# HOUSE BILL NO. 718

INTRODUCED BY HARPER, DONALDSON, CONNELLY, RANEY, SQUIRES, ECK, ADDY, HANNAH, VINCENT, IVERSON, STRIZICH, C. SMITH, JONES, COHEN, HARP, BACHINI, BRANDEWIE, REAM, GLASER, SPAETH, THOFT, BRADLEY, CORNE', ASAY

### IN THE HOUSE

- FEBRUARY 12, 1987 INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
- FEBRUARY 18, 1987 COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
- FEBRUARY 19, 1987 PRINTING REPORT.
- FEBRUARY 20, 1987 SECOND READING, DO PASS.
- FEBRUARY 21, 1987 ENGROSSING REPORT.

THIRD READING, PASSED. AYES, 82; NOES, 10.

TRANSMITTED TO SENATE.

IN THE SENATE

- FEBRUARY 23, 1987 INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
- MARCH 24, 1987 COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.

MARCH 28, 1987 SECOND READING, CONCURRED IN.

MARCH 30, 1987 THIRD READING, CONCURRED IN. AYES, 45; NOES, 5.

RETURNED TO HOUSE WITH AMENDMENTS.

# IN THE HOUSE

APRIL 8, 1987 RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS CONCURRED IN.

APRIL 9, 1987

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THIRD READING, AMENDMENTS CONCURRED IN.

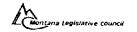
SENT TO ENROLLING.

1 2 CED BY A BILL FOR AN ACT ENTITLED: "AN ACT REALLOCATING FUNDS FROM Ream HARP THE ENVIRONMENTAL CONTINGENCY ACCOUNT TO THE ENVIRONMENTAL 5 б QUALITY PROTECTION FUND; SPECIFYING USES OF THE TOJE 7 ENVIRONMENTAL QUALITY PROTECTION FUND; AMENDING SECTIONS 2 75-1-1101, 75-1-1102, 75-10-704, AND 75-10-715, MCA; AND 8 Porge 9 PROVIDING AN EFFECTIVE DATE."

10

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 12 Section 1. Section 75-1-1101, MCA, is amended to read: 13 "75-1-1101. Environmental contingency----account objectives quality protection fund allocation. (1) There-is 14 15 created-an--environmental--contingency--account--within--the 16 state--special--revenue--fund--established--in-17-2-102--The 17 environmental--contingency-account-is--controlled--by--the 18 GOVETBOTT

19 (2) Except as provided in subsection (5) (3), at the 20 beginning of each fiscal year, 5% 4% of the total funds 21 appropriated--to--the--department--of--natural-resources-and 22 conservation from the resource indemnity trust interest 23 account7-not-to-exceed-\$1757000-in-fiscal-year-19077 must be 24 allocated to the environmental contingency-account <u>quality</u> 25 protection fund provided for in 75-10-704.



(4) (2) Funds are statutorily appropriated, as provided 1 2 in 17-7-502, from the environmental contingency-account-upon 3 the-authorization-of--the--governor--to--meet--unanticipated public-needs-consistent-with-the-following-objectives: 4 (a)--to---support---water---development---projects---in 5 б communities-that-face-an-emergency-or-imminent-need-for-such 7 services-or-to-prevent--the--physical--failure--of--a--water 8 project; 9 tb}--to---preserve---vegetation;---water;--soil;--fish; 10 wildlife--or-other--renewable--resources--from--an--imminent physical-threat-or-during-an-emergency;-not-including+ 11 12 tit--natural--disasters--adequately--covered--by--other funding-sources;-or 13 (ii)-fire; 14 15 (c)--to-respond-to-an-emergency-or-imminent--threat--to persons7--property7--or--the--environment--caused-by-mineral 16 17 development;-and 18 (d)--to-fund-the-environmental-quality-protection--fund provided--for--in--75-10-704--or--to--take--other--necessary 19 actions7--including--the--construction--of--facilities7---to 20 21 respond-to-actual-or-potential-threats-to-persons7-property; or--the--environment--caused--by--hazardous--wastes-or-other 22 hazardous--materials quality protection fund to the 23 department of health and environmental sciences to be used 24 for remedial action upon release of a hazardous substance as 25

> -2- INTRODUCED BILL HB -718

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#### 1 provided for in Title 75, chapter 10, part 7.

t47(3) The environmental contingency-account quality
protection fund may receive no additional allocation for any
fiscal year in which the balance in the account exceeds
\$1,000,000 at the beginning of that fiscal year.

6 (5)(4) Interest from funds in the environmental
7 contingency--account quality protection fund accrues to the
8 resource indemnity trust interest account.

9 (6)(5) The governor <u>department of health and</u> 10 <u>environmental sciences</u> shall submit to the legislature at 11 the beginning of each regular session a complete financial 12 report on the environmental contingency-account <u>quality</u> 13 <u>protection fund</u>, including a description of all expenditures 14 made since the preceding report."

15 Section 2. Section 75-1-1102, MCA, is amended to read: 16 "75-1-1102. Grant program special revenue account 17 created -- revenues -- allocation -- limitations on 18 appropriations. (1) There is created a grant program special 19 revenue account within the state special revenue fund 20 established in 17-2-102.

(2) There must be paid into the grant program special
revenue account all money allocated for appropriation from
the resource indemnity trust interest account set forth in
Title 15, chapter 38, with the exception of those
allocations made in 15-38-202 and 75-1-1101.

(3) Appropriations may be made from the grant program special revenue account for the following purposes:

(a) grants for designated projects and activities; and
(b) administrative expenses, including but not limited
to the salaries and expenses of personnel, equipment, office
space, and other expenses necessarily incurred in the
administration of the grant program. These expenses may be
funded prior to funding of projects."

