

HOUSE BILL 609

Introduced by Cohen, et al.

2/08	Introduced
2/09	Referred to Natural Resources
2/09	Fiscal Note Requested
2/15	Hearing
2/15	Fiscal Note Received
2/16	Committee Report--Bill Passed as Amended
2/18	2nd Reading Passed
2/20	Taken from Engrossing
2/20	Rereferred to Appropriations
2/22	Fiscal Note Printed
3/13	Hearing
3/18	Committee Report--Bill Passed
3/22	2nd Reading Passed
3/23	3rd Reading Passed

Transmitted to Senate

3/27	Referred to Finance & Claims
4/12	Hearing
4/17	Committee Report--Bill Not Concurred
4/17	Adverse Committee Report Adopted

1 *HOUSE* BILL NO. *609*
2 INTRODUCED BY *John Hays Hand*
3 *Spencer Yellowtail*
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A WATER
5 QUALITY REHABILITATION ACCOUNT; REQUIRING THAT FINES AND
6 CIVIL PENALTIES COLLECTED FOR VIOLATIONS OF TITLE 75,
7 CHAPTER 5, BE DEPOSITED IN THE WATER QUALITY REHABILITATION
8 ACCOUNT; AUTHORIZING THE DEPARTMENT OF HEALTH AND
9 ENVIRONMENTAL SCIENCES TO SPEND THE FUNDS IN THE ACCOUNT;
10 PROVIDING FOR STATUTORY APPROPRIATION; PROVIDING THAT COSTS
11 AND EXPENSES RECOVERED BY THE DEPARTMENT UNDER SECTION
12 15-5-635, MCA, THAT WERE FINANCED BY THE WATER QUALITY
13 REHABILITATION ACCOUNT MUST BE DEPOSITED IN THE ACCOUNT;
14 AMENDING SECTIONS 17-7-502, 75-5-634, AND 75-5-635, MCA; AND
15 PROVIDING AN EFFECTIVE DATE."

16
17 STATEMENT OF INTENT

18 A statement of intent is required for this bill in
19 order to provide guidance to the department of health and
20 environmental sciences concerning its authority to make
21 rules on the following subjects:

- 22 (1) the nature of water quality repair, restoration,
23 and rehabilitation activities undertaken by the department;
24 (2) the nature of investigative and
25 information-gathering activities the department may

1 undertake to evaluate instances of pollution of state waters
2 for purposes of implementing [this act]; and
3 (3) the criteria the department may use to prioritize
4 use of funds from the water quality rehabilitation account.

5
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

7 NEW SECTION. **Section 1.** Water quality rehabilitation
8 account. (1) There is a water quality rehabilitation special
9 revenue account within the state special revenue fund
10 established in 17-2-102, to be administered as a revolving
11 fund by the department.

12 (2) Fines and civil penalties collected for violations
13 of any provision of this chapter or a rule, permit, effluent
14 standard, or order issued under the provisions of this
15 chapter must be deposited in the water quality
16 rehabilitation account. These funds are statutorily
17 appropriated, as provided in 17-7-502.

18 (3) The department may spend funds deposited in the
19 water quality rehabilitation account for the following
20 purposes:

- 21 (a) response to emergency water pollution events,
22 including spills and accidents, in an effort to repair,
23 restore, and rehabilitate the affected state waters;
24 (b) repair, restoration, and rehabilitation of state
25 waters that are chronically or periodically adversely

1 affected as a result of past pollution-causing events or
2 activities; and

3 (c) in situations where the department discovers or
4 suspects that a pollution problem exists, investigation or
5 other information gathering that is necessary and
6 appropriate to identify the existence, nature, origin, and
7 extent of the pollution and to identify an appropriate
8 response.

9 (4) The department is authorized to draw upon the
10 account in order to take action under subsection (3) only
11 if:

12 (a) (i) an emergency water pollution event has
13 occurred and the department is either unable to identify a
14 responsible party or the responsible party fails to repair,
15 restore, or rehabilitate the adversely affected state waters
16 in a timely manner; and

17 (ii) the department determines that prompt action is
18 necessary to protect public health, minimize the extent of
19 environmental damage, or minimize the overall economic cost
20 of appropriately responding to the emergency situation; or

21 (b) the department has made diligent, good-faith
22 efforts to determine the identity of the person responsible
23 for pollution resulting from past events or activities and
24 has been unable to identify the person or take enforcement
25 action as provided in Title 75, chapter 5, part 6.

