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SENATE BILL NO. 71

INTRODUCED BY Mary Ramsey Miles

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BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT MODIFYING THE TIME WITHIN WHICH CLAIMS FOR REIMBURSEMENT MUST BE FILED TO BE CONSIDERED ELIGIBLE FOR REIMBURSEMENT FROM THE PETROLEUM TANK RELEASE CLEANUP FUND; REVISING THE MAKEUP OF THE PETROLEUM TANK RELEASE COMPENSATION BOARD TO POTENTIALLY INCLUDE A REPRESENTATIVE OF THE PETROLEUM RELEASE REMEDIATION CONSULTANT INDUSTRY; AMENDING SECTIONS 2-15-2108 AND 75-11-307, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 2-15-2108, MCA, is amended to read:

**"2-15-2108. Petroleum tank release compensation board.** (1) There is a petroleum tank release compensation board.

(2) The board consists of seven members appointed by the governor as follows:

(a) the director of the department of health and environmental sciences or ~~his~~ the director's representative;

(b) a representative of the state fire prevention and investigation program of the department of justice;

(c) a representative of the petroleum services industry or a representative of the petroleum release remediation consultant industry;

(d) a representative of independent petroleum marketers and chain retailers;

(e) a representative of the general public;

(f) a representative of service station dealers; and

(g) a representative of the insurance industry.

(3) The board shall elect a ~~chairman~~ presiding officer.

(4) The term of membership is 3 years.

(5) Members shall serve without pay, but are entitled to reimbursement for travel, meals, and

1 lodging while engaged in board business, as provided in 2-18-501 through 2-18-503."

2

3 **Section 2.** Section 75-11-307, MCA, is amended to read:

4 **"75-11-307. Reimbursement for expenses caused by a release.** (1) Subject to the availability of  
5 money from the fund under subsection (5), an owner or operator who is eligible under 75-11-308 and who  
6 complies with 75-11-309 and any rules adopted to implement those sections must be reimbursed by the  
7 board from the fund for the following eligible costs caused by a release from a petroleum storage tank:

8 (a) corrective action costs; and

9 (b) compensation paid to third parties for bodily injury or property damage.

10 (2) An owner or operator may not be reimbursed from the fund for the following expenses:

11 (a) corrective action costs or the costs of bodily injury or property damage paid to third parties that  
12 are determined by the board to be ineligible for reimbursement;

13 (b) costs for bodily injury and property damage, other than corrective action costs, incurred by the  
14 owner or operator;

15 (c) penalties or payments for damages incurred under actions by the department, board, or federal,  
16 state, local, or tribal agencies or other government entities involving judicial or administrative enforcement  
17 activities and related negotiations;

18 (d) attorney fees and legal costs of the owner, the operator, or a third party;

19 (e) costs for the repair or replacement of a tank or piping or costs of other materials, equipment,  
20 or labor related to the operation, repair, or replacement of a tank or piping;

21 (f) expenses incurred before April 13, 1989, for owners or operators seeking reimbursement from  
22 the petroleum tank release cleanup fund and expenses incurred before May 15, 1991, for owners or  
23 operators seeking reimbursement from the petroleum tank release cleanup fund for a tank storing heating  
24 oil for consumptive use on the premises where it is stored or for a farm or residential tank with a capacity  
25 of 1,100 gallons or less that is used for storing motor fuel for noncommercial purposes;

26 (g) expenses exceeding the maximum reimbursements provided for in subsection (4); and

27 (h) expenses for work completed more than 2 years prior to the request for reimbursement.

28 (3) An owner or operator may designate a person as an agent to receive the reimbursement,  
29 provided that the owner or operator remains legally responsible for all costs and liabilities incurred as a  
30 result of the release.

1 (4) Subject to the availability of funds under subsection (5):

2 (a) for releases eligible for reimbursement from the petroleum tank release cleanup fund that are  
3 discovered and reported on or after April 13, 1989, from a tank storing heating oil for consumptive use on  
4 the premises where it is stored or from a farm or residential tank with a capacity of 1,100 gallons or less  
5 that is used for storing motor fuel for noncommercial purposes, the board shall reimburse an owner or  
6 operator for:

7 (i) 50% of the first \$10,000 of eligible costs and 100% of subsequent eligible costs, up to a  
8 maximum total reimbursement of \$495,000:

9 (A) for single-walled tank system releases; and

10 (B) for double-walled tank system releases for which the release date was prior to October 1, 1993;

11 or

12 (ii) 100% of the eligible costs, up to a maximum total reimbursement of \$500,000, for properly  
13 designed and installed double-walled tank system accidental releases that were discovered and reported  
14 on or after October 1, 1993; and

15 (b) for all other releases eligible for reimbursement from the petroleum tank release cleanup fund  
16 that are discovered and reported on or after April 13, 1989, the board shall reimburse an owner or operator  
17 for:

18 (i) 50% of the first \$35,000 of eligible costs and 100% of subsequent eligible costs, up to a  
19 maximum total reimbursement of \$982,500:

20 (A) for single-walled tank system releases; and

21 (B) for double-walled tank system releases for which the release date was prior to October 1, 1993;

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23 (ii) 100% of the eligible costs, up to a maximum total reimbursement of \$1 million, for properly  
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28 for the costs at that time. When the fund contains sufficient money, eligible costs must be reimbursed  
29 subsequently in the order in which they were approved by the board."

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1 **NEW SECTION.** **Section 3. Effective date.** [This act] is effective on passage and approval.

2 -END-

APPROVED BY COM ON  
NATURAL RESOURCES1  
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## 1 SENATE BILL NO. 71

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3 BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

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3

4 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

5

-END-



## HOUSE STANDING COMMITTEE REPORT

January 30, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 71 (third reading copy -- blue) be concurred in as amended.

Signed: \_\_\_\_\_

*Dick Knox*

*Dick Knox, Chair*

Carried by: Rep. Sliter

And, that such amendments read:

1. Title, line 10.

Following: "PROVIDING"

Strike: "AN IMMEDIATE"

Following: "EFFECTIVE"

Strike: "DATE"

Insert: "DATES"

2. Page 4, lines 4 and 5.

Following: "Effective" on line 4

Strike: "date" through "is"

Insert: "dates. (1) [Section 1 and this section] are"

Following: line 4

Insert: "(2) [Section 2] is effective September 30, 1995."

-END-

1/30

Committee Vote:  
Yes 17, No 0.

SB 71

HOUSE

## 1 SENATE BILL NO. 71

2 INTRODUCED BY STANG, RANEY, SLITER

3 BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES  
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4 NEW SECTION. Section 3. Effective date. ~~[This act] is~~ DATES. (1) [SECTION 1 AND THIS  
5 SECTION] ARE effective on passage and approval.

6 (2) [SECTION 2] IS EFFECTIVE SEPTEMBER 30, 1995.

7

-END-