9 Section 3. Section 75-10-704, MCA, is amended to read:
10 "75-10-704. Environmental quality protection fund. (1)
11 There is created in the state special revenue fund an
12 environmental quality protection fund to be administered as
13 a revolving fund by the department. The department is
14 authorized to expend amounts from the fund necessary to
15 carry out the purposes of this part.

16 (2) The fund may be used to carry out the provisions 17 of this part and for remedial actions taken by the 18 department pursuant to this part in response to a release of 19 hazardous or deleterious substances  $\tau$  as follows:

(a) One-half of the funds deposited, up to a limit of
\$200,000, must be reserved for use in emergency actions
pursuant to 75-10-712. As these funds are expended, the
emergency action reserve must be built up to \$200,000
through dedication of funds recovered by the department
pursuant to any action taken under 75-10-715.

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1	(b) Funds not reserved for emergency action must be	1
2	used to conduct a program of remedial action at sites:	2
3	(i) where a release has occurred; and	3
4	(ii) where the U.S. environmental protection agency	4
5	has, under the provisions of the federal Comprehensive	5
6	Environmental Response, Compensation, and Liability Act of	. <b>6</b>
7	1980 (CERCLA), as amended, conducted a hazard ranking study	7
8	and judged the site not eligible for inclusion on the	8
9	national priority list or where the U.S. environmental	9
10	protection agency has no authority or no plan to assess the	10
11	site under CERCLA.	11
12	(3) The department's program for remedial action under	12
13	subsection (2)(b) must include:	13
14	(a) a system for prioritizing sites for remedial	14
15	action based on potential effects on human health and the	15
16	environment; and	16
17	(b) investigation, negotiation, and legal action, as	17
18	appropriate, to identify responsible parties, to obtain the	18
19	participation and financial contribution of responsible	19
20	parties for the remedial action, to achieve remedial action,	20
21	and to recover costs and damages incurred by the state.	21
22	(3) (4) There must be deposited in the fund:	22
23	(a) all <u>penalties</u> , <u>damages</u> , <u>and</u> department	23
24	expenditures recovered pursuant to 75-10-715;	24
25	(b) funds appropriated to the fund by the legislature;	25

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1	and
2	(c) funds received from the environmental-contingency
3	account-within-the-state-specialrevenuefundestablished
4	resource indemnity trust interest account pursuant to
5	75-1-1101.
б	(4)Whenever-theamountofmoneyinthefundis
7	insufficienttocarryout-remedial-action7-the-department
8	may-apply-to-the-governor-for-a-grant-from-the-environmental
9	contingency-account-within-the-statespecialrevenuefund
10	established-pursuant-to-75-1-1101-"
11	Section 4. Section 75-10-715, MCA, is amended to read:
12	"75-10-715. Reimbursement and penalties proceedings
13	defenses. (1) Subject only to the defenses set forth in
14	subsection (4), a party responsible for a release is liable
15	for:
16	(a) all costs of remedial action taken by the
17	department pursuant to this part; and
18	(b) damages for injury to, destruction of, or loss of
19	natural resources caused by the release or threatened
20	release.
21	(2) If the responsible party fails, without sufficient
22	cause, to properly provide remedial action upon notification
23	by the department pursuant to 75-10-711(3)(b), the
24	responsible party may be liable for punitive damages in an
25	amount not to exceed two times the amount of any costs

1 incurred by the department pursuant to this section.

2 (3) The department may initiate civil proceedings in 3 district court to recover costs, damages, or penalties under 4 subsections (1) and (2). Venue for any action to recover 5 costs, damages, or penalties lies in the county where the 6 release occurred or where the responsible party resides or 7 has its principal place of business or in the district court 8 of the first judicial district.

9 (4) No party is liable under subsection (1) or (2) if
10 that party can establish by a preponderance of the evidence
11 that:

12 (a) the department failed to follow the notice13 provisions of 75-10-711 when required; or

14 (b) the release did not emanate from any vessel, 15 vehicle, or facility over which the party had any authority 16 or control and was not caused by any action or omission of 17 the party; or

18 (c) in the case of assessment of punitive damages,
19 that factors beyond the control of the responsible party
20 prevented the party from taking timely remedial action.

21 (5)--(a)-Costs-of-remedial-action-recovered-pursuant-to
22 subsection-(1)(a)-must-be-deposited-in-the-fund-

23 (b)--Damages---and---penalties--recovered--pursuant--to
 24 subsections--(1)(b)--and--(2)--must--be--deposited--in---the
 25 environmental--contingency--account-within-the-state-special

#### 1 revenue-fund-established-pursuant-to-75-1-1101-"

2 <u>NEW SECTION.</u> Section 5. Extension of authority. Any 3 existing authority of the department of health and 4 environmental sciences to make rules on the subject of the 5 provisions of this act is extended to the provisions of this 6 act.

7 <u>NEW SECTION.</u> Section 6. Effective date. This act is
8 effective July 1, 1987.

