

HOUSE BILL 212

Introduced by Daily, et al.

1/16	Introduced
1/16	Referred to Natural Resources
1/16	First Reading
1/18	Fiscal Note Requested
1/22	Fiscal Note Received
1/22	Fiscal Note Printed
1/25	Hearing
2/01	Tabled in Committee
2/02	Motion Failed to take from Committee and place on 2nd Reading

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House BILL NO. 212 *State Printing*
 INTRODUCED BY *Dail* *Parlow* *Hamington* *Manak*
Quinn *Garman* *Jackson* *Dave Brown* *Boyle* *McLain* *Eny*
 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING IMMEDIATE
 ACTION TO CONTAIN, REMOVE, AND ABATE A RELEASE OF A
 HAZARDOUS OR DELETERIOUS SUBSTANCE AT CERTAIN SITES TO
 PREVENT AQUIFER CONTAMINATION; AND AMENDING SECTIONS
 75-5-103, 75-5-601, 75-5-605, 75-10-704, 75-10-711,
 75-10-712, 75-10-714, AND 75-10-715, MCA."

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

Section 1. Section 75-5-103, MCA, is amended to read:

"75-5-103. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Aquifer" means a water-bearing, subsurface formation.

(2) "Board" means the board of health and environmental sciences provided for in 2-15-2104.

(3) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or other wastes, creating a hazard to human health.

(4) "Council" means the water pollution control advisory council provided for in 2-15-2107.

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

part 21.

(6) "Disposal system" means a system for disposing of sewage, industrial, or other wastes and includes sewage systems and treatment works.

(7) "Effluent standard" means any restriction or prohibition on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into state waters.

(8) "Industrial waste" means any waste substance from the process of business or industry or from the development of any natural resource, together with any sewage that may be present.

(9) "Local department of health" means the staff, including health officers, employed by a county, city, city-county, or district board of health.

(10) "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state waters.

(11) "Owner or operator" means any person who owns, leases, operates, controls, or supervises a point source.

(12) "Person" means the state, a political subdivision of the state, institution, firm, corporation,

1 partnership, individual, or other entity and includes
2 persons resident in Canada.

3 {12}(13) "Point source" means any discernible, confined,
4 and discrete conveyance, including but not limited to any
5 pipe, ditch, channel, tunnel, conduit, well, discrete
6 fissure, container, rolling stock, or vessel or other
7 floating craft, from which pollutants are or may be
8 discharged.

9 {13}(14) "Pollution" means contamination or other
10 alteration of the physical, chemical, or biological
11 properties of any state waters which exceeds that permitted
12 by Montana water quality standards, including but not
13 limited to standards relating to change in temperature,
14 taste, color, turbidity, or odor; or the discharge, seepage,
15 drainage, infiltration, or flow of any liquid, gaseous,
16 solid, radioactive, or other substance into any state water
17 which will or is likely to create a nuisance or render the
18 waters harmful, detrimental, or injurious to public health,
19 recreation, safety, welfare, livestock, wild animals, birds,
20 fish, or other wildlife. A discharge, seepage, drainage,
21 infiltration or flow which is authorized under the pollution
22 discharge permit rules of the board is not pollution under
23 this chapter.

24 {14}(15) "Sewage" means water-carried waste products
25 from residences, public buildings, institutions, or other

1 buildings, including discharge from human beings or animals,
2 together with ground water infiltration and surface water
3 present.

4 {15}(16) "Sewage system" means a device for collecting
5 or conducting sewage, industrial wastes, or other wastes to
6 an ultimate disposal point.

7 {16}(17) "Standard of performance" means a standard
8 adopted by the board for the control of the discharge of
9 pollutants which reflects the greatest degree of effluent
10 reduction achievable through application of the best
11 available demonstrated control technology, processes,
12 operating methods, or other alternatives, including, where
13 practicable, a standard permitting no discharge of
14 pollutants.

15 {17}(18) "State waters" means any body of water,
16 irrigation system, or drainage system, either surface or
17 underground; however, this subsection does not apply to
18 irrigation waters where the waters are used up within the
19 irrigation system and the waters are not returned to any
20 other state waters.

21 {18}(19) "Treatment works" means works installed for
22 treating or holding sewage, industrial wastes, or other
23 wastes."

