



FREE CONFERENCE COMMITTEE

on Senate Bill 489

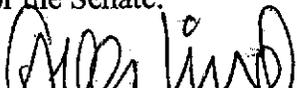
Report No. 1, April 19, 2005

Page 1 of 2

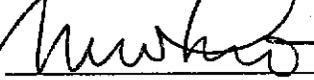
Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 489** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

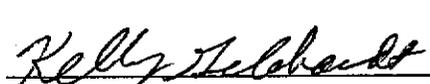
For the Senate:



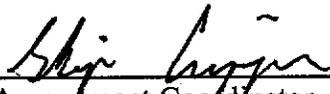
Sen. Greg Lind, Chair



Sen. Mike Wheat



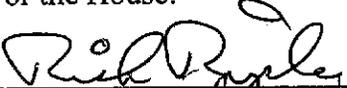
Sen. Kelly Gebhardt



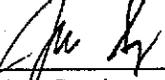
Amendment Coordinator

Secretary of the Senate

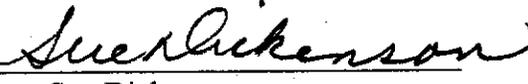
For the House:



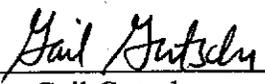
Rep. Rick Ripley



Rep. Jon Sonju



Rep. Sue Dickenson



Rep. Gail Gutsche

And, recommend that **Senate Bill 489** (reference copy -- salmon) be amended as follows:

1. Page 7, line 18.
Strike: "\$1"
Insert: "\$1.25"

2. Page 7, line 23.
Strike: "\$1"
Insert: "\$1.25"

ADOPT

Amendment # SB 489-1

REJECT



3. Page 7, line 25.

Strike: "\$1"

Insert: "\$1.25"

4. Page 7, line 29.

Following: line 28

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."

Renumber: subsequent subsections

5. Page 8, line 17.

Strike: "(10)(F)"

Insert: "(10)(g)"

6. Page 8, line 24.

Strike: "(10)(D)"

Insert: "(10)(e)"

7. Page 9, line 2.

Strike: "(10)(C)"

Insert: "(10)(d)"

- END -

TO: SENATOR Lind
FROM: KATHY FABIANO
ASSISTANT SECRETARY TO THE SENATE
RE: CONFERENCE COMMITTEE

Your secretary for the ^{free} conference committee on SB 489 will be
Ken Kirby (x 4440). Your staffer for the conference committee
is Joe Holman.

Once you have decided when the committee will meet, please contact the secretary and she will find a room for you. Please try to talk to the secretary before you announce the meeting under order of business #12. I will provide the secretary with a packet containing everything you will need for the committee meeting, including copies of the reference bill and amendments and a copy of the third reading votes in both houses. Meetings must be posted with the Secretary of the Senate's office as usual. Your secretary will notice all committee members and the staffer.

Each house votes separately and a majority of each house is needed to report the bill out of conference committee. If the committee can't reach agreement you may meet again and reconsider your action, dissolve and appoint new members, or dissolve and become a free conference committee.

Please call me at 4840 or stop by my office in room 302 if you have any questions.

Cc: Conference Committee Secretary

11-SB - Accede to Senate request to appoint a FREE conference committee:

Date: April 18, 2005
To: Bill Lombardi, Secretary of the Senate
From: Marilyn Miller, Chief Clerk of the House

I am directed by the House of Representatives to inform the Senate that the House of Representatives this day, acceded to the request of the Senate and has authorized the Speaker to appoint a FREE conference committee to meet with a like committee from the Senate on Senate bill 489. The Speaker appointed the following members:

Reps. Ripley, Sonju, Dickenson, Gutsche appointed.

