

HOUSE BILL NO. 200

INTRODUCED BY REAM, D. BROWN, ADDY, NORMAN, BRAND,
J. JENSEN, MCBRIDE, JACOBSON, KEENAN, KADAS, EUDAILY,
WALDRON, HANSEN, DARKO, LORY, METCALF, DONALDSON,
MOHAR, MENAHAN, DAILY, HAMMOND, KEMMIS,
HARRINGTON, HAGER, HALLIGAN, VELEBER

BY REQUEST OF THE DEPARTMENT OF HEALTH
AND ENVIRONMENTAL SCIENCES

IN THE HOUSE

January 19, 1983	Introduced and referred to Committee on Natural Resources.
February 7, 1983	On motion by chief sponsor, Representative Veleber was added as an author to the bill.
February 8, 1983	Committee recommend bill do pass as amended. Report adopted.
February 9, 1983	Bill printed and placed on members' desks.
February 10, 1983	Second reading, do pass.
February 11, 1983	Considered correctly engrossed.
February 12, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 12, 1983	Introduced and referred to Committee on Public Health, Welfare and Safety.
March 15, 1983	Committee recommend bill be concurred in. Report adopted.

March 16, 1983

Second reading, concurred in.

March 18, 1983

Third reading, concurred in.
Ayes, 49; Noes, 0.

IN THE HOUSE

March 18, 1983

Returned to House.

March 19, 1983

Sent to enrolling.

Reported correctly enrolled.

1 *J. Janssen* *House* BILL NO. *200*
 2 INTRODUCED BY *Ream One Brum* *Ally* *Norman* *Brand*
 3 *McBride* *Jacobson* *Keenan* *Kelso* *Eidson*
 4 BY REQUEST OF THE DEPARTMENT OF HEALTH
 5 *Walton* *Stall* *Andersen* *Larko* *Long*
 6 *Metcalfe* *Harmon* *Harving* *Hall*
 7 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE
 8 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO COOPERATE
 9 WITH THE FEDERAL GOVERNMENT IN IMPLEMENTATION OF THE FEDERAL
 10 COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND
 11 LIABILITY ACT OF 1980 TO REMEDY THE RELEASE OF HAZARDOUS
 12 SUBSTANCES AND CONTAMINANTS INTO THE ENVIRONMENT; AMENDING
 13 SECTION 75-10-532, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
 14 DATE."
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 16 NEW SECTION. Section 1. Purpose. The legislature
 17 finds that the existence of hazardous substances and
 18 contaminants in the environment and hazardous waste disposal
 19 sites poses a significant health hazard through potential
 20 and actual contamination of the environment. [Sections 1
 21 through 4] are therefore enacted to protect the public
 22 health, safety, and welfare through cooperation with the
 23 federal government under the federal Comprehensive
 24 Environmental Response, Compensation, and Liability Act of
 25 1980 to provide for the disposal and control of such

1 hazardous substances and contaminants in a safe and
 2 environmentally sound manner.

3 NEW SECTION. Section 2. Definitions. As used in
 4 [sections 1 through 4], the following definitions apply:

5 (1) "CERCLA" means the federal Comprehensive
 6 Environmental Response, Compensation, and Liability Act of
 7 1980, Public Law 96-510.

8 (2) "Contaminant" includes but is not limited to any
 9 element, substance, compound, or mixture, including
 10 disease-causing agents, which after release into the
 11 environment and upon exposure, ingestion, inhalation, or
 12 assimilation into any organism, either directly from the
 13 environment or indirectly by ingestion through food chains,
 14 will or may reasonably be anticipated to cause death,
 15 disease, behavioral abnormalities, cancer, genetic mutation,
 16 physiological malfunctions (including malfunctions in
 17 reproduction), or physical deformations in such organisms or
 18 their offspring. The term does not include petroleum
 19 (including crude oil or any fraction thereof that is not
 20 specifically listed or designated as a hazardous substance
 21 as provided in subsection (4)(a)) or natural gas, liquefied
 22 natural gas, synthetic gas of pipeline quality, or mixtures
 23 of natural gas and such synthetic gas.

24 (3) "Department" means the department of health and
 25 environmental sciences provided for in Title 2, chapter 15,

1 part 21.

2 (4) (a) "Hazardous substance" means:

3 (i) any substance designated pursuant to section
4 311(b)(2)(A) of the federal Water Pollution Control Act;

5 (ii) any element, compound, mixture, solution, or
6 substance designated a hazardous substance by regulations
7 promulgated by the administrator of the federal
8 environmental protection agency pursuant to section 102 of
9 CERCLA;

10 (iii) any hazardous waste having the characteristics
11 identified under or listed pursuant to section 3001 of the
12 federal Solid Waste Disposal Act (but not including any
13 waste the regulation of which under the Solid Waste Disposal
14 Act has been suspended by act of congress);

15 (iv) any toxic pollutant listed under section 307(a) of
16 the federal Water Pollution Control Act;

17 (v) any hazardous air pollutant listed under section
18 112 of the federal Clean Air Act; and

19 (vi) any imminently hazardous chemical substance or
20 mixture with respect to which the administrator of the
21 environmental protection agency has taken action pursuant to
22 section 7 of the federal Toxic Substances Control Act.