24 **Section 2.** Section 75-5-601, MCA, is amended to read:

25 "75-5-601. Cleanup orders. (1) The department shall

1 issue orders to a person to clean up any material that he
2 the person or his the person's employee, agent, or
3 subcontractor has accidentally or purposely dumped, spilled,
4 or otherwise deposited in or near state waters and that may
5 pollute them.

6 (2) The department shall establish and implement a
7 system for prioritizing sites for remedial action based on
8 potential effects on human health and the environment.

9 ~~(2)~~(3) If a unit of state or local government,
10 including but not limited to a local board of health, county
11 commission, governing body of a municipality, or state
12 agency, has granted a permit or license to a person to
13 discharge waste or has otherwise authorized an activity that
14 involves the placement of waste and the department has
15 reason to believe that the waste is causing or is likely to
16 cause pollution of state waters, the department may issue an
17 order to the unit of state or local government to take
18 measures to ensure that the wastes causing or likely to
19 cause the pollution are cleaned up.

20 ~~(3)~~(4) The department may include in an order issued to
21 a county commission pursuant to subsection ~~(2)~~ (3) a request
22 that the commission create a sewer district in the
23 geographic area affected by the order for the purpose of
24 establishing a public sewer system in accordance with the
25 petition and election procedures provided by 7-13-2204 and

1 7-13-2208 through 7-13-2214."

2 **Section 3.** Section 75-5-605, MCA, is amended to read:

3 **"75-5-605. Prohibited activity.** (1) It is unlawful to:

4 (a) cause pollution as defined in 75-5-103 of any state
5 waters or to place or cause to be placed any wastes in a
6 location where they are likely to cause pollution of any
7 state waters;

8 (b) allow contaminants or hazardous substances, as
9 defined in 75-10-602, that are present to cause pollution of
10 an aquifer:

11 (i) at a national priority list site as defined by the
12 federal Comprehensive Environmental Response, Compensation,
13 and Liability Act of 1980 (CERCLA), Public Law 96-510; and

14 (ii) where mining has left an abandoned open pit as
15 described in 82-4-336(5);

16 ~~(b)~~(c) violate any provision set forth in a permit or
17 stipulation, including but not limited to limitations and
18 conditions contained therein;

19 ~~(c)~~(d) violate any order issued pursuant to this
20 chapter; or

21 ~~(d)~~(e) violate any provision of this chapter.

22 (2) It is unlawful to carry on any of the following
23 activities without a current permit from the department:

24 (a) construct, modify, or operate a disposal system
25 which discharges into any state waters;

(b) construct or use any outlet for the discharge of sewage, industrial wastes, or other wastes into any state waters; or

(c) discharge sewage, industrial wastes, or other wastes into any state waters."

Section 4. Section 75-10-711, MCA, is amended to read:

"75-10-711. Remedial action -- orders -- penalties -- judicial proceedings. (1) The department may take remedial action whenever:

(a) there has been a release or there is a substantial threat of a release into the environment that may present an imminent and substantial endangerment to the public health, welfare, or safety or the environment; and

(b) the appropriate remedial action will not be done properly and expeditiously by any person liable under 75-10-715(1).

(2) The department shall order any person liable under 75-10-715(1) to take immediate action to contain, remove, and abate a release of a hazardous or deleterious substance at a site described in 75-5-605(1)(b).

(2)(3) Whenever the department is authorized to act pursuant to subsection (1) or (2) or has reason to believe that a release has occurred or is about to occur, the department may undertake remedial action in the form of any investigation, monitoring, survey, testing, or other

information-gathering as authorized by 75-10-707 that is necessary and appropriate to identify the existence, nature, origin, and extent of the release or the threat of release and the extent and imminence of the danger to the public health, safety, or welfare or the environment.

(3)(4) Any person liable under 75-10-715(1) must take immediate action to contain, remove, and abate the release. Except as provided in 75-10-712, the department is authorized to draw upon the fund to take action under subsection (1) or (2) if it has made diligent good faith efforts to determine the identity of the person or persons liable for the release or threatened release and:

(a) is unable to determine the identity of the liable person or persons in a manner consistent with the need to take timely remedial action; or

(b) the person or persons determined by the department to be liable under 75-10-715(1) have been informed in writing of the department's determination and have been requested by the department to take appropriate remedial action but are unable or unwilling to take action in a timely manner; and

(c) the written notice to each person informs him the person that if ~~he is~~ subsequently found liable pursuant to 75-10-715(1), he the person may be required to reimburse the fund for the state's remedial action costs and may be

1 subject to penalties pursuant to 75-10-715(3).