-End-

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APPROVED BY COMM. ON NATURAL RESOURCES

1 2 INTRODUCED BY "AN ACT REALLOCATING FUNDS FROM BEAM FOR AN ACT ENTITLED: BTLL THE ENVIRONMENTAL CONTINGENCY ACCOUNT TO THE ENVIRONMENTAL 5 6 OUALITY PROTECTION FUND: SPECIFYING USES OF THE JOZET 7 ENVIRONMENTAL QUALITY PROTECTION FUND; SECTIONS AMENDING 75-1-1101, 75-1-1102, 75-10-704, AND 75-10-715, MCA; AND Brodie 8 Porne PROVIDING AN EFFECTIVE DATE." 9

10

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

12 Section 1. Section 75-1-1101, MCA, is amended to read: 13 "75-1-1101. Environmental contingency-----account 14 objectives <u>quality protection fund allocation</u>. (1) There-is 15 created-an--environmental--contingency--account--within--the 16 state--special--revenue--fund--established--in-17-2-1027-The 17 environmental--contingency--account--is--controlled--by--the 18 governor:

19 (2) Except as provided in subsection (5) (3), at the 20 beginning of each fiscal year, 5% 4% of the total funds 21 appropriated--to--the--department--of--natural-resources-and 22 conservation from the resource indemnity trust interest 23 accounty-not-to-exceed-\$1757000-in-fiscal-year-19077 must be 24 allocated to the environmental contingency-account quality 25 protection fund provided for in 75-10-704.

Montana Legislative Council

1 (3) Funds are statutorily appropriated, as provided 2 in 17-7-502, from the environmental contingency-account-upon the-authorization-of--the--governor--to--meet--unanticipated 3 public-needs-consistent-with-the-following-objectives; Δ 5 fat--to---support---water---development---projects---in communities-that-face-an-emergency-or-imminent-need-for-such 6 7 services-or-to-prevent--the--physical--failure--of--a--water 8 project7 9 (b)--to---preserve---vegetation,---water,--soil,--fish; 10 wildlife,-or-other--renewable--resources--from--on--imminent physical-threat-or-during-an-emergency;-not-including; 11 12 ti)--natural--disasters--adequately--covered--by--other 13 funding-sources;-or 14 fii)-fire; 15 (c)--to-respond-to-an-emergency-or-imminent--threat--to 16 persons,--property,--or--the--environment--caused-by-mineral 17 development;-and 18 td --- to-fund-the-environmental-quality-protection--fund 19 provided--for--in--75-10-704--or--take--other--necessary 20 actions,--including--the--construction- of--facilities,---to 21 respond-to-actual-or-potential-threats-to-persons,-property, 22 or--the--environment--caused--by--hazardous--wastes-or-other 23 hazardous--materials quality protection fund to the department of health and environmental sciences to be used 24 25 for remedial action upon release of a hazardous substance as

> -2- SECOND READING HB-7/8

#### 1 provided for in Title 75, chapter 10, part 7. 2 (4)(3) The environmental contingency--account quality 3 protection fund may receive no additional allocation for any 4 fiscal year in which the balance in the account exceeds 5 \$1,000,000 at the beginning of that fiscal year. 6 (5)(4) Interest from funds in the environmental 7 contingency--account quality protection fund accrues to the 8 resource indemnity trust interest account. 9 (6) (5) The governor department of health and 10 environmental sciences shall submit to the legislature at 11 the beginning of each regular session a complete financial 12 report on the environmental contingency-account quality 13 protection fund, including a description of all expenditures 14 made since the preceding report." 15 Section 2. Section 75-1-1102, MCA, is amended to read: 16 "75-1-1102. Grant program special revenue account 17 created -- revenues -- allocation -- limitations on 18 appropriations. (1) There is created a grant program special 19 revenue account within the state special revenue fund 20 established in 17-2-102. 21 (2) There must be paid into the grant program special 22 revenue account all money allocated for appropriation from the resource indemnity trust interest account set forth in 23 24 Title 15, chapter 38, with the exception of those

(3) Appropriations may be made from the grant program
 special revenue account for the following purposes:

3 (a) grants for designated projects and activities; and

4 (b) administrative expenses, including but not limited 5 to the salaries and expenses of personnel, equipment, office 6 space, and other expenses necessarily incurred in the 7 administration of the grant program. These expenses may be 8 funded prior to funding of projects."

9 Section 3. Section 75-10-704, MCA, is amended to read:
10 "75-10-704. Environmental quality protection fund. (1)
11 There is created in the state special revenue fund an
12 environmental quality protection fund to be administered as
13 a revolving fund by the department. The department is
14 authorized to expend amounts from the fund necessary to
15 carry out the purposes of this part.

16 (2) The fund may be used to carry out the provisions 17 of this part and for remedial actions taken by the 18 department pursuant to this part in response to a release of 19 hazardous or deleterious substances; as follows:

20(a) One-half of the funds deposited, up to a limit of21\$200,000, must be reserved for use in emergency actions

22 pursuant to 75-10-712. As these funds are expended, the

23 emergency action reserve must be built up to \$200,000

24 through dedication of funds recovered by the department

25 pursuant to any action taken under 75-10-715.

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allocations made in 15-38-202 and 75-1-1101.

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1	(b) Funds not reserved for emergency action must be	1	and
2	used to conduct a program of remedial action at sites:	2	(c) funds received from the environmental-contingency
3	(i) where a release has occurred; and	3	account-within-the-state-specialrevenuefundestablished
4	(ii) where the U.S. environmental protection agency	4	resource indemnity trust interest account pursuant to
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7	1980 (CERCLA), as amended, conducted a hazard ranking study	7	insufficienttocarryout-remedial-actionthe-department
8	and judged the site not eligible for inclusion on the	8	may-apply-to-the-governor-for-a-grant-from-the-environmental
9	national priority list or where the U.S. environmental	9	contingency-account-within-the-statespecialrevenuefund
, 10	protection agency has no authority or no plan to assess the	10	established-pursuant-to-75-1-1101-"
11	site under CERCLA.	11	Section 4. Section 75-10-715, MCA, is amended to read:
12	(3) The department's program for remedial action under	12	"75-10-715. Reimbursement and penalties proceedings
13	<pre>subsection (2)(b) must include:</pre>	13	defenses. (1) Subject only to the defenses set forth in
14	(a) a system for prioritizing sites for remedial	14	subsection (4), a party responsible for a release is liable
15	action based on potential effects on human health and the	15	for:
16	environment; and	16	(a) all costs of remedial action taken by the
17	(b) investigation, negotiation, and legal action, as	17	department pursuant to this part; and
18	appropriate, to identify responsible parties, to obtain the	18	(b) damages for injury to, destruction of, or loss of
19	participation and financial contribution of responsible	19	natural resources caused by the release or threatened
20	parties for the remedial action, to achieve remedial action,	20	release.
21	and to recover costs and damages incurred by the state.	21	(2) If the responsible party fails, without sufficient
22	(3)(4) There must be deposited in the fund:	22	cause, to properly provide remedial action upon notification
23	(a) all penalties, damages, and department	23	by the department pursuant to 75-10-711(3)(b), the
24	expenditures recovered pursuant to 75-10-715;	24	responsible party may be liable for punitive damages in an
25	(b) funds appropriated to the fund by the legislature;	25	amount not to exceed two times the amount of any costs