23 (b) The term does not include petroleum (including
24 crude oil or any fraction thereof that is not specifically
25 listed or designated as a hazardous substance as provided in

1 subsection (4)(a)) or natural gas, natural gas liquids,
2 liquefied natural gas, synthetic gas usable for fuel, or
3 mixtures of natural gas and such synthetic gas.

4 (5) "Hazardous waste" means a solid waste or
5 combination of solid wastes which because of its quantity,
6 concentration, or physical, chemical, or infectious
7 characteristics may:

8 (a) cause or significantly contribute to an increase
9 in mortality or an increase in serious irreversible or
10 incapacitating reversible illness; or

11 (b) pose a substantial present or potential hazard to
12 human health or the environment when improperly treated,
13 stored, transported, or disposed of or otherwise managed.

14 (6) "President" means the president of the United
15 States.

16 (7) "Release" means any spilling, leaking, pumping,
17 pouring, emitting, emptying, discharging, injecting,
18 escaping, leaching, dumping, or disposing into the
19 environment, but excludes:

20 (a) any release that results in exposure to persons
21 solely within a workplace, with respect to a claim which
22 such persons may assert against the employer of such
23 persons;

24 (b) emissions from the engine exhaust of a motor
25 vehicle, rolling stock, aircraft, vessel, or pipeline

1 pumping station engine;

2 (c) (i) release of source, byproduct, or special
3 nuclear material from a nuclear incident, as those terms are
4 defined in the federal Atomic Energy Act of 1954, if such
5 release is subject to requirements with respect to financial
6 protection established by the nuclear regulatory commission
7 under section 170 of that act; or

8 (ii) for the purposes of section 104 of CERCLA or any
9 other response action, any release of source byproduct or
10 special nuclear material from any processing site designated
11 under section 102(a)(1) or 302(a) of the federal Uranium
12 Mill Tailings Radiation Control Act of 1978; and

13 (d) the normal application of fertilizer.

14 (8) "Remedial action" means those actions consistent
15 with a permanent remedy taken instead of or in addition to
16 removal actions in the event of a release or threatened
17 release of a hazardous substance into the environment that
18 prevent or minimize the release of hazardous substances so
19 that they do not migrate to cause substantial danger to the
20 present or future public health or welfare or the
21 environment. The term includes but is not limited to such
22 actions at the location of the release as storage;
23 confinement; perimeter protection using dikes, trenches, or
24 ditches; clay cover; neutralization; cleanup of released
25 hazardous substances or contaminated materials; recycling or

1 reuse; diversion; destruction; segregation of reactive
2 wastes; dredging or excavations; repair or replacement of
3 leaking containers; collection of leachate and runoff;
4 onsite treatment or incineration; provision of alternative
5 water supplies; and any monitoring reasonably required to
6 assure that such actions protect the public health and
7 welfare and the environment. The term includes the costs of
8 permanent relocation of residents and businesses and
9 community facilities if the president determines that, alone
10 or in combination with other measures, such relocation is
11 more cost-effective than and environmentally preferable to
12 the transportation, storage, treatment, destruction, or
13 secure disposition offsite of hazardous substances or is
14 otherwise necessary to protect the public health or welfare.
15 The term does not include offsite transport of hazardous
16 substances or the storage, treatment, destruction, or secure
17 disposition offsite of such hazardous substances or
18 contaminated materials unless the president determines that
19 such actions:

20 (a) are more cost-effective than other remedial
21 actions;

22 (b) will create a new capacity to manage, in
23 compliance with subtitle C of the federal Solid Waste
24 Disposal Act, hazardous substances in addition to those
25 located at the affected facility; or

1 (c) are necessary to protect public health or welfare
2 or the environment from a present or potential risk that may
3 be created by further exposure to the continued presence of
4 such substances or materials.

5 NEW SECTION. Section 3. Cooperative agreement --
6 authority of department. (1) In order to assist in
7 implementation of CERCLA, the department may:

8 (a) participate in the determination of appropriate
9 remedial action to deal with the release or threatened
10 release within Montana of:

11 (i) any contaminant presenting an imminent and
12 substantial danger to public health and welfare; or

13 (ii) any hazardous substance;

14 (b) in the event of the release or threatened release
15 of any of the substances described in subsection (1)(a),
16 negotiate the terms of a cooperative agreement with the
17 federal government containing mutual commitments of each
18 party to remedial action, including the elements required by
19 subsection (2) of this section.

20 (2) A cooperative agreement must contain the following
21 assurances:

22 (a) the state of Montana will provide the future
23 maintenance of the removal and remedial actions agreed upon
24 for the expected life of such actions;

25 (b) a hazardous waste disposal facility is available

1 to the state of Montana which meets the specifications of
2 the president and complies with the requirements of subtitle
3 C of the federal Solid Waste Disposal Act for necessary
4 offsite storage, destruction, treatment, or secure
5 disposition of the hazardous substances; and

6 (c) the state of Montana will pay or assure payment of
7 a share of the costs of the remedial action, including all
8 future maintenance.