1 **Section 2.** Section 75-5-634, MCA, is amended to read:

2 "75-5-634. Fines and civil penalties to go to general
3 fund water quality rehabilitation account. Fines and civil
4 penalties collected, except those collected in a justice's
5 court, ~~shall~~ must be deposited to in the state-general--fund
6 water quality rehabilitation account."

7 **Section 3.** Section 17-7-502, MCA, is amended to read:

8 "17-7-502. Statutory appropriations -- definition --
9 **requisites for validity.** (1) A statutory appropriation is an
10 appropriation made by permanent law that authorizes spending
11 by a state agency without the need for a biennial
12 legislative appropriation or budget amendment.

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

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

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

21 (3) The following laws are the only laws containing
22 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
23 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304;
24 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101;
25 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424;

17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205;
 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606;
 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111;
 23-5-610; 23-5-1027; 33-31-212; 33-31-401; 37-51-501;
 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101;
 75-7-305; 76-12-123; 80-2-103; 80-2-228; 82-11-136;
 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306; 90-15-103;
 section 13, House Bill No. 861, Laws of 1985; and section 1,
 Chapter 454, Laws of 1987; and [section 1].

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3): pursuant to sec. 15, Ch. 607, L. 1987, the inclusion of 15-65-121 terminates June 30, 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991; and pursuant to sec. 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L. 1987, terminates July 1, 1988.)"

Section 4. Section 75-5-635, MCA, is amended to read:

"75-5-635. Costs and expenses -- recovery by department -- deposit in water quality rehabilitation account. (1) In a civil action initiated by the department under this chapter, the department may ask for and the court is authorized to assess a violator for the cost of the investigation or monitoring survey which led to the establishment of the violation and any expense incurred by the state in removing, correcting, or terminating any of the adverse effects upon water quality resulting from the unauthorized discharge of pollutants.

(2) Any costs and expenses recovered by the department under subsection (1) for actions that the department financed with money from the water quality rehabilitation account authorized by [section 1] must be deposited in the water quality rehabilitation account."

NEW SECTION. Section 5. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 6. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 75, chapter 5, part 5, and the provisions of Title 75, chapter 5, part 5, apply to [section 1].

NEW SECTION. Section 7. Effective date. [This act] is

LC 0967/01

1 effective July 1, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB609, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An Act establishing a water quality rehabilitation account; requiring that fines and civil penalties collected for Violations of Title 75, Chapter 5, be deposited in the Water Quality Rehabilitation Account; authorizing the Department of Health and Environmental Sciences to spend the funds in the account; providing for statutory appropriation; providing that costs and expenses recovered by the Department of Health and Environmental Sciences under Section 15-5-635, MCA, that were financed by the Water Quality Rehabilitation Account must be deposited in the account; amendment Sections 17-7-502, 75-5-634, and 75-5-635, MCA; and providing an effective date.

ASSUMPTIONS:

1. Enforcement actions will not be effected by the bill.
2. Estimated income to the fund will be \$31,000 per year based upon past experience.
3. An average of 5 incidents will recur each year that would require expenditure from the fund.
4. Estimated average incident response cost would be \$4,000.

FISCAL IMPACT:

		FY90			FY91	
	Current	Proposed		Current	Proposed	
Revenue:	Law	Law	Difference	Law	Law	Difference
Fines and Civil Penalties	\$26,000	\$26,000	\$ -0-	\$26,000	\$26,000	\$ -0-
Recovered Agency Costs	\$ 5,000	\$ 5,000	\$ -0-	\$ 5,000	\$ 5,000	\$ -0-
<u>Fund Information:</u>						
General Fund	\$31,000	\$ -0-	(\$31,000)	\$31,000	\$ -0-	(\$31,000)
Water Quality Rehabilitation						
Special Revenue	\$ -0-	\$31,000	\$ 31,000	\$ -0-	\$31,000	\$ 31,000
<u>Expenditures:</u>						
Department of Health						
Operating Costs	\$ 5,000	\$25,000	\$ 20,000	\$ 5,000	\$25,000	\$ 20,000
<u>Fund Information:</u>						
General Fund	\$ 5,000	\$ -0-	(\$ 5,000)	\$ 5,000	\$ -0-	(\$ 5,000)
Water Quality Rehabilitation						
Special Revenue	\$ -0-	\$25,000	\$ 25,000	\$ -0-	\$25,000	\$ 25,000
<u>FUND IMPACT:</u>						
General Fund	\$26,000	\$ -0-	(\$26,000)	\$26,000	\$ -0-	(\$26,000)
State Special Revenue	\$ -0-	\$ 6,000	\$ 6,000	\$ -0-	\$ 6,000	\$ 6,000