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1 incurred by the department pursuant to this section.

2 (3) The department may initiate civil proceedings in 3 district court to recover costs, damages, or penalties under 4 subsections (1) and (2). Venue for any action to recover 5 costs, damages, or penalties lies in the county where the 6 release occurred or where the responsible party resides or 7 has its principal place of business or in the district court 8 of the first judicial district.

9 (4) No party is liable under subsection (1) or (2) if 10 that party can establish by a preponderance of the evidence 11 that:

12 (a) the department failed to follow the notice13 provisions of 75-10-711 when required; or

(b) the release did not emanate from any vessel,
vehicle, or facility over which the party had any authority
or control and was not caused by any action or omission of
the party; or

(c) in the case of assessment of punitive damages,
that factors beyond the control of the responsible party
prevented the party from taking timely remedial action.

21 (5)--(a)-Costs-of-remedial-action-recovered-pursuant-to
22 subsection-(1)(a)-must-be-deposited-in-the-fund-

23 (b)--Damages---and---penalties--recovered--pursuant--to
 24 subsections--(1)(b)--and--(2)--must--be--deposited--in---the
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2 <u>NEW SECTION.</u> Section 5. Extension of authority. Any 3 existing authority of the department of health and 4 environmental sciences to make rules on the subject of the 5 provisions of this act is extended to the provisions of this 6 act.

7 <u>NEW SECTION.</u> Section 6. Effective date. This act is
8 effective July 1, 1987.

-End-

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1 2 "AN ACT REALLOCATING FUNDS FROM Ream ENTITLED: THE ENVIRONMENTAL CONTINGENCY ACCOUNT TO THE ENVIRONMENTAL 5 THE SOZET PROTECTION FUND: SPECIFYING USES OF б OUALITY AMENDING SECTIONS ENVIRONMENTAL QUALITY PROTECTION FUND: 7 AND 75-10-715, MCA; AND 3. 75-1-1101, 75-1-1102, 75-10-704, 8 Porne 9 PROVIDING AN EFFECTIVE DATE."

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> THIRD READING -2-NR-718

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14 authorized to expend amounts from the fund necessary to
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16 (2) The fund may be used to carry out the provisions
17 of this part and for remedial actions taken by the
18 department pursuant to this part in response to a release of
19 hazardous or deleterious substances <u>as follows:</u>

(a) One-half of the funds deposited, up to a limit of
\$200,000, must be reserved for use in emergency actions
pursuant to 75-10-712. As these funds are expended, the
emergency action reserve must be built up to \$200,000
through dedication of funds recovered by the department
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1

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1 (b) Funds not reserved for emergency action must be 2 used to conduct a program of remedial action at sites: 3 (i) where a release has occurred; and (ii) where the U.S. environmental protection agency 4 5 has, under the provisions of the federal Comprehensive 6 Environmental Response, Compensation, and Liability Act of 7 1980 (CERCLA), as amended, conducted a hazard ranking study 8 and judged the site not eligible for inclusion on the 9 national priority list or where the U.S. environmental 10 protection agency has no authority or no plan to assess the 11 site under CERCLA. 12 (3) The department's program for remedial action under 13 subsection (2)(b) must include: (a) a system for prioritizing sites for remedial 14 15 action based on potential effects on human health and the 16 environment; and 17 (b) investigation, negotiation, and legal action, as 18 appropriate, to identify responsible parties, to obtain the 19 participation and financial contribution of responsible 20 parties for the remedial action, to achieve remedial action, 21 and to recover costs and damages incurred by the state. 22 (4) There must be deposited in the fund: 23 penalties, damages, and (a) all department 24 expenditures recovered pursuant to 75-10-715; 25 (b) funds appropriated to the fund by the legislature;

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2 (c) funds received from the environmental-contingency 3 account-within-the-state-special--revenue--fund--established resource indemnity trust interest account pursuant to 4 5 75-1-1101. (4)--Whenever-the--amount--of--money--in--the--fund--is 6 7 insufficient--to--carry--out-remedial-action7-the-department 8 may-apply-to-the-governor-for-a-grant-from-the-environmental 9 contingency-account-within-the-state--special--revenue--fund established-pursuant-to-75-1-1101-" 10 11 Section 4. Section 75-10-715, MCA, is amended to read: 12 "75-10-715. Reimbursement and penalties -- proceedings -- defenses. (1) Subject only to the defenses set forth in 13 14 subsection (4), a party responsible for a release is liable 15 for: 16 (a) all costs of remedial action taken by the 17 department pursuant to this part; and 18 (b) damages for injury to, destruction of, or loss of natural resources caused by the release or threatened 19 20 release.