2 ~~(4)~~(5) Whenever the department is authorized to act
3 pursuant to subsection (1) or (2) or has reason to believe
4 that a release that may pose an imminent and substantial
5 threat to public health, safety, or welfare or the
6 environment has occurred or is about to occur, it may issue
7 to any person liable under 75-10-715(1) cease and desist,
8 remedial, or other orders as may be necessary or appropriate
9 to protect public health, safety, or welfare or the
10 environment.

11 ~~(5)~~(6) A person who violates or fails or refuses to
12 comply with an order issued under 75-10-707 or this section
13 may, in an action brought to enforce the order, be assessed
14 a civil penalty of not more than \$10,000 for each day in
15 which a violation occurs or a failure or refusal to comply
16 continues, except that a person who violates or fails or
17 refuses to comply with an order issued under subsection (2)
18 may, in an action brought to enforce the order, be assessed
19 a civil penalty of not more than \$25,000 for each day in
20 which a violation occurs or a failure or refusal to comply
21 continues. In determining the amount of any penalty
22 assessed, the court may take into account the nature,
23 circumstances, extent, and gravity of the noncompliance and,
24 with respect to the person liable under 75-10-715(1), his
25 ability to pay; any prior history of such violations; the

1 degree of culpability; the economic benefit or savings, if
2 any, resulting from the noncompliance; and any other matters
3 as justice may require. Civil penalties collected under this
4 subsection must be deposited into the environmental quality
5 protection fund established in 75-10-704.

6 ~~(6)~~(7) A court has jurisdiction to review an order
7 issued under 75-10-707 or this section only in the following
8 actions:

9 (a) an action under 75-10-715 to recover remedial
10 action costs or penalties or for contribution;

11 (b) an action to enforce an order issued under
12 75-10-707 or this section;

13 (c) an action to recover a civil penalty for violation
14 of or failure to comply with an order issued under 75-10-707
15 or this section; or

16 (d) an action by a person to whom an order has been
17 issued to determine the validity of the order, only if the
18 person has been in compliance and continues in compliance
19 with the order pending decision of the court.

20 ~~(7)~~(8) In considering objections raised in a judicial
21 action regarding orders issued under this part, the court
22 shall uphold and enforce an order issued by the department
23 unless the objecting party can demonstrate, on the
24 administrative record, that the department's decision to
25 issue the order was arbitrary and capricious or otherwise

1 not in accordance with law.

2 ~~†8†~~(9) Instead of issuing a notification or an order
3 under this section, the department may bring an action for
4 legal or equitable relief in the district court of the
5 county where the release or threatened release occurred or
6 in the first judicial district as may be necessary to abate
7 any imminent and substantial endangerment to the public
8 health, safety, or welfare or the environment resulting from
9 the release or threatened release.

10 ~~†9†~~(10) The department may take remedial action pursuant
11 to subsection (1) or (2) at a site that is regulated under
12 the federal Comprehensive Environmental Response,
13 Compensation, and Liability Act of 1980, Public Law 96-510,
14 if the department determines that remedial action is
15 necessary to carry out the purposes of this part."

16 **Section 5.** Section 75-10-704, MCA, is amended to read:

17 "75-10-704. Environmental quality protection fund. (1)
18 There is created in the state special revenue fund an
19 environmental quality protection fund to be administered as
20 a revolving fund by the department. The department is
21 authorized to expend amounts from the fund necessary to
22 carry out the purposes of this part.

23 (2) The fund may be used by the department only to
24 carry out the provisions of this part and for remedial
25 actions taken by the department pursuant to this part in

1 response to a release of hazardous or deleterious
2 substances.

3 (3) The department shall:

4 (a) establish and implement a system for prioritizing
5 sites for remedial action based on potential effects on
6 human health and the environment; and

7 (b) investigate, negotiate, and take legal action, as
8 appropriate, to identify liable persons, to obtain the
9 participation and financial contribution of liable persons
10 for the remedial action, to achieve remedial action, and to
11 recover costs and damages incurred by the state.