DATE 2/15/89

RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING



DATE 2/21/89

BEN COHEN, PRIMARY SPONSOR

Fiscal Note for HB609, as introduced**HB 609**

APPROVED BY COMM. ON
NATURAL RESOURCES

HOUSE BILL NO. 609

INTRODUCED BY COHEN, HARPER, HANNAH, GRADY,
SPAETH, YELLOWTAIL, HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A WATER
QUALITY REHABILITATION ACCOUNT; REQUIRING THAT FINES AND
CIVIL PENALTIES COLLECTED FOR VIOLATIONS OF TITLE 75,
CHAPTER 5, BE DEPOSITED IN THE WATER QUALITY REHABILITATION
ACCOUNT; AUTHORIZING THE DEPARTMENT OF HEALTH AND
ENVIRONMENTAL SCIENCES TO SPEND THE FUNDS IN THE ACCOUNT;
PROVIDING FOR STATUTORY APPROPRIATION; PROVIDING THAT COSTS
AND EXPENSES RECOVERED BY THE DEPARTMENT UNDER SECTION
15-5-635 75-5-635, MCA, THAT WERE FINANCED BY THE WATER
QUALITY REHABILITATION ACCOUNT MUST BE DEPOSITED IN THE
ACCOUNT; AMENDING SECTIONS 17-7-502, 75-5-634, AND 75-5-635,
MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill in
order to provide guidance to the department of health and
environmental sciences concerning its authority to make
rules on the following subjects:

(1) the nature of water quality repair, restoration,
and rehabilitation activities undertaken by the department;

(2) the nature of investigative and

information-gathering activities the department may
undertake to evaluate instances of pollution of state waters
for purposes of implementing [this act]; and

(3) the criteria the department may use to prioritize
use of funds from the water quality rehabilitation account.

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

NEW SECTION. **Section 1. Water quality rehabilitation**
account. (1) There is a water quality rehabilitation special
revenue account within the state special revenue fund
established in 17-2-1027-~~to-be-administered-as-a-revolving~~
~~fund-by-the-department.~~

(2) Fines and civil penalties collected for violations
of any provision of this chapter or a rule, permit, effluent
standard, or order issued under the provisions of this
chapter must be deposited in the water quality
rehabilitation account IN THE AMOUNTS PROVIDED FOR IN
75-5-634. These funds are statutorily appropriated, as
provided in 17-7-502.

(3) The department may spend funds deposited in the
water quality rehabilitation account for the following
purposes:

(a) response to emergency water pollution events,
including spills and accidents, in an effort to repair,
restore, and rehabilitate the affected state waters;

(b) repair, restoration, and rehabilitation of state waters that are chronically or periodically adversely affected as a result of past pollution-causing events or activities; and

(c) in situations where the department discovers or suspects that a pollution problem exists, investigation or other information gathering that is necessary and appropriate to identify the existence, nature, origin, and extent of the pollution and to identify an appropriate response.

(4) The department is authorized to draw upon the account in order to take action under subsection (3) only if:

(a) (i) an emergency water pollution event has occurred and the department is either unable to identify a responsible party or the responsible party fails to repair, restore, or rehabilitate the adversely affected state waters in a timely manner; and

(ii) the department determines that prompt action is necessary to protect public health, minimize the extent of environmental damage, or minimize the overall economic cost of appropriately responding to the emergency situation; or

(b) the department has made diligent, good-faith efforts to determine the identity of the person responsible for pollution resulting from past events or activities and

has been unable to identify the person or take enforcement action as provided in Title 75, chapter 5, part 6.