(2) If the responsible party fails, without sufficient
cause, to properly provide remedial action upon notification
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1 incurred by the department pursuant to this section.

2 (3) The department may initiate civil proceedings in 3 district court to recover costs, damages, or penalties under 4 subsections (1) and (2). Venue for any action to recover 5 costs, damages, or penalties lies in the county where the 6 release occurred or where the responsible party resides or 7 has its principal place of business or in the district court 8 of the first judicial district.

9 (4) No party is liable under subsection (1) or (2) if
10 that party can establish by a preponderance of the evidence
11 that:

12 (a) the department failed to follow the notice13 provisions of 75-10-711 when required; or

(b) the release did not emanate from any vessel,
vehicle, or facility over which the party had any authority
or control and was not caused by any action or omission of
the party; or

18 (c) in the case of assessment of punitive damages,
19 that factors beyond the control of the responsible party
20 prevented the party from taking timely remedial action.

21 (5)--(a)-Costa-of-remedial-action-recovered-pursuant-to
22 subsection-(1)(a)-must-be-deposited-in-the-fund-

23 (b)--Damages---and---penalties--recovered--pursuant--to
 24 subsections--(1)(b)--and--(2)--must--be--deposited--in---the
 25 environmental--contingency--account-within-the-state-special

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1 revenue-fund-established-pursuant-to-75-1-1101;"

2 <u>NEW SECTION.</u> Section 5. Extension of authority. Any 3 existing authority of the department of health and 4 environmental sciences to make rules on the subject of the 5 provisions of this act is extended to the provisions of this 6 act.

7 <u>NEW SECTION.</u> Section 6. Effective date. This act is
8 effective July 1, 1987.

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# HB 0718/02

REFERENCE BILL

1	HOUSE BILL NO. 718	1	conservationfromtheresourceindemnitytrust-interest
2	INTRODUCED BY HARPER, DONALDSON, CONNELLY, RANEY, SQUIRES,	2	accounty-not-to-exceed-\$175;000-in-fiscal-year-1907;-must-be
3	ECK, ADDY, HANNAH, VINCENT, IVERSON, STRIZICH, C. SMITH,	3	allocated-to-the-environmental-contingencyaccount <u>quality</u>
4	JONES, COHEN, HARP, BACHINI, BRANDEWIE, REAM, GLASER,	4	protection-fund-provided-for-in-75-10-704.
5	SPAETH, THOFT, BRADLEY, CORNE', ASAY	5	<del>())<u>(2)</u>Punds-are-statutorily-appropriated;-as-provided</del>
6		6	in-17-7-5027-from-the-environmental-contingency-account-upon
7	A BILL FOR AN ACT ENTITLED: "AN ACT REALBOCATING ALLOCATING	7	theauthorizationofthegovernorto-meet-unanticipated
8	FUNDS FROM THE BNVIRONMENTALCONTINGENCYACCOUNT INTEREST	8	public-meeds-consistent-with-the-following-objectives:
9	INCOME OF THE RESOURCE INDEMNITY TRUST FUND TO THE	9	<pre>fajtosupportwaterdevelopmentprojectain</pre>
10	ENVIRONMENTAL QUALITY PROTECTION FUND; SPECIFYING USES OF	10	communities-that-face-an-emergency-or-imminent-need-for-such
11	THE ENVIRONMENTAL QUALITY PROTECTION FUND; AMENDING SECTIONS	11	services-ortopreventthephysicalfailure-of-a-water
12	75-1-1101775-1-1102 <u>15-38-202</u> , 75-10-704, AND 75-10-715,	12	project;
13	MCA; AND PROVIDING'AN EFFECTIVE DATE."	13	(b)topreservevegetation;water;soil;fish;
14		14	wildlifeorotherrenewableresourcesfrom-an-imminent
15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	15	physical-threat-or-during-an-emergency;-not-including;
16	Section-1Section-75-1-1101MEAis-amended-to-read:	16	(i)naturaldisastersadequatelycoveredbyother
17	#75-1-1101Bnvironmentalcontingencyaccount	17	funding-sources;-or
18	objectives- <u>quality-protection-fund-allocation(l</u> )-There-is	18	tit)-fire;
19	createdanenvironmentalcontingencyaccountwithin-the	19	(c)torespondto-an-emergency-or-imminent-threat-to
20	state-special-revenuefundestablishedin17-2-102The	20	persons7-property7-ortheenvironmentcausedbymineral
21	environmentalcontingencyaccountiscontrolledbythe	21	development;-and
22	governor-	22	(d)tofund-the-environmental-quality-protection-fund
23	<del>(2)</del> Except-as-provided-in-subsection-(5)- <u>(3)</u> 7atthe	23	providedforin75-10-704ortotakeothernecessary
24	beginningofeachfiscalyear;5%- <u>48</u> -of-the- <u>total</u> -funds	24	actions,includingtheconstructionoffacilities,to
25	appropriated-to-thedepartmentofnaturalresourcesand	25	respond-to-actual-or-potential-threats-to-persons7-property7
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### HB 0718/02