9 NEW SECTION. Section 4. Cooperative agreement -- when
10 effective. (1) If a cooperative agreement requires
11 expenditure of state and federal funds which, together with
12 the monetary obligation contained in any prior cooperative
13 agreement made during the same biennium, exceeds the amount
14 appropriated for that biennium for implementation of
15 [sections 1 through 4], the agreement is not effective until
16 it is approved by the legislature and an appropriation is
17 made providing the level of funding necessitated by the
18 agreement.

19 (2) A cooperative agreement that does not require
20 expenditure of funds exceeding the appropriation for the
21 biennium for implementation of [sections 1 through 4] is
22 effective when signed by the governor and the president or
23 their respective representatives.

24 Section 5. Section 75-10-532, MCA, is amended to read:
25 "75-10-532. Disposition of moneys collected. All

1 moneys received from the sale of the junk vehicles or from
2 recycling of the material and all motor vehicle wrecking
3 facility license fees and fees collected as motor vehicle
4 disposal fees shall be deposited with the state treasurer to
5 be utilized for:

6 (1) the control, collection, recycling, and disposal
7 of junk vehicles and component parts; and

8 (2) implementation by the department of health and
9 environmental sciences during the 1985 biennium of the
10 federal Comprehensive Environmental Response, Compensation,
11 and Liability Act of 1980 in accordance with [sections 1
12 through 4], up to an amount not exceeding \$220,000."

13 NEW SECTION. Section 6. Effective date. This act is
14 effective on passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 257-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 27, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 200 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 200 is an act authorizing the Department of Health and Environmental Sciences to cooperate with the federal government in the implementation of the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980. The act allows the department to remedy the release of hazardous substances and contaminants into the environment and authorizes the department to implement the federal act with state matching funds (10% state, 90% federal).

ASSUMPTIONS:

- 1) Costs are based on remedial action being conducted at four or more sites where past release of hazardous contaminants has occurred.
- 2) Majority of data gathering, remedial action planning, and cost benefit analysis will be done by contractors. Contractor costs were derived from national estimates for similar projects.
- 3) Hire one F.T.E. at grade 15.

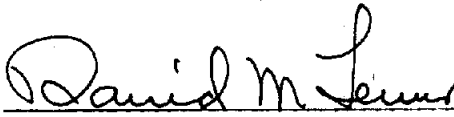
FISCAL IMPACT:

	<u>FY 84</u>	<u>FY 85</u>
Expenditures:		
Personal Services	\$ 25,485	\$ 26,274
Operating Expenses	1,015,496	1,015,496
Capital Outlay	529	-0-
Total expenditures under proposed law	<u>\$1,041,510</u>	<u>\$1,041,770</u>
Revenue:		
CERCLA (federal)	\$ 937,359	\$ 937,599

TECHNICAL NOTE:

State match funds from the Junk Vehicle Earmarked ends on June 30, 1985.

FISCAL NOTE 9:W/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-1-83

Approved by Committee
on Natural Resources

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DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO COOPERATE
WITH THE FEDERAL GOVERNMENT IN IMPLEMENTATION OF THE FEDERAL
COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND
LIABILITY ACT OF 1980 TO REMEDY THE RELEASE OF HAZARDOUS
SUBSTANCES AND CONTAMINANTS INTO THE ENVIRONMENT; PROVIDING
FOR FUNDING OF HAZARDOUS WASTE PROGRAMS; AMENDING SECTION
SECTIONS 15-38-202 AND 75-10-532, MCA; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Purpose. The legislature
finds that the existence of hazardous substances and
contaminants in the environment and hazardous waste disposal
sites poses a significant health hazard through potential
and actual contamination of the environment. [Sections 1

through 4] are therefore enacted to protect the public
health, safety, and welfare through cooperation with the
federal government under the federal Comprehensive
Environmental Response, Compensation, and Liability Act of
1980 to provide for the disposal and control of such
hazardous substances and contaminants in a safe and
environmentally sound manner.

NEW SECTION. Section 2. Definitions. As used in
[sections 1 through 4], the following definitions apply:

(1) "CERCLA" means the federal Comprehensive
Environmental Response, Compensation, and Liability Act of
1980, Public Law 96-510.

(2) "Contaminant" includes but is not limited to any
element, substance, compound, or mixture, including
disease-causing agents, which after release into the
environment and upon exposure, ingestion, inhalation, or
assimilation into any organism, either directly from the
environment or indirectly by ingestion through food chains,
will or may reasonably be anticipated to cause death,
disease, behavioral abnormalities, cancer, genetic mutation,
physiological malfunctions (including malfunctions in
reproduction), or physical deformations in such organisms or
their offspring. The term does not include petroleum
(including crude oil or any fraction thereof that is not
specifically listed or designated as a hazardous substance

as provided in subsection (4)(a)) or natural gas, liquefied natural gas, synthetic gas of pipeline quality, or mixtures of natural gas and such synthetic gas.