Section 2. Section 75-5-634, MCA, is amended to read:

"75-5-634. Fines DISPOSITION OF FINES and civil penalties to-go-to-general-fund water-quality-rehabilitation account----Pines. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), FINES and civil penalties collected, except those collected in a justice's court, shall must be deposited to in the state-general-fund water quality rehabilitation account.

(2) (A) NO MORE THAN \$10,000 IN FINES AND CIVIL PENALTIES MAY BE DEPOSITED IN THE WATER QUALITY REHABILITATION ACCOUNT IN ANY FISCAL YEAR. FINES AND CIVIL PENALTIES IN EXCESS OF THE \$10,000 LIMIT MUST BE DEPOSITED IN THE GENERAL FUND.

(B) WHENEVER THE AMOUNT OF MONEY IN THE WATER QUALITY REHABILITATION ACCOUNT EXCEEDS \$50,000, ALL FINES AND CIVIL PENALTIES MUST BE DEPOSITED IN THE GENERAL FUND."

Section 3. Section 17-7-502, MCA, is amended to read:

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

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both

of the following provisions:

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111; 23-5-610; 23-5-1027; 33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306; 90-15-103; section 13, House Bill No. 861, Laws of 1985; and section 1, Chapter 454, Laws of 1987; and [section 1].

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements

authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3): pursuant to sec. 15, Ch. 607, L. 1987, the inclusion of 15-65-121 terminates June 30, 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991; and pursuant to sec. 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L. 1987, terminates July 1, 1988.)"

Section 4. Section 75-5-635, MCA, is amended to read:

"75-5-635. Costs and expenses -- recovery by department -- deposit in water quality rehabilitation account. (1) In a civil action initiated by the department under this chapter, the department may ask for and the court is authorized to assess a violator for the cost of the investigation or monitoring survey which led to the establishment of the violation and any expense incurred by the state in removing, correcting, or terminating any of the adverse effects upon water quality resulting from the unauthorized discharge of pollutants.

(2) Any costs and expenses recovered by the department under subsection (1) for actions that the department financed with money from the water quality rehabilitation

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1 account authorized by [section 1] must be deposited in the
2 water quality rehabilitation account."

3 NEW SECTION. **Section 5.** Extension of authority. Any
4 existing authority to make rules on the subject of the
5 provisions of [this act] is extended to the provisions of
6 [this act].

7 NEW SECTION. **Section 6.** Codification instruction.
8 [Section 1] is intended to be codified as an integral part
9 of Title 75, chapter 5, part 5, and the provisions of Title
10 75, chapter 5, part 5, apply to [section 1].

11 NEW SECTION. **Section 7.** Effective date. [This act] is
12 effective July 1, 1989.

-End-

RE-REFERRED AND
APPROVED BY COMMITTEE
ON APPROPRIATIONS

HOUSE BILL NO. 609

INTRODUCED BY COHEN, HARPER, HANNAH, GRADY,
SPAETH, YELLOWTAIL, HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A WATER QUALITY REHABILITATION ACCOUNT; REQUIRING THAT FINES AND CIVIL PENALTIES COLLECTED FOR VIOLATIONS OF TITLE 75, CHAPTER 5, BE DEPOSITED IN THE WATER QUALITY REHABILITATION ACCOUNT; AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO SPEND THE FUNDS IN THE ACCOUNT; PROVIDING FOR STATUTORY APPROPRIATION; PROVIDING THAT COSTS AND EXPENSES RECOVERED BY THE DEPARTMENT UNDER SECTION 75-5-635, MCA, THAT WERE FINANCED BY THE WATER QUALITY REHABILITATION ACCOUNT MUST BE DEPOSITED IN THE ACCOUNT; AMENDING SECTIONS 17-7-502, 75-5-634, AND 75-5-635, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill in order to provide guidance to the department of health and environmental sciences concerning its authority to make rules on the following subjects:

- (1) the nature of water quality repair, restoration, and rehabilitation activities undertaken by the department;
- (2) the nature of investigative and

information-gathering activities the department may undertake to evaluate instances of pollution of state waters for purposes of implementing [this act]; and

- (3) the criteria the department may use to prioritize use of funds from the water quality rehabilitation account.