12 (4) There must be deposited in the fund:

13 (a) all penalties, forfeited financial assurance,
14 natural resource damages, and remedial action costs
15 recovered pursuant to 75-10-715;

16 (b) all administrative penalties assessed pursuant to
17 75-10-714 and all civil penalties assessed pursuant to
18 75-10-711~~†5†~~(6);

19 (c) funds appropriated to the fund by the legislature;
20 and

21 (d) funds received from the interest income of the
22 resource indemnity trust fund pursuant to 15-38-202.

23 (5) Whenever a legislative appropriation is
24 insufficient to carry out the provisions of this part and
25 additional money remains in the fund, the department shall

1 seek additional authority to spend money from the fund
2 through the budget amendment process provided for in Title
3 17, chapter 7, part 4.

4 (6) Whenever the amount of money in the fund is
5 insufficient to carry out remedial action, the department
6 may apply to the governor for a grant from the environmental
7 contingency account established pursuant to 75-1-1101.

8 (7) The department shall, as provided in 5-11-210,
9 submit to the legislature a complete financial report on the
10 fund, including a description of all expenditures made since
11 the preceding report."

12 **Section 6.** Section 75-10-712, MCA, is amended to read:

13 "75-10-712. **Emergency action.** If the department
14 determines that immediate response to an imminent threat to
15 public health, safety, or welfare or the environment is
16 necessary to avoid substantial injury or damage to persons,
17 property, or resources, remedial action may be taken
18 pursuant to 75-10-711(1) or (2) without the prior written
19 notice required by 75-10-711(3) (4). The department shall
20 give subsequent written notice to the person liable under
21 75-10-715(1) within 5 days after the action is taken,
22 describing the circumstances which required the action to be
23 taken without prior notice."

24 **Section 7.** Section 75-10-714, MCA, is amended to read:

25 "75-10-714. **Administrative penalties.** (1) In lieu of

1 proceeding under 75-10-711(5) (6), the department may assess
2 penalties of not more than \$1,000 per day per violation
3 against a person liable under 75-10-715(1) for a release or
4 threat of release who has failed or refused to comply with
5 an order issued by the department pursuant to
6 75-10-711(4) (5) or against a person who has failed or
7 refused to comply with an order issued by the department
8 pursuant to 75-10-707(5).

9 (2) In determining the amount of any penalty assessed
10 pursuant to this section, the department shall take into
11 account the nature, circumstances, extent, and gravity of
12 the noncompliance and, with respect to the person liable
13 under 75-10-715(1), his ability to pay; any prior history of
14 such violations; the degree of culpability; the economic
15 benefit or savings, if any, resulting from the
16 noncompliance; and any other matters as justice may require.

17 (3) An administrative penalty may not be collected
18 pursuant to this section unless the person charged with the
19 noncompliance is given notice and opportunity for a hearing
20 with respect to the noncompliance. The notice and
21 opportunity for a hearing must conform to the requirements
22 of Title 2, chapter 4, part 6.

23 (4) A person against whom a penalty is assessed under
24 this section may obtain judicial review of the penalty as
25 provided for in Title 2, chapter 4, part 7.

(5) Administrative penalties payable under this section must be deposited in the environmental quality protection fund established in 75-10-704."

Section 8. Section 75-10-715, MCA, is amended to read:

"75-10-715. Liability -- reimbursement and penalties -- proceedings -- defenses. (1) Notwithstanding any other provision of law and subject only to the defenses set forth in subsection (5), the following persons are jointly and severally liable for a release or threatened release of a hazardous or deleterious substance from a facility:

(a) a person who owns or operates a facility where a hazardous or deleterious substance was disposed of;

(b) a person who at the time of disposal of a hazardous or deleterious substance owned or operated a facility where the hazardous or deleterious substance was disposed of;

(c) a person who generated, possessed, or was otherwise responsible for a hazardous or deleterious substance and who, by contract, agreement, or otherwise, arranged for disposal or treatment of the substance or arranged with a transporter for transport of the substance for disposal or treatment; and

(d) a person who accepts or has accepted a hazardous or deleterious substance for transport to a disposal or treatment facility.

(2) A person identified in subsection (1) is liable for

the following costs:

(a) all remedial action costs incurred by the state; and

(b) damages for injury to, destruction of, or loss of natural resources caused by the release or threatened release, including the reasonable technical and legal costs of assessing and enforcing a claim for the injury, destruction, or loss resulting from the release, unless the impaired natural resources were specifically identified as an irreversible and irretrievable commitment of natural resources in an approved final state or federal environmental impact statement or other comparable approved final environmental analysis for a project or facility that was the subject of a governmental permit or license and the project or facility was being operated within the terms of its permit or license.