SB 489 Lind, Greg (H) Free Conference Committee Appointed
Use orphan share fund for evaluation and remediation alternatives

Senate members: The President Appoints Senators Lind, Wheat, and Gebhardt

"Bills to the House" Report

April 18, 2005

Date Range: 04/18/2005 12:00:00 AM -- 04/18/2005 10:21:33 AM

10:21 AM

05b- Free Conference Committee appointed for Senate Bill:

Date: April 18, 2005
To: Marilyn Miller, Chief Clerk of the House
From: Bill Lombardi, Secretary of the Senate

I am directed by the Senate to inform the House of Representatives that the Senate, on April 15, 2005, failed to concur in the House House amendments to Senate bill 489, and by motion, the President was authorized to appoint a FREE conference committee to confer on Senate bill 489 and requests the House appoint a like committee. The President appointed the following members:

***The President Appoints Senators Lind, Wheat,
and Gebhardt***

SB 489 Lind, Greg

18-APR-05 (S) Free Conference Committee Appointed

Use orphan share fund for evaluation and remediation alternatives
(S) 2nd Reading House Amendments Not Concurred; Vote: 29 - 20

SENATOR LIND

MEETING NOTICE FOR COMMITTEE MEMBERS

The **SENATE FREE CONFERENCE COMMITTEE** will meet on **Tuesday, April 19, 2005** at **9:00 am** in Room **422**. Bills to be heard are:

SB 489

April 18, 2005

Jennifer Kirby, Secretary

Phone: 444-4440

Greg Lind 544-0551



Montana Legislative Services Division

Legal Services Office

PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

March 11, 2005

Senator Robert Story
133 Valley Creek Road
Park City, Montana 59063

Dear Senator Story:

I am writing in response to your request for an analysis of the procedure to be used during this session for conference committees. Joint Rule 30-30 provides for conference committees. It provides that if either house requests a conference and appoints a committee for the purpose of discussing an amendment on which the two houses cannot agree, the other house shall appoint a committee for the same purpose. The time and place of all conference committee meetings must be agreed upon by their chairs and announced from the rostrum. This announcement is in order at any time. Failure to make this announcement does not affect the validity of the legislation being considered. A conference committee meeting must be conducted as an open meeting, and minutes of the meeting must be kept. A conference committee, having conferred, shall report to the respective houses the result of its conference. A conference committee shall confine itself to consideration of the disputed amendment. The committee may recommend the acceptance or rejection of each disputed amendment in its entirety or further amendment of the disputed amendment. If either house requests a free conference committee and the other house concurs, appointments must be made in the same manner as for a conference committee. A free conference committee may discuss a bill in its entirety and is not confined to a particular amendment. This rule does not specifically require that a conference committee meet and attempt to resolve the differences concerning the disputed amendments prior to appointing a free conference committee. However, section 773 of Mason's Manual of Legislative Procedure (2000) provides that this is the normal procedure.

Senate Rule S30-10(3) provides that the President of the Senate appoints conference committees with the advice of the floor leaders. House Rule H40-220(4) provides that conference committees must be composed of an equal number of members from each political party. The members of conference committees must be appointed by the House Democratic Leader and the House Republican Leader after good faith consultation. Each leader shall appoint the members of the leader's respective party.

Senate Rule S50-210(3) provides that if the Senate rejects the House amendments to Senate legislation, the Senate may request the House to recede from its amendments or may direct appointment of a conference committee and request the House to appoint a like committee. Senate Rule S50-110 provides that when a conference committee report is filed with the Secretary of the Senate, the report must be read under Order of Business No. 3, select committees, and placed on the calendar the succeeding legislative day for consideration on second reading. If recommended favorably by the Committee of the Whole, it may be considered on third reading the same legislative day. If both the Senate and the House of Representatives