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

NEW SECTION. **Section 1.** Water quality rehabilitation account. (1) There is a water quality rehabilitation special revenue account within the state special revenue fund established in 17-2-102, ~~to be administered as a revolving fund by the department.~~

(2) Fines and civil penalties collected for violations of any provision of this chapter or a rule, permit, effluent standard, or order issued under the provisions of this chapter must be deposited in the water quality rehabilitation account IN THE AMOUNTS PROVIDED FOR IN 75-5-634. These funds are statutorily appropriated, as provided in 17-7-502.

(3) The department may spend funds deposited in the water quality rehabilitation account for the following purposes:

- (a) response to emergency water pollution events, including spills and accidents, in an effort to repair, restore, and rehabilitate the affected state waters;

(b) repair, restoration, and rehabilitation of state waters that are chronically or periodically adversely affected as a result of past pollution-causing events or activities; and

(c) in situations where the department discovers or suspects that a pollution problem exists, investigation or other information gathering that is necessary and appropriate to identify the existence, nature, origin, and extent of the pollution and to identify an appropriate response.

(4) The department is authorized to draw upon the account in order to take action under subsection (3) only if:

(a) (i) an emergency water pollution event has occurred and the department is either unable to identify a responsible party or the responsible party fails to repair, restore, or rehabilitate the adversely affected state waters in a timely manner; and

(ii) the department determines that prompt action is necessary to protect public health, minimize the extent of environmental damage, or minimize the overall economic cost of appropriately responding to the emergency situation; or

(b) the department has made diligent, good-faith efforts to determine the identity of the person responsible for pollution resulting from past events or activities and

has been unable to identify the person or take enforcement action as provided in Title 75, chapter 5, part 6.

Section 2. Section 75-5-634, MCA, is amended to read:

"75-5-634. Fines DISPOSITION OF FINES and civil penalties to-go-to-general-fund water-quality-rehabilitation account----Pines. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), FINES and civil penalties collected, except those collected in a justice's court, shall must be deposited to in the state-general-fund water quality rehabilitation account.

(2) (A) NO MORE THAN \$10,000 IN FINES AND CIVIL PENALTIES MAY BE DEPOSITED IN THE WATER QUALITY REHABILITATION ACCOUNT IN ANY FISCAL YEAR. FINES AND CIVIL PENALTIES IN EXCESS OF THE \$10,000 LIMIT MUST BE DEPOSITED IN THE GENERAL FUND.

(B) WHENEVER THE AMOUNT OF MONEY IN THE WATER QUALITY REHABILITATION ACCOUNT EXCEEDS \$50,000, ALL FINES AND CIVIL PENALTIES MUST BE DEPOSITED IN THE GENERAL FUND."

Section 3. Section 17-7-502, MCA, is amended to read:

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

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both

1 of the following provisions:

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

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

7 (3) The following laws are the only laws containing
8 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
9 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304;
10 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101;
11 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424;
12 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205;
13 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606;
14 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111;
15 23-5-610; 23-5-1027; 33-31-212; 33-31-401; 37-51-501;
16 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101;
17 75-7-305; 76-12-123; 80-2-103; 80-2-228; 82-11-136;
18 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306; 90-15-103;
19 section 13, House Bill No. 861, Laws of 1985; and section 1,
20 Chapter 454, Laws of 1987; and section 1.

21 (4) There is a statutory appropriation to pay the
22 principal, interest, premiums, and costs of issuing, paying,
23 and securing all bonds, notes, or other obligations, as due,
24 that have been authorized and issued pursuant to the laws of
25 Montana. Agencies that have entered into agreements

1 authorized by the laws of Montana to pay the state
2 treasurer, for deposit in accordance with 17-2-101 through
3 17-2-107, as determined by the state treasurer, an amount
4 sufficient to pay the principal and interest as due on the
5 bonds or notes have statutory appropriation authority for
6 such payments. (In subsection (3): pursuant to sec. 15, Ch.
7 607, L. 1987, the inclusion of 15-65-121 terminates June 30,
8 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion
9 of 39-71-2504 terminates June 30, 1991; and pursuant to sec.
10 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.
11 1987, terminates July 1, 1988.)"

