

SB143 – Authorize Loans from the Orphan Share Account to Other Environmental Funds  
Department of Environmental Quality Testimony  
March 30, 2005

Mr. Chairman, members of the committee:

I am Sandi Olsen, Administrator of Remediation Division in the Department of Environmental Quality. The department requested SB143 and its amendments as a means of addressing its concerns about the fund balance of two of the state special revenue accounts it uses that are funded by a percentage of the resource indemnity trust (RIT) interest remaining after directly funded activities have received allocations. The fund balance for the Hazardous Waste CERCLA (HWC) account and the environmental quality protection fund (EQPF) account continue to decline due in part to low interest rates and this bill would provide two years of backstop funding from the orphan share account.

This chart from the budget book shows the cash flow of RIT interest. The supporting table shows that the LFA anticipates shortfalls of \$233,509 and \$79,695 over the biennium in the HWC and EQPF accounts, respectively. The orphan share account is a third state special revenue account funded by the resource indemnity and groundwater assessment tax (RIGWA). The department previously used this account in FY2004-2005 to provide backstop funding for Hazardous Waste CERCLA, pursuant to SB103. The orphan share account balance remains adequate to again provide a safety net for the 2006-2007 biennium.

SB103, which passed unanimously in both houses last session, built provisions into the statutes to ensure these loans from orphan share are repaid when the HWC and EQPF accounts have a positive fund balance. This is codified at Sections 75-10-621 (6) and 704(9) of the codes.

The Hazardous Waste CERCLA Account is used to match several federal environmental grants including a federal superfund grant, underground storage tank grants, the hazardous waste grant, and the public water supply grant. The grant match required ranges from 10 to 25 percent, depending on grant type. These grants are used to provide funding for permitting, enforcement, and remediation activities in the various programs. The department utilizes approximately \$1.6 million in Hazardous Waste CERCLA funds to match a total of about \$8.9 million federal dollars. A negative \$233,509 fund balance is projected.

The EQPF Account is used to fund Montana's superfund program, which ensures remediation of contaminated properties which do not qualify for the national priority list and federal superfund, but which pose a potentially significant risk to human health and the environment. Fiscal projections indicate the ending fund balance will be negative \$79,695 at the end of the biennium.

The loan proposed from orphan share would offset both of these shortfalls.

The orphan share account is used to fund the percent of remediation activities at a contaminated site which are attributable to bankrupt or otherwise insolvent entities – "the orphans." The fund balance periodically builds up in this account because the funds are typically paid out at the completion of a cleanup project, which may take several years. These funds have been used on sites with a high percentage of orphan share (an average 48 percent) where the applicant can fund remedial activities upfront and work through a reimbursement process. Up to \$600,000 could be used to backfill Hazardous Waste CERCLA and EQPF during the 2006-2007 biennium, without a negative impact on the orphan share.

In summary, this bill will ensure certain department funds don't go negative over the biennium. The department respectfully requests your support.