(3) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(4) (a) "Hazardous substance" means:

(i) any substance designated pursuant to section 311(b)(2)(A) of the federal Water Pollution Control Act;

(ii) any element, compound, mixture, solution, or substance designated a hazardous substance by regulations promulgated by the administrator of the federal environmental protection agency pursuant to section 102 of CERCLA;

(iii) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the federal Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by act of congress);

(iv) any toxic pollutant listed under section 307(a) of the federal Water Pollution Control Act;

(v) any hazardous air pollutant listed under section 112 of the federal Clean Air Act; and

(vi) any imminently hazardous chemical substance or mixture with respect to which the administrator of the

environmental protection agency has taken action pursuant to section 7 of the federal Toxic Substances Control Act.

(b) The term does not include petroleum (including crude oil or any fraction thereof that is not specifically listed or designated as a hazardous substance as provided in subsection (4)(a)) or natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel, or mixtures of natural gas and such synthetic gas.

(5) "Hazardous waste" means a solid waste or combination of solid wastes which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

(a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.

(6) "President" means the president of the United States.

(7) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, but excludes:

(a) any release that results in exposure to persons

1 solely within a workplace, with respect to a claim which
2 such persons may assert against the employer of such
3 persons;

4 (b) emissions from the engine exhaust of a motor
5 vehicle, rolling stock, aircraft, vessel, or pipeline
6 pumping station engine;

7 (c) (i) release of source, byproduct, or special
8 nuclear material from a nuclear incident, as those terms are
9 defined in the federal Atomic Energy Act of 1954, if such
10 release is subject to requirements with respect to financial
11 protection established by the nuclear regulatory commission
12 under section 170 of that act; or

13 (ii) for the purposes of section 104 of CERCLA or any
14 other response action, any release of source byproduct or
15 special nuclear material from any processing site designated
16 under section 102(a)(1) or 302(a) of the federal Uranium
17 Mill Tailings Radiation Control Act of 1978; and

18 (d) the normal application of fertilizer.

19 (B) "Remedial action" means those actions consistent
20 with a permanent remedy taken instead of or in addition to
21 removal actions in the event of a release or threatened
22 release of a hazardous substance into the environment that
23 prevent or minimize the release of hazardous substances so
24 that they do not migrate to cause substantial danger to the
25 present or future public health or welfare or the

1 environment. The term includes but is not limited to such
2 actions at the location of the release as storage;
3 confinement; perimeter protection using dikes, trenches, or
4 ditches; clay cover; neutralization; cleanup of released
5 hazardous substances or contaminated materials; recycling or
6 reuse; diversion; destruction; segregation of reactive
7 wastes; dredging or excavations; repair or replacement of
8 leaking containers; collection of leachate and runoff;
9 onsite treatment or incineration; provision of alternative
10 water supplies; and any monitoring reasonably required to
11 assure that such actions protect the public health and
12 welfare and the environment. The term includes the costs of
13 permanent relocation of residents and businesses and
14 community facilities if the president determines that, alone
15 or in combination with other measures, such relocation is
16 more cost-effective than and environmentally preferable to
17 the transportation, storage, treatment, destruction, or
18 secure disposition offsite of hazardous substances or is
19 otherwise necessary to protect the public health or welfare.
20 The term does not include offsite transport of hazardous
21 substances or the storage, treatment, destruction, or secure
22 disposition offsite of such hazardous substances or
23 contaminated materials unless the president determines that
24 such actions:

25 (a) are more cost-effective than other remedial

1 actions;

2 (b) will create a new capacity to manage, in
3 compliance with subtitle C of the federal Solid Waste
4 Disposal Act, hazardous substances in addition to those
5 located at the affected facility; or

6 (c) are necessary to protect public health or welfare
7 or the environment from a present or potential risk that may
8 be created by further exposure to the continued presence of
9 such substances or materials.

10 NEW_SECTION. Section 3. Cooperative agreement --
11 authority of department. (1) In order to assist in
12 implementation of CERCLA, the department may:

13 (a) participate in the determination of appropriate
14 remedial action to deal with the release or threatened
15 release within Montana of:

16 (i) any contaminant presenting an imminent and
17 substantial danger to public health and QR welfare; or

18 (ii) any hazardous substance;

19 (b) in the event of the release or threatened release
20 of any of the substances described in subsection (1)(a),
21 negotiate the terms of a cooperative agreement with the
22 federal government containing mutual commitments of each
23 party to remedial action, including the elements required by
24 subsection (2) of this section.

25 (2) A cooperative agreement must contain the following

1 assurances:

2 (a) the state of Montana will provide ASSURE the
3 future maintenance of the removal and remedial actions
4 agreed upon for the expected life of such actions;

5 (b) a hazardous waste disposal facility is available
6 to the state of Montana which meets the specifications of
7 the president and complies with the requirements of subtitle
8 C of the federal Solid Waste Disposal Act for necessary
9 offsite storage, destruction, treatment, or secure
10 disposition of the hazardous substances; and

11 (c) the state of Montana will pay or assure payment of
12 a share of the costs of the remedial action, including all
13 future maintenance.

14 NEW_SECTION. Section 4. Cooperative agreement -- when
15 effective. (1) If a cooperative agreement requires
16 expenditure of state and federal funds which, together with
17 the monetary obligation contained in any prior cooperative
18 agreement made during the same biennium, exceeds the amount
19 appropriated for that biennium for implementation of
20 [sections 1 through 4], the agreement is not effective until
21 it is approved by the legislature and an appropriation is
22 made providing the level of funding necessitated by the
23 agreement.