12 **Section 4.** Section 75-5-635, MCA, is amended to read:

13 "75-5-635. Costs and expenses -- recovery by
14 department -- deposit in water quality rehabilitation
15 account. (1) In a civil action initiated by the department
16 under this chapter, the department may ask for and the court
17 is authorized to assess a violator for the cost of the
18 investigation or monitoring survey which led to the
19 establishment of the violation and any expense incurred by
20 the state in removing, correcting, or terminating any of the
21 adverse effects upon water quality resulting from the
22 unauthorized discharge of pollutants.

23 (2) Any costs and expenses recovered by the department
24 under subsection (1) for actions that the department
25 financed with money from the water quality rehabilitation

1 account authorized by [section 1] must be deposited in the
2 water quality rehabilitation account."

3 NEW SECTION. Section 5. Extension of authority. Any
4 existing authority to make rules on the subject of the
5 provisions of [this act] is extended to the provisions of
6 [this act].

7 NEW SECTION. Section 6. Codification instruction.
8 [Section 1] is intended to be codified as an integral part
9 of Title 75, chapter 5, part 5, and the provisions of Title
10 75, chapter 5, part 5, apply to [section 1].

11 NEW SECTION. Section 7. Effective date. [This act] is
12 effective July 1, 1989.

-End-

1 HOUSE BILL NO. 609

2 INTRODUCED BY COHEN, HARPER, HANNAH, GRADY,

3 SPAETH, YELLOWTAIL, HALLIGAN

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A WATER
6 QUALITY REHABILITATION ACCOUNT; REQUIRING THAT FINES AND
7 CIVIL PENALTIES COLLECTED FOR VIOLATIONS OF TITLE 75,
8 CHAPTER 5, BE DEPOSITED IN THE WATER QUALITY REHABILITATION
9 ACCOUNT; AUTHORIZING THE DEPARTMENT OF HEALTH AND
10 ENVIRONMENTAL SCIENCES TO SPEND THE FUNDS IN THE ACCOUNT;
11 PROVIDING FOR STATUTORY APPROPRIATION; PROVIDING THAT COSTS
12 AND EXPENSES RECOVERED BY THE DEPARTMENT UNDER SECTION
13 15-5-635 75-5-635, MCA, THAT WERE FINANCED BY THE WATER
14 QUALITY REHABILITATION ACCOUNT MUST BE DEPOSITED IN THE
15 ACCOUNT; AMENDING SECTIONS 17-7-502, 75-5-634, AND 75-5-635,
16 MCA; AND PROVIDING AN EFFECTIVE DATE."

17
18 STATEMENT OF INTENT

19 A statement of intent is required for this bill in
20 order to provide guidance to the department of health and
21 environmental sciences concerning its authority to make
22 rules on the following subjects:

23 (1) the nature of water quality repair, restoration,
24 and rehabilitation activities undertaken by the department;

25 (2) the nature of investigative and

1 information-gathering activities the department may
2 undertake to evaluate instances of pollution of state waters
3 for purposes of implementing [this act]; and

4 (3) the criteria the department may use to prioritize
5 use of funds from the water quality rehabilitation account.

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 NEW SECTION. Section 1. water quality rehabilitation
9 account. (1) There is a water quality rehabilitation special
10 revenue account within the state special revenue fund
11 established in 17-2-102, to-be-administered-as-a-revolving
12 fund-by-the-department.

13 (2) Fines and civil penalties collected for violations
14 of any provision of this chapter or a rule, permit, effluent
15 standard, or order issued under the provisions of this
16 chapter must be deposited in the water quality
17 rehabilitation account IN THE AMOUNTS PROVIDED FOR IN
18 75-5-634. These funds are statutorily appropriated, as
19 provided in 17-7-502.

20 (3) The department may spend funds deposited in the
21 water quality rehabilitation account for the following
22 purposes:

23 (a) response to emergency water pollution events,
24 including spills and accidents, in an effort to repair,
25 restore, and rehabilitate the affected state waters;

(b) repair, restoration, and rehabilitation of state waters that are chronically or periodically adversely affected as a result of past pollution-causing events or activities; and

(c) in situations where the department discovers or suspects that a pollution problem exists, investigation or other information gathering that is necessary and appropriate to identify the existence, nature, origin, and extent of the pollution and to identify an appropriate response.

