offense of theft when he the person purposely or knowingly obtains or exerts unauthorized control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in such a manner as to deprive the owner of the property; or

(c) uses, conceals, or abandons the property knowing such the use, concealment, or abandonment probably will deprive the owner of the property.

(2) A person commits the offense of theft when he the person purposely or knowingly obtains by threat or deception control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in such a manner as to deprive the owner of the property; or

(c) uses, conceals, or abandons the property knowing such the use, concealment, or abandonment probably will deprive the owner of the property.

(3) A person commits the offense of theft when he the person purposely or knowingly obtains control over stolen property knowing the property to have been stolen by another and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in such a manner as to deprive the owner of the property; or

(c) uses, conceals, or abandons the property knowing such the use, concealment, or abandonment probably will deprive the owner of the property.

(4) A person commits the offense of theft when he the person purposely or knowingly obtains or exerts unauthorized control over any part of any public assistance provided under Title 53 by a state or county agency, regardless of the original source of assistance, by means of:

(a) a knowingly false statement, representation, or impersonation; or

(b) a fraudulent scheme or device.

(5) A person commits the offense of theft when he the person purposely or knowingly obtains or exerts or helps another obtain or exert unauthorized control over any part of any benefits provided under Title 39, chapter 71 or 72, by means of:

(a) a knowingly false statement, representation, or impersonation; or

(b) deception or other fraudulent action.

(6) (a) A person convicted of the offense of theft of property not exceeding \$300 in value shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. A person convicted of a second offense shall be fined \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be fined \$1,000 and be imprisoned in the county jail for a term of not less than 30 days or more than 6 months.

(b) A person convicted of the offense of theft of property exceeding \$300 in value or theft of any commonly domesticated hoofed animal shall be fined not to exceed \$50,000 or be imprisoned in the state prison for any term not to exceed 10 years, or both.

(7) Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same

person or several persons, may be aggregated in determining the value of the property."

NEW SECTION. SECTION 3. COORDINATION INSTRUCTION. IF SENATE BILL NO. 164 IS NOT PASSED AND APPROVED OR DOES NOT ESTABLISH A WORKERS' COMPENSATION FRAUD INVESTIGATION AND PROSECUTION OFFICE, THEN SUBSECTION (3)(B)(II) OF [SECTION 1 OF THIS ACT], AMENDING 39-71-316, MUST READ: "(II) FORWARD ANY SURPLUS MONEY TO THE STATE FUND, AS DEFINED IN 39-71-2312, TO REDUCE THE UNFUNDED LIABILITY OF CLAIMS ARISING BEFORE JULY 1, 1990".

-End-

Conference Committee
on House Bill 453
Report No.1, April 20, 1993

Page 1 of 1

Mr. Speaker and Mr. President:


We, your Conference Committee on House Bill 453 met and considered :

1. Select Worker Compensation Committee amendments of April 6, 1993
and recommend that House Bill 453 (reference copy -- salmon) be amended as follows:

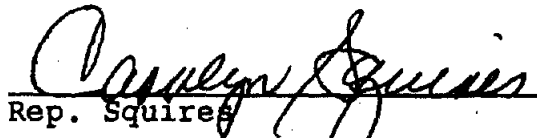
1. Adopt the Select Worker Compensation amendments of April 6, 1993.

Further, that this Conference Committee report be adopted.

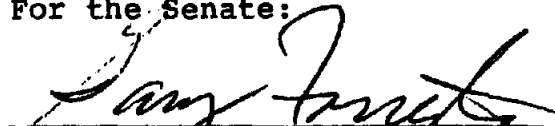
For the House:


Rep. Hibbard, Chair

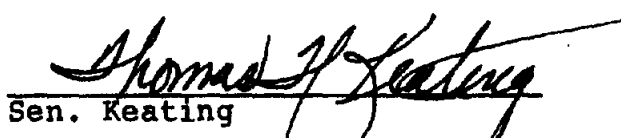

Rep. Winslow


Rep. Squires

For the Senate:


Sen. Forrester, Chair


Sen. Towe


Sen. Keating

ADOPT

C.C.R.#1
HB 453