24 (2) A cooperative agreement that does not require
25 expenditure of funds exceeding the appropriation for the

1 biennium for implementation of [sections 1 through 4] is
2 effective when signed by the governor and the president or
3 their respective representatives.

4 Section 5. Section 75-10-532, MCA, is amended to read:

5 "75-10-532. Disposition of moneys collected. All
6 moneys received from the sale of the junk vehicles or from
7 recycling of the material and all motor vehicle wrecking
8 facility license fees and fees collected as motor vehicle
9 disposal fees shall be deposited with the state treasurer to
10 be utilized for:

11 (1) the control, collection, recycling, and disposal
12 of junk vehicles and component parts; and

13 (2) ~~implementation by the department of health and~~
14 ~~environmental sciences during the 1985 biennium of the~~
15 ~~federal Comprehensive Environmental Response, Compensation,~~
16 ~~and Liability Act of 1980 in accordance with [sections 1~~
17 ~~through 4], up to an amount not exceeding \$220,000."~~

18 SECTION 6. SECTION 15-38-202, MCA, IS AMENDED TO READ:

19 "15-38-202. Investment of resource indemnity trust
20 account -- expenditure -- minimum balance. (1) All moneys
21 paid into the resource indemnity trust account shall be
22 invested at the discretion of the board of investments. All
23 the net earnings accruing to the resource indemnity trust
24 account shall annually be added thereto until it has reached
25 the sum of \$10 million. Thereafter, only the net earnings

1 may be appropriated and expended until the account reaches
2 \$100 million. Thereafter, all net earnings and all receipts
3 shall be appropriated by the legislature and expended,
4 provided that the balance in the account may never be less
5 than \$100 million.

6 (2) Beginning in fiscal year 1982, provided the amount
7 in the resource trust account is greater than \$10 million,
8 30% of the interest income of the resource indemnity trust
9 account must be allocated to the water development earmarked
10 account created by 85-1-604.

11 ~~(2) Beginning in fiscal year 1986, 6% of the interest~~
12 ~~income of the resource indemnity trust account must be~~
13 ~~allocated to the department of health and environmental~~
14 ~~sciences to be used to implement the Montana Hazardous Waste~~
15 ~~Act and the federal Comprehensive Environmental Response,~~
16 ~~Compensation, and Liability Act of 1980 in accordance with~~
17 ~~[sections 1 through 4]. Any funds remaining unexpended at~~
18 ~~the end of each fiscal year will revert to the resource~~
19 ~~indemnity trust interest account."~~

20 NEW SECTION. Section 7. Effective date. This act is
21 effective on passage and approval.

-End-

HOUSE BILL NO. 200

INTRODUCED BY REAM, D. BROWN, ADDY, NORMAN, BRAND,
J. JENSEN, MCBRIDE, JACOBSON, KEENAN, KADAS, EUDAILY,
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BY REQUEST OF THE DEPARTMENT OF HEALTH
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COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND
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IMMEDIATE EFFECTIVE DATE."

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sites poses a significant health hazard through potential
and actual contamination of the environment. [Sections 1

through 4] are therefore enacted to protect the public
health, safety, and welfare through cooperation with the
federal government under the federal Comprehensive
Environmental Response, Compensation, and Liability Act of
1980 to provide for the disposal and control of such
hazardous substances and contaminants in a safe and
environmentally sound manner.

~~NEW SECTION.~~ Section 2. Definitions. As used in
[sections 1 through 4], the following definitions apply:

(1) "CERCLA" means the federal Comprehensive
Environmental Response, Compensation, and Liability Act of
1980, Public Law 96-510.

(2) "Contaminant" includes but is not limited to any
element, substance, compound, or mixture, including
disease-causing agents, which after release into the
environment and upon exposure, ingestion, inhalation, or
assimilation into any organism, either directly from the
environment or indirectly by ingestion through food chains,
will or may reasonably be anticipated to cause death,
disease, behavioral abnormalities, cancer, genetic mutation,
physiological malfunctions (including malfunctions in
reproduction), or physical deformations in such organisms or
their offspring. The term does not include petroleum
(including crude oil or any fraction thereof that is not
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as provided in subsection (4)(a)) or natural gas, liquefied natural gas, synthetic gas of pipeline quality, or mixtures of natural gas and such synthetic gas.

(3) "Department" means the department of health and environmental sciences provided for in title 2, chapter 15, part 21.

(4) (a) "Hazardous substance" means:

(i) any substance designated pursuant to section 311(b)(2)(A) of the federal Water Pollution Control Act;

(ii) any element, compound, mixture, solution, or substance designated a hazardous substance by regulations promulgated by the administrator of the federal environmental protection agency pursuant to section 102 of CERCLA;

(iii) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the federal Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by act of congress);

(iv) any toxic pollutant listed under section 307(a) of the federal Water Pollution Control Act;

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(vi) any imminently hazardous chemical substance or mixture with respect to which the administrator of the

environmental protection agency has taken action pursuant to section 7 of the federal Toxic Substances Control Act.