1	or-the-environmentcausedbyhazardouswastesorother
2	hazardousmaterialsqualityprotectionfundtothe
3	department-of-health-and-environmental-sciences-tobeused
4	for-remedial-action-upon-release-of-a-hazardous-substance-as
5	provided-for-in-Title-757-chapter-107-part-7.
6	(4) <u>(3)</u> Theenvironmentalcontingency-account- <u>quality</u>
7	protection-fund-may-receive-no-additional-allocation-for-any
8	fiscal-year-in-which-thebalanceintheaccountexceeds
9	\$1,000,000-at-the-beginning-of-that-fiscal-year;
10	<pre>f5;<u>f4;</u>Interestfromfundsintheenvironmental</pre>
11	contingency-account-quality-protection-fund-accruestothe
12	resource-indemnity-trust-interest-account-
13	<pre>t6)<u>t5</u>;The-d-governor<u>departmentofhealthand</u></pre>
14	<u>environmental-sciences</u> -shall-submit-tothelegislatureat
15	thebeginningof-each-regular-session-a-complete-financial
16	report-ontheenvironmentalcontingencyaccountquality
17	protection-fund,-including-a-description-of-all-expenditures
18	made-since-the-preceding-report."
19	Section-2Section-75-1-11027-MCA7-is-amended-to-read:
20	#75-1-1102Grantprogramspecialrevenueaccount
21	createdrevenuesallocationlimitationson
22	appropriations(1)Thereiscreatedagrantprogram
23	special-revenue-account-withinthestatespecialrevenue
24	fund-established-in-17-2-102-
25	(2)Theremust-be-paid-into-the-arent-program-aperial

(2)--There--must-be-paid-into-the-grant-program-special

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revenue-account-all-money-allocated-forappropriationfrom
theresourceindemnity-trust-interest-account-set-forth-in
Title157chapter307withtheexceptionofthose
allocations-made-in-15-38-202-and-75-1-1101-
<pre>(3)Appropriationsmay-be-made-from-the-grant-program</pre>
special-revenue-account-for-the-following-purposes:
<pre>(a)grants-for-designated-projects-and-activities;-and</pre>
<pre>(b)administrative-expenses;-including-but-not-limited</pre>
to-the-seleries-and-expenses-of-personnel7-equipment7-office
space,andotherexpensesnecessarilyincurredinthe
administrationof-the-grant-programThese-expenses-may-be
funded-prior-to-funding-of-projects-"
SECTION 1. SECTION 15-38-202, MCA, IS AMENDED TO READ:
"15-38-202. Investment of resource indemnity trust
fund expenditure minimum balance. (1) All moneys paid
into the resource indemnity trust fund shall be invested at
the discretion of the board of investments. All the net
earnings accruing to the resource indemnity trust fund 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 fund reaches \$100
million. Thereafter, all net earnings and all receipts shall
be appropriated by the legislature and expended, provided
that the balance in the fund may never be less than \$100
million.

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(2) Beginning in fiscal year 1982, provided the amount 1 in the resource indemnity trust fund is greater than \$10 2 million, 30% of the interest income of the resource 3 trust fund must be allocated to the water indemnity Δ development state special revenue account created by 5 85-1-604. 6

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(3) Beginning in fiscal year 1986, 6% of the interest 7 income of the resource indemnity trust fund must be 8 allocated to the department of health and environmental 9 sciences to be used to implement the Montana Hazardous Waste 10 Act and the federal Comprehensive Environmental Response, 11 Compensation, and Liability Act of 1980 in accordance with 12 Title 75, chapter 10, part 6. The allocation in this 13 subsection must be appropriated for each full biennium as 14 necessary to obtain matching federal funds for the biennium. 15 (4) Beginning in fiscal\_year\_1990, 4% of the interest 16 income of the resource indemnity trust fund must be 17 allocated to the environmental quality protection fund 18 provided for in 75-10-704."

Section 2. Section 75-10-704, MCA, is amended to read: 20 "75-10-704. Environmental quality protection fund. (1) 21 There is created in the state special revenue fund an 22 environmental quality protection fund to be administered as 23 a revolving fund by the department. The department is 24 authorized to expend amounts from the fund necessary to 25

1 carry out the purposes of this part.

2 (2) The fund may ONLY be used to carry out the provisions of this part and for remedial actions taken by 3 the department pursuant to this part in response to a 4 5 release of hazardous or deleterious substances- as--follows: 6 (a)--One-half--of-the-funds-deposited;-up-to-a-limit-of \$20070007-must-be-reserved--for--use--in--emergency--actions 7 pursuant--to--75-10-712---As--these-funds-are-expended;-the 8 9 emergency-action--reserve--must--be--built--up--to--5200;000 through--dedication--of--funds--recovered--by-the-department 10 11 pursuant-to-any-action-taken-under-75-10-715-12 fb)--Funds-not-reserved-for-emergency--action--must--be used--to-conduct. FUND USES MUST INCLUDE THE CONDUCT OF THE 13 HAZARDOUS WASTE SITE REMEDIAL ACTION PROGRAM, WHICH IS a 14 program of remedial action at sites: 15 16 (i)(A) where a release has occurred; and tii+(B) where the U.S. environmental protection agency 17 18 has, under the provisions of the federal Comprehensive 19 Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, conducted a hazard ranking study 20 and judged the site not eligible for inclusion on the 21 national priority list or where the U.S. environmental 22 protection agency has no authority or no plan to assess the 23 site under CERCLA. 24 (3) The department's program for remedial action under 25