CONFERENCE COMMITTEE PROCEDURE

1. Contact chairman and set time for the meeting. Senators always chair these conference committees; Representatives are the vice-chairs.
2. Schedule a room with House or Senate Sergeant-of-Arms office.
3. Post meeting with Secretary of Senate's office--sometimes a phone call is best.
4. Send notice to all committee members and staffer.
5. Set up meeting room as you would any committee meeting:
 - A. Sign-in sheet
 - B. Bill, Fiscal Note (if applicable)
 - C. Note pad and pencil for each member
 - D. Additional proposed amendments if available
6. Submit Conference Committee Report Request (purple) to the House (if a HB) or Senate (if a SB) Amendments Coordinator. Sign clipboard as with any other meeting and place request form in "IN" basket. Vote tally is on this sheet; record the vote after each name (Y or N). You will need Y votes from at least two Senators and at least two Representatives to report the bill out of committee. If one house votes against the motion, the committee can do one of the following:
 1. Meet again
 2. Dissolve and request appointment of new members
 3. Dissolve and request a free conference committee
 4. Reconsider action by those against
7. Acquire signatures on the Conference Committee Report from each committee member that voted YES, House and Senate. The Report will come in triplicate (white, pink, and green).
8. Get report initialed in Secretary of Senate's office, keep copy of the Conference Committee Report for your minutes. This office will get the originals to correct offices.
9. Do minutes as usual. Include any amendments, exhibits, and copy of the Conference Committee Report.
10. If they cannot come to an agreement and choose to indefinitely postpone, see the Secretary's office.

Unofficial vote tally as initially recorded. For official copy, see the journal.

Bill: SB 489 Date: 4/14/2005 Time: 12:45:16 PM
Vote Sequence Number: 003
Motion: 3RD READING D/CONCUR

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, R. Brown, Butcher, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Fa Franklin, Furey, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Hawk, Heinert, Hen Henry, Himmelberger, Hiner, Jackson, Jacobson, Jayne, Jent, W. Jones, Jopek, Klock, Lambert, Lange, Lenhart, Lindeen, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Ras Ripley, Roberts, Sesso, Small-Eastman, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Mr. Speaker.
Total 76

Noes: D. Brown, Buzzas, Caferro, Everett, Gallik, Gutsche, Hamilton, L. Jones, Junea Kaufmann, Keane, Koopman, Lake, MacLaren, Mendenhall, Milburn, Rice, Ross, Sales, Sinrud, Wanzenried, Ward, Witt.
Total 23

Excused: None.
Total 0

Absent or not voting: Harris.
Total 1

Unofficial vote tally as initially recorded. For official copy, see the journal.

Bill: SB 489 Date: 2/22/2005 Time: 8:33:31 AM
Vote Sequence Number: 565
Motion: 3RD RDG - DO PASS

Yeas: Brueggeman, Cocchiarella, Cooney, Cromley, Ellingson, Elliott, Essmann, Gallus
Gillan, Grimes, Harrington, Hawks, Kitzenberg, Larson, Laslovich, Lind, Moss, Pease,
Ryan, Schmidt, Smith, Squires, Tash, Toole, Tropila, Weinberg, Wheat, Williams, Mr.
President.
Total 30

Nays: Bales, Balyeat, Barkus, Black, Cobb, Curtiss, Esp, Gebhardt, Hansen, Keenan, L
Lewis, Mangan, McGee, O'Neil, Perry, Shockley, Stapleton, Steinbeisser, Story.
Total 20

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SHORT TITLE: Use orphan share fund for
evaluation and remediation alternatives

SPONSOR: Senator Lind

ORDER OF BUSINESS NO. 6
CONFERENCE COMMITTEE APPOINTMENTS

SENATOR Ellingson: MR. PRESIDENT, I MOVE THE
APPOINTMENT OF A (FREE) CONFERENCE COMMITTEE ON
SB 489 AND REQUEST THE HOUSE TO APPOINT A
LIKE COMMITTEE.