(b) The term does not include petroleum (including crude oil or any fraction thereof that is not specifically listed or designated as a hazardous substance as provided in subsection (4)(a)) or natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel, or mixtures of natural gas and such synthetic gas.

(5) "Hazardous waste" means a solid waste or combination of solid wastes which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

(a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.

(6) "President" means the president of the United States.

(7) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, but excludes:

(a) any release that results in exposure to persons

1 solely within a workplace, with respect to a claim which
2 such persons may assert against the employer of such
3 persons;

4 (b) emissions from the engine exhaust of a motor
5 vehicle, rolling stock, aircraft, vessel, or pipeline
6 pumping station engine;

7 (c) (i) release of source, byproduct, or special
8 nuclear material from a nuclear incident, as those terms are
9 defined in the federal Atomic Energy Act of 1954, if such
10 release is subject to requirements with respect to financial
11 protection established by the nuclear regulatory commission
12 under section 170 of that act; or

13 (ii) for the purposes of section 104 of CERCLA or any
14 other response action, any release of source byproduct or
15 special nuclear material from any processing site designated
16 under section 102(a)(1) or 302(a) of the federal Uranium
17 Mill Tailings Radiation Control Act of 1978; and

18 (d) the normal application of fertilizer.

19 (8) "Remedial action" means those actions consistent
20 with a permanent remedy taken instead of or in addition to
21 removal actions in the event of a release or threatened
22 release of a hazardous substance into the environment that
23 prevent or minimize the release of hazardous substances so
24 that they do not migrate to cause substantial danger to the
25 present or future public health or welfare or the

1 environment. The term includes but is not limited to such
2 actions at the location of the release as storage;
3 confinement; perimeter protection using dikes, trenches, or
4 ditches; clay cover; neutralization; cleanup of released
5 hazardous substances or contaminated materials; recycling or
6 reuse; diversion; destruction; segregation of reactive
7 wastes; dredging or excavations; repair or replacement of
8 leaking containers; collection of leachate and runoff;
9 onsite treatment or incineration; provision of alternative
10 water supplies; and any monitoring reasonably required to
11 assure that such actions protect the public health and
12 welfare and the environment. The term includes the costs of
13 permanent relocation of residents and businesses and
14 community facilities if the president determines that, alone
15 or in combination with other measures, such relocation is
16 more cost-effective than and environmentally preferable to
17 the transportation, storage, treatment, destruction, or
18 secure disposition offsite of hazardous substances or is
19 otherwise necessary to protect the public health or welfare.
20 The term does not include offsite transport of hazardous
21 substances or the storage, treatment, destruction, or secure
22 disposition offsite of such hazardous substances or
23 contaminated materials unless the president determines that
24 such actions:

25 (a) are more cost-effective than other remedial

1 actions;

2 (b) will create a new capacity to manage, in
3 compliance with subtitle C of the federal Solid Waste
4 Disposal Act, hazardous substances in addition to those
5 located at the affected facility; or

6 (c) are necessary to protect public health or welfare
7 or the environment from a present or potential risk that may
8 be created by further exposure to the continued presence of
9 such substances or materials.

10 NEW SECTION. Section 3. Cooperative agreement --
11 authority of department. (1) In order to assist in
12 implementation of CERCLA, the department may:

13 (a) participate in the determination of appropriate
14 remedial action to deal with the release or threatened
15 release within Montana of:

16 (i) any contaminant presenting an imminent and
17 substantial danger to public health and OR welfare; or

18 (ii) any hazardous substance;

19 (b) in the event of the release or threatened release
20 of any of the substances described in subsection (1)(a),
21 negotiate the terms of a cooperative agreement with the
22 federal government containing mutual commitments of each
23 party to remedial action, including the elements required by
24 subsection (2) of this section.

25 (2) A cooperative agreement must contain the following

1 assurances:

2 (a) the state of Montana will provide ASSURE the
3 future maintenance of the removal and remedial actions
4 agreed upon for the expected life of such actions;

5 (b) a hazardous waste disposal facility is available
6 to the state of Montana which meets the specifications of
7 the president and complies with the requirements of subtitle
8 C of the federal Solid Waste Disposal Act for necessary
9 offsite storage, destruction, treatment, or secure
10 disposition of the hazardous substances; and

11 (c) the state of Montana will pay or assure payment of
12 a share of the costs of the remedial action, including all
13 future maintenance.

14 NEW SECTION. Section 4. Cooperative agreement -- when
15 effective. (1) If a cooperative agreement requires
16 expenditure of state and federal funds which, together with
17 the monetary obligation contained in any prior cooperative
18 agreement made during the same biennium, exceeds the amount
19 appropriated for that biennium for implementation of
20 [sections 1 through 4], the agreement is not effective until
21 it is approved by the legislature and an appropriation is
22 made providing the level of funding necessitated by the
23 agreement.

24 (2) A cooperative agreement that does not require
25 expenditure of funds exceeding the appropriation for the

biennium for implementation of [sections 1 through 4] is effective when signed by the governor and the president or their respective representatives.