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<pre>subsection <u>f2+fb+ (2)</u> must include:</pre>	1	MAY APPLY TO THE GOVERNOR FOR A GRANT FROM THE ENVIRONMENTAL
(a) a system for prioritizing sites for remedial	2	CONTINGENCY ACCOUNT ESTABLISHED PURSUANT TO 75-1-1101."
action based on potential effects on human health and the	3	Section 3. Section 75-10-715, MCA, is amended to read:
environment; and	4	"75-10-715. Reimbursement and penalties proceedings
(b) investigation, negotiation, and legal action, as	5	defenses. (1) Subject only to the defenses set forth in
appropriate, to identify responsible parties, to obtain the	6	subsection (4), a party responsible for a release is liable
participation and financial contribution of responsible	7	for:
parties for the remedial action, to achieve remedial action,	. 8	(a) all costs of remedial action taken by the
and to recover costs and damages incurred by the state.	9	department pursuant to this part; and
$f \exists j(4)$ There must be deposited in the fund:	10	(b) damages for injury to, destruction of, or loss of
(a) all penalties, damages, and department	11	natural resources caused by the release or threatened
expenditures recovered pursuant to 75-10-715;	12	release.
(b) funds appropriated to the fund by the legislature;	13	(2) If the responsible party fails, without sufficient
and	14	cause, to properly provide remedial action upon notification
(c) funds received from the environmental-contingency	15	by the department pursuant to 75-10-711(3)(b), the
account-within-the-state-specialrevenuefundestablished	16	responsible party may be liable for punitive damages in an
INTEREST INCOME OF THE resource indemnity trust interest	17	amount not to exceed two times the amount of any costs
account FUND pursuant to 75-1-1101 15-38-202.	18	incurred by the department pursuant to this section.
(4)Whenever-theamountofmoneyinthefundis	19	(3) The department may initiate civil proceedings in
insufficienttocarryout-remedial-action;-the-department	20	district court to recover costs, damages, or penalties under
may-apply-to-the-governor-for-a-grant-from-the-environmental	21	subsections (1) and (2). Venue for any action to recover
contingency-account-within-the-statespecialrevenuefund	22	costs, damages, or penalties lies in the county where the
established-pursuant-to-75-1-1101-"	23	release occurred or where the responsible party resides or
(5) WHENEVER THE AMOUNT OF MONEY IN THE FUND IS	24	has its principal place of business or in the district court
INSUFFICIENT TO CARRY OUT REMEDIAL ACTION, THE DEPARTMENT	25	of the first judicial district.
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	<ul> <li>(a) a system for prioritizing sites for remedial action based on potential effects on human health and the environment; and         <ul> <li>(b) investigation, negotiation, and legal action, as appropriate, to identify responsible parties, to obtain the participation and financial contribution of responsible parties for the remedial action, to achieve remedial action, and to recover costs and damages incurred by the state.</li> <li>f3f(4) There must be deposited in the fund:</li></ul></li></ul>	Interform (PT(Y) for model interest)(a) a system for prioritizing sites for remedialaction based on potential effects on human health and theaction based on potential effects on human health and theaction based on potential effects on human health and theaction based on potential effects on human health and theaction based on potential effects on human health and theaction based on potential effects on human health and the(b) investigation, negotiation, and legal action, asappropriate, to identify responsible parties, to obtain theparticipation and financial contribution of responsibleparties for the remedial action, to achieve remedial action,and to recover costs and damages incurred by the state.(a) all penalties, damages, and department(a) all penalties, damages, and department(b) funds appropriated to the fund by the legislature;and(c) funds received from the environmental-contingencyaccount within the state specialrevenue-fundestablishedINTEREST INCOME OF THE resource indemnity trust interestinsufficienttocarryout-remedial-action,-the-departmentmay-apply-to-the-governor-for-a-grant-from-the-environmentalcontingency-account within-the-statespecialrevenuefundaccount-within-the-statespecialrevenuefundcontingency-account within-the-statespecialrevenuefundcontingency-account-within-the-statespecialrevenuefundcontingency-account-within-the-statespecialrevenuefundcontingency-account-within-the-statespecialrevenuefundcontingency-account-within-the-statespec

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2	that party can establish by a preponderance of the evidence	2	SENATE BILL NO. 373 MUST
3	that:	3	" <u>NEW SECTION.</u> Sect
4	(a) the department failed to follow the notice	4	IfHouseBillNo777
5	provisions of 75-10-711 when required; or	5	amending-15-30-2027-is-p
6	(b) the release did not emanate from any vessel,	6	<del>{l}the-bracketed-</del>
7	vehicle, or facility over which the party had any authority	7	act-allocating-fundsto
8	or control and was not caused by any action or omission of	8	grants-account-must-read
9	the party; or	9	<del>(2)the-bracketed-</del>
10	(c) in the case of assessment of punitive damages,	10	(1) If House Bil
11	that factors beyond the control of the responsible party	11	that bill amending 15-38
12	prevented the party from taking timely remedial action.	12	House Bill No. 718, inc
13	(5)(a)-Costs-of-remedial-action-recovered-pursuant-to	13	amending 15-38-202, is
14	subsection-(1)(a)-must-be-deposited-in-the-fund-	14	material in section 12 m
15	fb;Bamagesandpenaltiesrecoveredpursuantto	15	(2) If House Bill
16	subsections(1)(b)and(2)mustbedepositedinthe	16	that bill amending 15-38
17	environmentalcontingencyaccount-within-the-state-special	. 17	House Bill No. 718
18	revenue-fund-established-pursuant-to-75-1-1101-"	18	15-38-202, is not pas
19	NEW SECTION. Section 4. Extension of authority. Any	19	material in section 12 m
20	existing authority of the department of health and	20	(3) If House Bil
21	environmental sciences to make rules on the subject of the	21	amending 15-38-202 is no
22	provisions of this act is extended to the provisions of this	22	Bill No. 718, includir
23	act.	23	passed and approved, the
24	NEW SECTION. SECTION 5. COORDINATION INSTRUCTION. IF	24	must read "52%"."
25	SENATE BILL NO. 373, INCLUDING THE SECTION OF THAT BILL	25	NEW SECTION. Section.