President Tester: The President Appoints:

House Appoints:

SEN. Lind, CHAIR

REP. _____, VICE CHAIR

SEN. Wheat

REP. _____

SEN. Gebhardt

REP. _____

TO THE (FREE) CONFERENCE COMMITTEE ON (S) BILL NO. 489

①

EXHIBIT _____
DATE 4.19.05 _____
SB 489 _____

Not Edited

Amendments to Senate Bill No. 489
Reference Copy

Requested by Representative Rick Ripley

For the Senate Free Conference Committee

Prepared by Joe Kolman
April 19, 2005 (8:53am)

1. Page 7, line 29.

Following: line 28

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. The amount of the credit must be in the same proportion as the state agency's liability is to the total liability at the site."

Renumber: subsequent subsections

- END -



HOUSE COMMITTEE OF THE WHOLE AMENDMENT

Senate Bill 489

Representative Rick Ripley

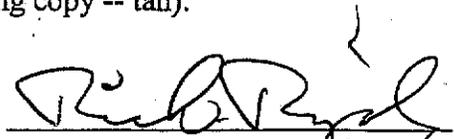
April 12, 2005 9:46 am

Page 1 of 1

Mr. Chairman:

I move to amend **Senate Bill 489** (second house second reading copy -- tan).

Signed:


Representative Rick Ripley

And, that such amendments to **Senate Bill 489** (second house second reading copy -- tan) read as follows:

1. Page 7, line 18.

Strike: "\$1.5"

Insert: "\$1"

2. Page 7, line 23.

Strike: "\$1.5"

Insert: "\$1"

3. Page 7, line 25.

Strike: "\$1.5"

Insert: "\$1"

- END -

ADOPT

57-39

Amendment # SB 489-1

REJECT

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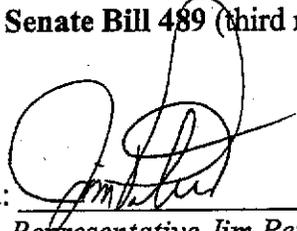
HOUSE STANDING COMMITTEE REPORT

April 2, 2005

Page 1 of 4

Mr. Speaker:

We, your committee on Natural Resources recommend that Senate Bill 489 (third reading copy -- blue) be concurred in as amended.

Signed: 

Representative Jim Peterson, Chair

To be carried by Representative Rick Maedje

And, that such amendments read:

1. Title, page 1, line 6 through line 7.

Following: "AT" on line 6

Insert: "CERTAIN"

Strike: "FOR" on line 6 through "LIABLE" on line 7

2. Title, page 1, line 8.

Following: "ACT"

Insert: "AND FOR CONDUCTING REMEDIATION ACTIVITIES AT OTHER FACILITIES FOR WHICH THERE ARE NO POTENTIALLY LIABLE PERSONS WHO HAVE THE FINANCIAL RESOURCES TO REMEDIATE THE SITE WITHOUT FINANCIAL ASSISTANCE"

3. Page 5, line 23.

Strike: "subsections (9) and (10)"

Insert: "subsections (9) through (11)"

4. Page 7, line 16 through line 17.

Strike: "of" on line 16 through "conservation" on line 17

5. Page 7, line 17.

Following: "costs"

Insert: "incurred by the department in contracting"

Committee Vote:

Yes 14, No 4.

SB 489

701034SC.hkh

4/2/05

jbm

11. Page 7, line 26.
Strike: "JULY 31"
Insert: "November 30"

12. Page 7, line 28.
Strike: "(10) (D)"
Insert: "(10) (f)"

13. Page 8, line 1.
Strike: "AND THE DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION"
Following: "SHALL"
Strike: "JOINTLY"