Section 5. Section 75-10-532, MCA, is amended to read:

"75-10-532. Disposition of moneys collected. All moneys received from the sale of the junk vehicles or from recycling of the material and all motor vehicle wrecking facility license fees and fees collected as motor vehicle disposal fees shall be deposited with the state treasurer to be utilized for:

(1) the control, collection, recycling, and disposal of junk vehicles and component parts; and

(2) implementation by the department of health and environmental sciences during the 1985 biennium of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 in accordance with [sections 1 through 4], up to an amount not exceeding \$220,000."

SECTION 6. SECTION 15-38-202, MCA, IS AMENDED TO READ:

"15-38-202. Investment of resource indemnity trust account -- expenditure -- minimum balance. (1) All moneys paid into the resource indemnity trust account shall be invested at the discretion of the board of investments. All the net earnings accruing to the resource indemnity trust account shall annually be added thereto until it has reached the sum of \$10 million. Thereafter, only the net earnings

may be appropriated and expended until the account reaches \$100 million. Thereafter, all net earnings and all receipts shall be appropriated by the legislature and expended, provided that the balance in the account may never be less than \$100 million.

(2) Beginning in fiscal year 1982, provided the amount in the resource trust account is greater than \$10 million, 30% of the interest income of the resource indemnity trust account must be allocated to the water development earmarked account created by 85-1-604.

(3) Beginning in fiscal year 1986, 6% of the interest income of the resource indemnity trust account must be allocated to the department of health and environmental sciences to be used to implement the Montana Hazardous Waste Act and the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 in accordance with [sections 1 through 4]. Any funds remaining unexpended at the end of each fiscal year will revert to the resource indemnity trust interest account."

NEW SECTION. Section 7. Effective date. This act is effective on passage and approval.

-End-

HOUSE BILL NO. 200

INTRODUCED BY REAM, D. BROWN, ADDY, NORMAN, BRAND,
J. JENSEN, MCBRIDE, JACOBSON, KEENAN, KADAS, EUDAILY,
VALORON, HANSEN, DARKO, LORY, METCALF, DONALDSON,
MDHAR, MENAHAN, DAILY, HAMMOND, KEMMIS,
HARRINGTON, HAGER, HALLIGAN, VELEBER
BY REQUEST OF THE DEPARTMENT OF HEALTH
AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO COOPERATE
WITH THE FEDERAL GOVERNMENT IN IMPLEMENTATION OF THE FEDERAL
COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND
LIABILITY ACT OF 1980 TO REMEDY THE RELEASE OF HAZARDOUS
SUBSTANCES AND CONTAMINANTS INTO THE ENVIRONMENT; PROVIDING
FOR FUNDING OF HAZARDOUS WASTE PROGRAMS; AMENDING SECTION
SECTIONS 15-38-202 AND 75-10-532, MCA; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Purpose. The legislature
finds that the existence of hazardous substances and
contaminants in the environment and hazardous waste disposal
sites poses a significant health hazard through potential
and actual contamination of the environment. [Sections 1

through 4] are therefore enacted to protect the public
health, safety, and welfare through cooperation with the
federal government under the federal Comprehensive
Environmental Response, Compensation, and Liability Act of
1980 to provide for the disposal and control of such
hazardous substances and contaminants in a safe and
environmentally sound manner.

NEW SECTION. Section 2. Definitions. As used in
[sections 1 through 4], the following definitions apply:

(1) "CERCLA" means the federal Comprehensive
Environmental Response, Compensation, and Liability Act of
1980, Public Law 96-510.

(2) "Contaminant" includes but is not limited to any
element, substance, compound, or mixture, including
disease-causing agents, which after release into the
environment and upon exposure, ingestion, inhalation, or
assimilation into any organism, either directly from the
environment or indirectly by ingestion through food chains,
will or may reasonably be anticipated to cause death,
disease, behavioral abnormalities, cancer, genetic mutation,
physiological malfunctions (including malfunctions in
reproduction), or physical deformations in such organisms or
their offspring. The term does not include petroleum
(including crude oil or any fraction thereof that is not
specifically listed or designated as a hazardous substance

as provided in subsection (4)(a)) or natural gas, liquefied natural gas, synthetic gas of pipeline quality, or mixtures of natural gas and such synthetic gas.

(3) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(4) (a) "Hazardous substance" means:

(i) any substance designated pursuant to section 311(b)(2)(A) of the federal Water Pollution Control Act;

(ii) any element, compound, mixture, solution, or substance designated a hazardous substance by regulations promulgated by the administrator of the federal environmental protection agency pursuant to section 102 of CERCLA;

(iii) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the federal Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by act of congress);

(iv) any toxic pollutant listed under section 307(a) of the federal Water Pollution Control Act;

(v) any hazardous air pollutant listed under section 112 of the federal Clean Air Act; and

(vi) any imminently hazardous chemical substance or mixture with respect to which the administrator of the

environmental protection agency has taken action pursuant to section 7 of the federal Toxic Substances Control Act.

(b) The term does not include petroleum (including crude oil or any fraction thereof that is not specifically listed or designated as a hazardous substance as provided in subsection (4)(a)) or natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel, or mixtures of natural gas and such synthetic gas.

(5) "Hazardous waste" means a solid waste or combination of solid wastes which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

(a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.

(6) "President" means the president of the United States.