(3) If the person liable under 75-10-715(1) fails, without sufficient cause, to comply with a department order issued pursuant to 75-10-711(4)(5) or to properly provide remedial action upon notification by the department pursuant to 75-10-711(3)(4), the person may be liable for penalties in an amount not to exceed two times the amount of any costs incurred by the state pursuant to this section.

(4) The department may initiate civil proceedings in district court to recover remedial action costs, natural

1 resource damages, or penalties under subsections (1) through
2 (3). Proceedings to recover costs and penalties must be
3 conducted in accordance with 75-10-722. Venue for any action
4 to recover costs, damages, or penalties lies in the county
5 where the release occurred or where the person liable under
6 75-10-715(1) resides or has its principal place of business
7 or in the district court of the first judicial district.

8 (5) No A person is not liable under subsections (1)
9 through (3) if that person can establish by a preponderance
10 of the evidence that:

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

13 (b) the release did not emanate from any vessel,
14 vehicle, or facility to which the person contributed any
15 hazardous or deleterious substance or over which the person
16 had any ownership, authority, or control and was not caused
17 by any action or omission of the person;

18 (c) the release or threatened release occurred solely
19 as a result of:

20 (i) an act or omission of a third party other than
21 either an employee or agent of the person; or

22 (ii) an act or omission of a third party other than one
23 whose act or omission occurs in connection with a
24 contractual relationship, existing directly or indirectly,
25 with the person, if the person establishes by a

1 preponderance of the evidence that he the person:

2 (A) exercised due care with respect to the hazardous or
3 deleterious substance concerned, taking into consideration
4 the characteristics of the hazardous or deleterious
5 substance in light of all relevant facts and circumstances;
6 and

7 (B) took precautions against foreseeable acts or
8 omissions of a third party and the consequences that could
9 foreseeably result from those acts or omissions;

10 (d) the release or threat of release occurred solely as
11 the result of an act of God or an act of war;

12 (e) the release or threatened release was from a
13 facility for which a permit had been issued by the
14 department, the hazardous or deleterious substance was
15 specifically identified in the permit, and the release was
16 within the limits allowed in the permit;

17 (f) in the case of assessment of penalties under
18 subsection (3), that factors beyond the control of the
19 person prevented the person from taking timely remedial
20 action; or

21 (g) the person accepted only household refuse (garbage,
22 trash, or septic tank sanitary wastes generated by single or
23 multiple residences, hotels, motels, restaurants, or similar
24 facilities) for transport to a solid waste disposal
25 facility, unless that person knew or reasonably should have

1 known that the hazardous or deleterious substance was
2 present in the refuse.

3 (6) (a) For the purpose of subsection (5)(c)(ii), the
4 term "contractual relationship" includes but is not limited
5 to land contracts, deeds, or other instruments transferring
6 title or possession, unless the real property on which the
7 facility is located was acquired by the person after the
8 disposal or placement of the hazardous or deleterious
9 substance on, in, or at the facility and one or more of the
10 following circumstances is also established by the person by
11 a preponderance of the evidence:

12 (i) At the time the person acquired the facility, the
13 person did not know and had no reason to know that a
14 hazardous or deleterious substance that is the subject of
15 the release or threatened release was disposed of on, in, or
16 at the facility.

17 (ii) The person is a governmental entity that acquired
18 the facility by escheat, lien foreclosure, or through any
19 other involuntary transfer or acquisition or through the
20 exercise of eminent domain authority by purchase or
21 condemnation.

22 (iii) The person acquired the facility by inheritance or
23 bequest.

24 (b) In addition to establishing one or more of the
25 circumstances in subsection (6)(a)(i) through (6)(a)(iii),

1 the person shall establish that he--has--satisfied the
2 requirements of subsections (5)(c)(i) or (5)(c)(ii) have
3 been satisfied.

4 (c) To establish that the person had no reason to know,
5 as provided in subsection (6)(a)(i), the person must have
6 undertaken, at the time of acquisition, all appropriate
7 inquiry into the previous ownership and uses of the property
8 consistent with good commercial or customary practice in an
9 effort to minimize liability. For purposes of assessing this
10 inquiry, the following must be taken into account:

11 (i) any specialized knowledge or experience on the part
12 of the person;

13 (ii) the relationship of the purchase price to the value
14 of the property if uncontaminated;

15 (iii) commonly known or reasonably ascertainable
16 information about the property;

17 (iv) the obviousness of the presence or the likely
18 presence of contamination on the property; and

19 (v) the ability to detect the contamination by
20 appropriate inspection.