14. Page 8, line 2.
Strike: "THE BIENNIUM THAT BEGINS JULY 1, 2005"
Insert: "calendar years 2005, 2006, and 2007"

15. Page 8, line 3.
Strike: "(10) (B)"
Insert: "(10) (d)."
Strike: "JOINT REPORTS"
Insert: "report"

16. Page 8, line 5.
Strike: "(10) (B) (I) THROUGH (10) (B) (IV)"
Insert: "(10)"

17. Page 8, line 7.
Strike: "AND THE DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION"

18. Page 8, line 9.
Strike: "FALL OF 2006"
Insert: "spring of 2007"

19. Page 8, line 10.
Strike: "AND THE DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION"

20. Page 8, line 12.
Strike: "(10) (A)"
Insert: "(10) (c)"

21. Page 8, line 13.

Insert: "(11) (a) Subject to subsections (11)(b) and (11)(c), for the biennium beginning July 1, 2005, funds from the orphan share account may be used by the department to pay remediation costs at facilities at which there have been releases and for which:

- (i) there are no potentially liable persons; or
- (ii) (A) the department determines that some or all of the potentially liable person do not have sufficient financial resources to pay the costs of remediation; and
(B) the department enters into a cost-share agreement with all potentially liable persons whom the department determines have the financial ability to contribute to the remediation. The cost-share agreement must provide that those persons will pay a proportionate share of the remediation costs, as determined by the department, taking into account their ability to pay.

(b) To be eligible for funding under subsection (11)(a), a facility that is an abandoned mine site must have been identified as a priority site on the department's priority mine sites list.

(c) The department may use funds provided in subsection (11)(a) only if the use:

(i) would not preclude the use of the funds under subsection (1); and

(ii) would leave the orphan share fund with a balance at the end of the biennium beginning July 1, 2005, that, with anticipated deposits, is adequate to fund the anticipated orphan shares in the allocation processes for which a petition was filed pursuant to 75-10-745 prior to the [effective date of this act] and all future transfers and expenditures that are required by laws existing on [the effective date of this act]."

- END -

6. Page 7, line 19.

Strike: "facilities" through "part 7."

Insert: "the Kalispell pole and timber, reliance refinery company, and Yale oil corporation facility complex. If the department spends less than \$1.5 million for those purposes, the remaining funds must be spent for remediation of the facility complex. The department may not seek recovery of the \$1.5 million from potentially liable persons."

7. Page 7, line 23.

Following: Line 22

Insert: "(b) The department shall consult with the noticed potentially liable persons regarding contractor selection and determination of the scope of the work for contract tasks. The department shall also provide the noticed potentially liable persons with contract performance updates and shall consult with the noticed potentially liable persons regarding expenses and progress on contract tasks.

(c) The department shall contract for the compilation, assessment, and summarization of the existing data pertaining to the complex described in subsection (10) (a), for recommendations for and conducting of additional investigations and studies necessary to develop remediation alternatives and for development and assessment of remediation alternatives.

Renumber: subsequent subsections

8. Page 7, line 23.

Following: "(B)"

Strike: "THE"

Insert: "Unless the department is delayed by a challenge to a contracting action, multiple contractor selection processes, or other unanticipated circumstances, the"

9. Page 7, line 25.

Strike: "OCTOBER"

Insert: "December"

10. Page 7.

Following: line 25

Insert: "(iii) The contract or contract task order for investigations, studies, and development and evaluation of final remediation alternatives must be in place by April 30, 2006."

Renumber: subsequent subsections



HOUSE COMMITTEE OF THE WHOLE AMENDMENT

Senate Bill 489

Representative Jim Peterson

April 4, 2005 11:00 am

Page 1 of 1

Mr. Chairman:

I move to amend **Senate Bill 489** (second house second reading copy -- tan).

Signed:

Representative Jim Peterson

And, that such amendments to **Senate Bill 489** (second house second reading copy -- tan) read as follows:

1. Title, page 1, line 8 through line 10.

Strike: "AND" on line 8 through "ASSISTANCE" on line 10

2. Page 5, line 25.

Strike: "THROUGH (11)"

Insert: "and (10)"