(7) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, but excludes:

(a) any release that results in exposure to persons

1 solely within a workplace, with respect to a claim which
2 such persons may assert against the employer of such
3 persons;

4 (b) emissions from the engine exhaust of a motor
5 vehicle, rolling stock, aircraft, vessel, or pipeline
6 pumping station engine;

7 (c) (i) release of source, byproduct, or special
8 nuclear material from a nuclear incident, as those terms are
9 defined in the federal Atomic Energy Act of 1954, if such
10 release is subject to requirements with respect to financial
11 protection established by the nuclear regulatory commission
12 under section 170 of that act; or

13 (ii) for the purposes of section 104 of CERCLA or any
14 other response action, any release of source byproduct or
15 special nuclear material from any processing site designated
16 under section 102(a)(1) or 302(a) of the federal Uranium
17 Mill Tailings Radiation Control Act of 1978; and

18 (j) the normal application of fertilizer.

19 (8) "Remedial action" means those actions consistent
20 with a permanent remedy taken instead of or in addition to
21 removal actions in the event of a release or threatened
22 release of a hazardous substance into the environment that
23 prevent or minimize the release of hazardous substances so
24 that they do not migrate to cause substantial danger to the
25 present or future public health or welfare or the

1 environment. The term includes but is not limited to such
2 actions at the location of the release as storage;
3 confinement; perimeter protection using dikes, trenches, or
4 ditches; clay cover; neutralization; cleanup of released
5 hazardous substances or contaminated materials; recycling or
6 reuse; diversion; destruction; segregation of reactive
7 wastes; dredging or excavations; repair or replacement of
8 leaking containers; collection of leachate and runoff;
9 onsite treatment or incineration; provision of alternative
10 water supplies; and any monitoring reasonably required to
11 assure that such actions protect the public health and
12 welfare and the environment. The term includes the costs of
13 permanent relocation of residents and businesses and
14 community facilities if the president determines that, alone
15 or in combination with other measures, such relocation is
16 more cost-effective than and environmentally preferable to
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18 secure disposition offsite of hazardous substances or is
19 otherwise necessary to protect the public health or welfare.
20 The term does not include offsite transport of hazardous
21 substances or the storage, treatment, destruction, or secure
22 disposition offsite of such hazardous substances or
23 contaminated materials unless the president determines that
24 such actions:

25 (a) are more cost-effective than other remedial

1 actions;

2 (b) will create a new capacity to manage, in
3 compliance with subtitle C of the federal Solid Waste
4 Disposal Act, hazardous substances in addition to those
5 located at the affected facility; or

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7 or the environment from a present or potential risk that may
8 be created by further exposure to the continued presence of
9 such substances or materials.

10 NEW SECTION. Section 3. Cooperative agreement --
11 authority of department. (1) In order to assist in
12 implementation of CERCLA, the department may:

13 (a) participate in the determination of appropriate
14 remedial action to deal with the release or threatened
15 release within Montana of:

16 (i) any contaminant presenting an imminent and
17 substantial danger to public health and OR welfare; or

18 (ii) any hazardous substance;

19 (b) in the event of the release or threatened release
20 of any of the substances described in subsection (1)(a),
21 negotiate the terms of a cooperative agreement with the
22 federal government containing mutual commitments of each
23 party to remedial action, including the elements required by
24 subsection (2) of this section.

25 (2) A cooperative agreement must contain the following

1 assurances:

2 (a) the state of Montana will provide ASSURE the
3 future maintenance of the removal and remedial actions
4 agreed upon for the expected life of such actions;

5 (b) a hazardous waste disposal facility is available
6 to the state of Montana which meets the specifications of
7 the president and complies with the requirements of subtitle
8 C of the federal Solid Waste Disposal Act for necessary
9 offsite storage, destruction, treatment, or secure
10 disposition of the hazardous substances; and

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12 a share of the costs of the remedial action, including all
13 future maintenance.

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15 effective. (1) If a cooperative agreement requires
16 expenditure of state and federal funds which, together with
17 the monetary obligation contained in any prior cooperative
18 agreement made during the same biennium, exceeds the amount
19 appropriated for that biennium for implementation of
20 [sections 1 through 4], the agreement is not effective until
21 it is approved by the legislature and an appropriation is
22 made providing the level of funding necessitated by the
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(1) the control, collection, recycling, and disposal of junk vehicles and component parts; and

(2) ~~implementation by the department of health and environmental sciences during the 1985 biennium of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 in accordance with [sections 1 through 4], up to an amount not exceeding \$220,000."~~

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"15-38-202. Investment of resource indemnity trust account -- expenditure -- minimum balance. (1) All moneys paid into the resource indemnity trust account shall be invested at the discretion of the board of investments. All the net earnings accruing to the resource indemnity trust account shall annually be added thereto until it has reached the sum of \$10 million. Thereafter, only the net earnings

may be appropriated and expended until the account reaches \$100 million. Thereafter, all net earnings and all receipts shall be appropriated by the legislature and expended, provided that the balance in the account may never be less than \$100 million.

(2) Beginning in fiscal year 1982, provided the amount in the resource trust account is greater than \$10 million, 30% of the interest income of the resource indemnity trust account must be allocated to the water development earmarked account created by 85-1-604.

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