21 (d) (i) Nothing in subsections (5)(b) and (5)(c) or in
22 this subsection (6) may diminish the liability of a previous
23 owner or operator of the facility who would otherwise be
24 liable under this part.

25 (ii) Notwithstanding this subsection (6), if the

1 previous owner or operator obtained actual knowledge of the
2 release or threatened release of a hazardous or deleterious
3 substance at the facility when the person owned the real
4 property and then subsequently transferred ownership of the
5 property to another person without disclosing the knowledge,
6 the previous owner is liable under subsections (1) through
7 (3) and no defense under subsection (5)(b) or (5)(c) is
8 available to that person.

9 (e) Nothing in this subsection (6) affects the
10 liability under this part of a person who, by any act or
11 omission, caused or contributed to the release or threatened
12 release of a hazardous or deleterious substance that is the
13 subject of the action relating to the facility."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0212, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring immediate action to contain, remove, and abate a release of a hazardous or deleterious substance at certain sites to prevent aquifer contamination.

ASSUMPTIONS:

1. Thousands of sites in Montana have hazardous and deleterious substances that are present to cause pollution of an aquifer. Proposed amendments will require the Department of Health and Environmental Sciences (DHES) to issue a cleanup order to some responsible party for the Berkeley Pit in Butte.
2. 1.00 FTE environmental specialist IV will be required to develop and implement a site prioritization process to rank sites for remedial action based on potential effects on human health and the environment and to provide technical assistance and oversee remediation.
3. 1.00 FTE attorney will be required to draft and file orders, negotiate cleanup, and follow up on implementation.
4. Salaries, indirect and operating expenses of FTEs capable of technical and legal work described above are approximately \$50,000 per FTE per year. Operating expenses will include contracted services for analytical and consulting services, and travel.
5. A general fund appropriation will be made to DHES.
6. The bill will be effective October 1, 1993.

FISCAL IMPACT:Expenditures:

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
FTE	0	1.50	1.50	0	2.00	2.00
Personal Services	0	63,750	63,750	0	85,000	85,000
Operations	0	11,250	11,250	0	15,000	15,000
Total	0	\$ 75,000	\$ 75,000	0	\$ 75,000	\$ 75,000

Funding:

General Fund	0	75,000	75,000	0	100,000	100,000
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LONG-RANGE EFFECTS OF PROPOSED LEGISLATION: Sites in Montana with groundwater contamination will be prioritized for remediation. The DHES will issue a cleanup order to a responsible party for the Berkeley Pit in Butte.

David Lewis 1-22-93
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

FRITZ DAILY, PRIMARY SPONSOR

DATE

Fiscal Note for HB0212, as introduced

HB 212

1 may be, shall file with the secretary of the district or
 2 with the election officials a written instrument of his the
 3 agent's authority, executed and acknowledged by the proper
 4 officers of the corporation, by the single owner or
 5 co-owners, or by the owner of land under contract of sale,
 6 as the case may be, and thereupon upon filing, the agent or
 7 co-owner or purchaser, as the case may be, is an elector
 8 within the meaning of this part. Whenever the total
 9 irrigable acreage within any one district has been platted
 10 or subdivided into lots or blocks to the extent of 5% or
 11 more of the total acreage of the district or whenever the
 12 majority of the district board adopts a resolution allowing
 13 it, each elector is permitted to cast one vote for each acre
 14 of irrigable land or major fraction of an acre of irrigable
 15 land owned by the elector within the district, irrespective
 16 of the location of such the irrigable lands within the
 17 tracts designated by the commissioners for assessment and
 18 taxation purposes or within the congressional subdivisions,
 19 but any elector owning any less than 1 acre of irrigable
 20 land within the district is entitled to one vote.

21 (4) The board of commissioners shall choose one of the
 22 following methods of balloting:

23 (a) 10 votes or less, separate ballots will be used;
 24 more than 10 votes, the elector shall vote in blocks of 10
 25 using one ballot for each 10 votes and separate ballots for

1 odd votes over multiples of 10; or

2 (b) the elector shall submit a ballot that includes the
 3 number of acres owned and the number of votes being cast."

-End-