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(4) No party is liable under subsection (1) or (2) if

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AMENDING 15-38-202, IS PASSED AND APPROVED, SECTION 18 OF ST READ: ction 18. Coordination instruction. 777-including-the-section-of-that-bill -passed-and-approved: d-material-in-section-12(2)(d)-of-this to--the--reclamation--and--development ad-#50%#+-and d-material-in-section-6-is-voidill No. 777, including the section of 38-202, is passed and approved, and if ncluding the section of that bill is passed and approved, the bracketed must\_read "46%". 1 No. 777, including the section of 38-202, is passed and approved, and if 18, including the section amending assed and approved, the bracketed must read "50%". ill No. 777, including the section not passed and approved, and if House ing the section amending 15-38-202, is he bracketed material in section 12

25 <u>NEW SECTION.</u> Section 6. Effective date. This act is

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1 effective July 1, 1987.

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	STANDING COMMITTEE REPORT	Natural Resources Committee
	SENATE	
	March. 23	
C	MR. PRESIDENT	(3) Beginning in fiscal of the resource indemnity tr
	We, your committee on	of health and environmental s Montana Hazardous Waste Act a
	having had under consideration	Response, Compensation, and I Title 75, chapter 10, part 6.
	THIRD reading copy ( BLUE ) color	be appropriated for each ful federal funds for the biennin (4) Beginning in fisca
	REALLOCATING ENVIRONMENTAL CONTINGENCY ACCT. TO ENV. QUALITY PROTECTION FUND	the resource indemnity trust mental quality protection fur
	HARPER (ECK)	Renumber: subsequent sections
	Respectfully report as follows: That	5. Page 4, line 16. Following: "ma <b>y</b> " Insert: "only"
	1. Title, line 4.	6. Page 4, line 19 through lin Strike: "as" on page 4, line 1
	Strike: "REALLOCATING" Insert: "ALLOCATING"	Insert: ". Fund uses must ind site remedial action program,
-	2. Title, line 5. Strike: "ENVIRONMENTAL CONTINGENCY ACCOUNT" Insert: "INTEREST INCOME OF THE RESOURCE INDEMNITY TRUST FUND"	7. Page 5, line 3. Strike: " <u>(i)</u> " Insert: "(a)"
Ų	3. Title, line 8. Strike: "75-1-1101, 75-1-1102" Insert: "15-38-202"	8. Page 5, line 4. Strike: " <u>(ii)</u> " Insert: " <mark>(b)"</mark>
	<ul> <li>4. Page 1, line 12, through line 8 on page 4.</li> <li>Strike: sections 1 and 2 in their entirety</li> <li>Insert: "Section 1. Section 15-38-202, MCA, is amended to read: "15-38-202. Investment of resource indemnity trust fund</li> </ul>	9. Page 5, line 13. Strike: " <u>(2)(b)</u> " Insert: "( <u>2</u> )"
	expenditure minimum balance. (1) All moneys paid into the resource indemnity trust fund shall be invested at the discretion of the board of investments. All the net earnings accruing to the resource indemnity trust fund shall annually be added thereto until it has reached the	<pre>10. Page 6. Following: line 3 Insert: "interest income of t</pre>
	sum of \$10 million. Thereafter, only the net earnings may be appropri- ated and expended until the fund reaches \$100 million. Thereafter, all net earnings and all receipts shall be appropriated by the legisla- ture and expended, provided that the balance in the fund may never	ll. Page 6, line 4. Strike: " <u>interest account</u> " Insert: "fund"
	be less than \$100 million. (2) Beginning in fiscal year 1982, provided the amount in the resource indemnity trust fund is greater than \$10 million, 30% of the interest income of the resource indemnity trust fund must be allocated	12. Page 6, line 5. Strike: "75-1-1101" Insert: "15-38-202"
	to the water development state special revenue account created by ***********************************	13. Page 6, line 10. Following: " <del>75-1-1101.</del> "
	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	Insert: "(5) Whenever the am
1	A	to carry out remedial action for a grant from the environ
~	CONTINUED Chairman b 34	pursuant to 75-1-1101."

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1 year 1986, 6% of the interest income ust fund must be allocated to the department sciences to be used to implement the and the federal Comprehensive Environmental Liability Act of 1980 in accordance with The allocation in this subsection must l biennium as necessary to obtain matching um.

1 year 1990, 4% of the interest income of fund must be allocated to the environ-nd, provided for in 75-10-704.""

ne 2 on page 5. 19 through "conduct" on line 2, page 5 clude the conduct of the hazardous waste , which is"

he"

wount of money in the fund is insufficient , the department may apply to the governor mental contingency account established

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3.24.99

Natural Resources Committee

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14. Page 8. Following: line 6

Insert: " <u>NEW SECTION.</u> Section 5. Coordination instruction. If Senate Bill No. 373, including the section of that bill amending 15-38-202, is passed and approved, section 18 of Senate Bill No. 373 must read:

"<u>NEW SECTION.</u> Section 18. Coordination instruction. **If-House-Bill** No--7777-including-the-section-of-that-bill-amending-15-38-2027-is passed-and-approved;

(1)--the-bracketed-material-in-section-12(2)(d)-of-this-act allocating-funds-to-the-reclamation-and-development-grants-account must-read-#50%#;-and

(2)--the-bracketed-material-in-section-6-is-void-

(1) If House Bill No. 777, including the section of that bill amending 15-38-202, is passed and approved, and if House Bill No. 718, including the section of that bill amending 15-38-202, is passed and approved, the bracketed material in section 12 must read "46%".

(2) If House Bill No. 777, including the section of that bill amending 15-38-202, is passed and approved, and if House Bill No. 718, including the section amending 15-38-202, is not passed and approved, the bracketed material in section 12 must read "50%".

(3) If House Bill No. 777, including the section amending 15-38-202 is not passed and approved, and if House Bill No. 718, including the section amending 15-38-202, is passed and approved, the bracketed material in section 12 must read "52%".""

AND AS AMENDED BE CONCURRED IN

KEATING, Chairman