3. Page 9, line 3 through line 21.

Strike: subsection (11) in its entirety

- END -

2 ADOPT 52-48
Reconsider
1 REJECT 50 50

Amendment # SB 489-1

1 SENATE BILL NO. 489
2 INTRODUCED BY LIND
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE USE OF THE ORPHAN SHARE FUND FOR
5 INVESTIGATIONS AND FEASIBILITY STUDIES EVALUATING THE EXTENT OF CONTAMINATION AND
6 FORMULATING REMEDIATION ALTERNATIVES FOR RELEASES AT CERTAIN FACILITIES FOR WHICH
7 A STATE AGENCY MAY BE LIABLE UNDER THE COMPREHENSIVE ENVIRONMENTAL CLEANUP AND
8 RESPONSIBILITY ACT AND FOR CONDUCTING REMEDIATION ACTIVITIES AT OTHER FACILITIES FOR
9 WHICH THERE ARE NO POTENTIALLY LIABLE PERSONS WHO HAVE THE FINANCIAL RESOURCES TO
10 REMEDiate THE SITE WITHOUT FINANCIAL ASSISTANCE; AMENDING SECTIONS 75-10-621, 75-10-704,
11 AND 75-10-743, MCA; AND PROVIDING AN EFFECTIVE DATE."
12

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14

15 **Section 1.** Section 75-10-621, MCA, is amended to read:

16 **"75-10-621. Hazardous waste/CERCLA special revenue account.** (1) There is a hazardous
17 waste/CERCLA special revenue account within the state special revenue fund established in 17-2-102.

18 (2) There must be paid into the hazardous waste/CERCLA account:

19 (a) revenue obtained from the interest income of the resource indemnity trust fund under the provisions
20 of 15-38-202, together with interest accruing on that revenue;

21 (b) all proceeds of bonds or notes issued under 75-10-623 and all interest earned on proceeds of the
22 bonds or notes; and

23 (c) revenue from penalties or damages collected under the federal Comprehensive Environmental
24 Response, Compensation, and Liability Act of 1980, as amended in 1986 (CERCLA).

25 (3) Appropriations may be made from the hazardous waste/CERCLA account only for the following
26 purposes and subject to the following conditions:

27 (a) not more than one-half of the interest income received for any biennium from the resource indemnity
28 trust fund may be appropriated on a biennial basis for:

29 (i) implementation of the Montana Hazardous Waste Act, including regulation of underground storage
30 tanks and the state share to obtain matching federal funds;

1 (c) Subsection (6)(a) does not apply to the proceeds of bonds or notes sold pursuant to 75-10-623, to
2 interest on the proceeds of those bonds or notes, or to appropriations of those proceeds or interest."
3

4 **Section 2.** Section 75-10-704, MCA, is amended to read:

5 **"75-10-704. Environmental quality protection fund.** (1) There is in the state special revenue fund an
6 environmental quality protection fund to be administered as a revolving fund by the department. The department
7 is authorized to expend amounts from the fund necessary to carry out the purposes of this part.

8 (2) Except as provided in subsection (9), the fund may be used by the department only to carry out the
9 provisions of this part and for remedial actions taken by the department pursuant to this part in response to a
10 release of hazardous or deleterious substances.

11 (3) The department shall:

12 (a) except as provided in subsection (7), establish and implement a system, including the preparation
13 of a priority list, for prioritizing sites for remedial action based on potential effects on human health and the
14 environment; and

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

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

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

21 (b) all administrative penalties assessed pursuant to 75-10-714 and all civil penalties assessed pursuant
22 to 75-10-711(5);

23 (c) funds appropriated to the fund by the legislature;

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

25 (e) funds received from the interest income of the fund;

26 (f) funds received from settlements pursuant to 75-10-719(7); and

27 (g) funds received from the interest paid pursuant to 75-10-722.

28 (5) Whenever a legislative appropriation is insufficient to carry out the provisions of this part and
29 additional money remains in the fund, the department shall seek additional authority to spend money from the
30 fund through the budget amendment process provided for in Title 17, chapter 7, part 4.

1 economic loss.

