

Amendments to Senate Bill No. 143  
1st Reading Copy

Requested by Senator Rick Laible

For the Senate Energy and Telecommunications Committee

Prepared by Casey Barrs  
January 26, 2005 (2:44pm)

1. Page 6, line 1.  
**Following:** "(10)"  
**Insert:** "(a)"

2. Page 6, line 3.  
**Following:** "studies"  
**Strike:** "for"  
**Insert:** "of"

3. Page 6, line 5.  
**Insert:** "(b) The money spent pursuant to subsection (10)(a) must be credited against the amount owed by the state agency in a judgment or settlement agreement for payment of the remedial action costs at the facility for which the money was spent."

4. Page 6.  
**Following:** line 22  
**Insert:** "NEW SECTION. Section 4. Contingent voidness. If House Bill No. 2 is passed and approved and contains an appropriation from the general fund to the department of environmental quality to pay its costs for investigations and preparation of feasibility studies of releases at the Kalispell pole and timber, reliance refinery, and yale refinery state superfund sites, then [section 2(10)] is void."

**Renumber:** subsequent section

- END -

## **SB143 -- A bill to provide for contingent transfers from *orphan share* fund to other RIT funds**

### **What is the Orphan Share Fund?**

The orphan share fund was established in 1997 and is used to pay for cleanups attributable to bankrupt or defunct parties at State Superfund facilities. SB 143 seeks to authorize a loan from that fund to compensate for shortfalls in resource indemnity trust interest-based accounts

### **This contingent transfer is necessary to ensure continued operation of state regulatory programs by providing matching funds for federal grants.**

Section 1, 2 and Section 3 of SB 143 contain provisions that are necessary in order to use the fund to obtain matching federal funds for a variety of programs, including federal superfund, underground storage tank, hazardous waste, and public water supply grants.

- These funds are used to providing funding for permitting, enforcement, and remediation activities in various programs.
- The use of funds from the orphan share fund would offset shortfalls in certain RIT accounts: hazardous waste/CERCLA and EQPF accounts.
- SB 143 is the only introduced legislation providing for a fund source to ensure state match monies are available to qualify for federal grants and to provide program funds necessary for continued operation of these programs.
- Loss of these funds for grant match would result in a loss of about 50% of the grant funds (\$5,000,000 to 6,000,000) typically used in these programs
- EQC, Gov Martz and Gov Schweitzer have reviewed and support this bill.
- Loss of this funding will impact the department's ability to provide services in the public water supply, tanks, and hazardous water management and superfund programs and potentially result in loss of delegated programs or in layoffs.

## **SB143 Summary of Account Information**

SB143 addresses a projected negative fund balance in two state special revenue accounts funded by a percentage of the resource indemnity trust (RIT) interest – the Hazardous Waste CERCLA account and the Environmental Quality Protection Fund (EQPF) account – using funds from the orphan share account. (Figure 3).

The orphan share account is a third state special revenue account funded by the resource indemnity and groundwater assessment tax (RIGWA). Orphan share is used to fund the percent of remediation activities at a contaminated site which are attributable to bankrupt or otherwise insolvent entities. The orphan share account fund balance is adequate to again provide a safety net for the 2006-2007 biennium.

Existing provisions in statute ensure that when Hazardous Waste CERCLA and EQPF accounts have a positive fund balance, the orphan share is reimbursed (see Sections 75-10-621 (6) and 704(9), MCA).

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. Alternative sources of state special revenue do not exist for matching these federal grants.

The EQPF Account is used to fund Montana's state superfund program, which ensures remediation of contaminated properties which do not qualify for the national priority list under federal superfund, but which pose a potentially significant risk to human health and the environment. Fiscal projections indicate the ending fund balance on the account will be negative \$79,695 at the end of the biennium. Like the Hazardous Waste CERCLA Account, the shortfall in this account is due to the decreased interest earnings magnified by the method of fund distribution.

The loan proposed from orphan share would offset these shortfalls.