(4) The department is authorized to draw upon the account in order to take action under subsection (3) only if:

(a) (i) an emergency water pollution event has occurred and the department is either unable to identify a responsible party or the responsible party fails to repair, restore, or rehabilitate the adversely affected state waters in a timely manner; and

(ii) the department determines that prompt action is necessary to protect public health, minimize the extent of environmental damage, or minimize the overall economic cost of appropriately responding to the emergency situation; or

(b) the department has made diligent, good-faith efforts to determine the identity of the person responsible for pollution resulting from past events or activities and

has been unable to identify the person or take enforcement action as provided in Title 75, chapter 5, part 6.

Section 2. Section 75-5-634, MCA, is amended to read:

"75-5-634. Fines DISPOSITION OF FINES and civil penalties to go to general fund water quality rehabilitation account---Fines. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), FINES and civil penalties collected, except those collected in a justice's court, shall must be deposited to in the state-general-fund water quality rehabilitation account.

(2) (A) NO MORE THAN \$10,000 IN FINES AND CIVIL PENALTIES MAY BE DEPOSITED IN THE WATER QUALITY REHABILITATION ACCOUNT IN ANY FISCAL YEAR. FINES AND CIVIL PENALTIES IN EXCESS OF THE \$10,000 LIMIT MUST BE DEPOSITED IN THE GENERAL FUND.

(B) WHENEVER THE AMOUNT OF MONEY IN THE WATER QUALITY REHABILITATION ACCOUNT EXCEEDS \$50,000, ALL FINES AND CIVIL PENALTIES MUST BE DEPOSITED IN THE GENERAL FUND."

Section 3. Section 17-7-502, MCA, is amended to read:

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

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both

1 of the following provisions:

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

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

7 (3) The following laws are the only laws containing
8 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
9 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304;
10 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101;
11 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424;
12 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205;
13 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606;
14 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111;
15 23-5-610; 23-5-1027; 33-31-212; 33-31-401; 37-51-501;
16 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101;
17 75-7-305; 76-12-123; 80-2-103; 80-2-228; 82-11-136;
18 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306; 90-15-103;
19 section 13, House Bill No. 861, Laws of 1985; and section 1,
20 Chapter 454, Laws of 1987; and section 1.

21 (4) There is a statutory appropriation to pay the
22 principal, interest, premiums, and costs of issuing, paying,
23 and securing all bonds, notes, or other obligations, as due,
24 that have been authorized and issued pursuant to the laws of
25 Montana. Agencies that have entered into agreements

1 authorized by the laws of Montana to pay the state
2 treasurer, for deposit in accordance with 17-2-101 through
3 17-2-107, as determined by the state treasurer, an amount
4 sufficient to pay the principal and interest as due on the
5 bonds or notes have statutory appropriation authority for
6 such payments. (In subsection (3): pursuant to sec. 15, Ch.
7 607, L. 1987, the inclusion of 15-65-121 terminates June 30,
8 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion
9 of 39-71-2504 terminates June 30, 1991; and pursuant to sec.
10 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.
11 1987, terminates July 1, 1988.)"

12 **Section 4.** Section 75-5-635, MCA, is amended to read:

13 "75-5-635. Costs and expenses -- recovery by
14 department -- deposit in water quality rehabilitation
15 account. (1) In a civil action initiated by the department
16 under this chapter, the department may ask for and the court
17 is authorized to assess a violator for the cost of the
18 investigation or monitoring survey which led to the
19 establishment of the violation and any expense incurred by
20 the state in removing, correcting, or terminating any of the
21 adverse effects upon water quality resulting from the
22 unauthorized discharge of pollutants.

23 (2) Any costs and expenses recovered by the department
24 under subsection (1) for actions that the department
25 financed with money from the water quality rehabilitation

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1 account authorized by [section 1] must be deposited in the
2 water quality rehabilitation account."

3 NEW SECTION. Section 5. Extension of authority. Any
4 existing authority to make rules on the subject of the
5 provisions of [this act] is extended to the provisions of
6 [this act].

7 NEW SECTION. Section 6. Codification instruction.
8 [Section 1] is intended to be codified as an integral part
9 of Title 75, chapter 5, part 5, and the provisions of Title
10 75, chapter 5, part 5, apply to [section 1].

11 NEW SECTION. Section 7. Effective date. [This act] is
12 effective July 1, 1989.

-End-