

1 _____ JOINT RESOLUTION NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF
5 MONTANA REQUESTING THAT THE LEGISLATIVE COUNCIL DESIGNATE AN INTERIM COMMITTEE OR
6 DIRECT SUFFICIENT STAFF RESOURCES TO INVESTIGATE OPTIONS AND MAKE RECOMMENDATIONS
7 FOR MAINTAINING AND ENHANCING STREAMFLOWS IN CHRONICALLY DEWATERED WATERCOURSES
8 DURING DROUGHT CONDITIONS; AND REQUESTING THAT THE FINAL RESULTS OF THE STUDY BE
9 REPORTED TO THE 58TH LEGISLATURE.

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11 WHEREAS, Article II, section 3, of the Montana Constitution provides for an inalienable right to
12 a clean and healthful environment; and

13 WHEREAS, Article IX, section 1, of the Montana Constitution requires the Legislature to provide
14 for the administration and enforcement of each person's duty to maintain and improve a clean and
15 healthful environment in Montana for present and future generations; and

16 WHEREAS, Article IX, section 1, of the Montana Constitution requires the Legislature to provide
17 adequate remedies to prevent unreasonable depletion and degradation of natural resources; and

18 WHEREAS, under Article IX, section 3, of the Montana Constitution, existing water rights are
19 recognized and confirmed; and

20 WHEREAS, under Article IX, section 3, of the Montana Constitution, all waters within Montana's
21 boundaries are the property of the state for the use of its people and are subject to appropriation for
22 beneficial uses as provided by law; and

23 WHEREAS, under the public trust doctrine, the surface waters of the state are held in trust for the
24 people of the state; and

25 WHEREAS, low streamflows represent a depletion of Montana's natural resources; and

26 WHEREAS, low streamflows result in degradation of Montana's natural resources; and

27 WHEREAS, Montana experienced a significant drought in 2000, and low streamflows are predicted
28 for 2001; and

29 WHEREAS, it is the responsibility of the Montana Legislature to take action to prevent depletion
30 and degradation of Montana's natural resources; and



1 WHEREAS, pursuant to section 85-2-105, MCA, the Environmental Quality Council is required to
2 advise the Legislature on the adequacy of the state's water policy.

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4 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
5 STATE OF MONTANA:

6 (1) That the Legislative Council be requested to designate an appropriate interim committee,
7 pursuant to section 5-5-217, MCA, or direct sufficient staff resources to investigate options and make
8 recommendations for maintaining and enhancing streamflows during drought conditions in chronically
9 dewatered watercourses identified by the Department of Natural Resources and Conservation pursuant
10 to section 85-2-150, MCA, or chronically dewatered watercourses identified by the Department of Fish,
11 Wildlife, and Parks.

12 (2) That the study include but not be limited to an evaluation of the following:

13 (a) methodologies for determining adequate streamflows;

14 (b) administration and enforcement of existing laws and programs that affect streamflows in
15 Montana;

16 (c) regulatory and nonregulatory incentives for maintaining adequate streamflows;

17 (d) laws and programs implemented in other states to maintain adequate streamflows; and

18 (e) the adequacy of existing water measurement activities on chronically dewatered watercourses
19 and on diversions from chronically dewatered watercourses.

20 (3) That the study consider the need to reconcile the public trust doctrine and all applicable
21 constitutional rights and duties.

22 (4) That the participation of affected groups and individuals be actively solicited.

23 BE IT FURTHER RESOLVED, that, if the study is assigned to staff, any findings or conclusions be
24 presented to and reviewed by an appropriate committee designated by the Legislative Council.

25 BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review
26 requirements, be concluded prior to September 15, 2002.

27 BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions,
28 comments, or recommendations of the appropriate committee, be reported to the 58th Legislature.

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