2 (c) Immunity from liability, pursuant to subsection (8)(b), does not apply in the case of a release that is
3 caused by conduct of the entity providing in-kind services that is negligent or grossly negligent or that constitutes
4 intentional misconduct.

5 (d) When a person is liable under 75-10-715 for costs or damages incurred as a result of a release or
6 threatened release of a hazardous or deleterious substance, the person may not avoid that liability or
7 responsibility under 75-10-711 by subsequent donations of money or in-kind services under the provisions of
8 subsection (7) and this subsection (8).

9 (e) Any donated in-kind services that are employed as part of a remedial action pursuant to this
10 subsection (8) must be approved by the department as appropriate remedial action.

11 (9) (a) If funds are transferred from the orphan share fund to the environmental quality protection fund
12 pursuant to ~~75-10-743(10)~~ 75-10-743(9), the department shall, subject to the limitation in subsection (9)(b) of
13 this section, at the end of the fiscal year in which the transfer is made and in each subsequent fiscal year,
14 transfer from the environmental quality protection fund to the orphan share fund the unencumbered amount
15 remaining in the environmental quality protection fund at the end of the fiscal year that is in excess of the amount
16 appropriated for the next fiscal year from the environmental quality protection fund.

17 (b) The total transferred pursuant to subsection (9)(a) may not exceed the total amount transferred to
18 the environmental quality protection fund pursuant to ~~75-10-743(10)~~ 75-10-743(9)."

19

20 **Section 3.** Section 75-10-743, MCA, is amended to read:

21 **"75-10-743. Orphan share state special revenue account -- reimbursement of claims -- payment**
22 **of department costs.** (1) There is an orphan share account in the state special revenue fund established in
23 17-2-102 that is to be administered by the department. Money in the account is available to the department by
24 appropriation and must be used to reimburse remedial action costs claimed pursuant to 75-10-742 through
25 75-10-751 and, except as provided in ~~subsection (10) subsections (9) and (10) SUBSECTIONS (9) THROUGH (11)~~
26 AND (10), to pay costs incurred by the department in defending the orphan share.

27 (2) There must be deposited in the orphan share account:

28 (a) all penalties assessed pursuant to 75-10-750(12);

29 (b) funds received from the interest income of the resource indemnity trust fund pursuant to 15-38-202;

30 (c) funds allocated from the resource indemnity and ground water assessment tax proceeds provided

1 share fund and must be reimbursed as provided in subsection (3).

2 ~~(7) If sufficient money remains in the orphan share fund on June 29, 2003, \$999,000 must be~~
3 ~~transferred to the general fund.~~

4 ~~(8)(7)~~ If the lead liable person under 75-10-746 presents evidence to the department that the person
5 cannot complete the remedial actions without partial reimbursement and that a delay in reimbursement will
6 cause undue financial hardship on the person, the department may allow the submission of claims and may
7 reimburse the claims prior to the completion of all remedial actions. A person is not eligible for early
8 reimbursement unless the person is in substantial compliance with all department-approved remedial action
9 plans.

10 ~~(9)(8)~~ A person participating in the allocation process who received funds under the mixed funding pilot
11 program provided for in sections 14 through 20, Chapter 584, Laws of 1995, may not claim or receive
12 reimbursement from the orphan share fund for the amount of funds received under the mixed funding pilot
13 program that are later attributed to the orphan share under the allocation process.

14 ~~(10)(9)~~ For the biennium beginning July 1, 2003, and subject to the provisions of section 4, Chapter 199,
15 Laws of 2003, the department may transfer funds from the orphan share fund to the environmental quality
16 protection fund established in 75-10-704, the hazardous waste/CERCLA account established in 75-10-621, or
17 both. The total amount transferred pursuant to this subsection may not exceed \$600,000.

18 (10) (a) For the biennium beginning July 1, 2005, up to \$1.5 million may be used by the department
19 of natural resources and conservation to pay the costs INCURRED BY THE DEPARTMENT IN CONTRACTING for
20 investigations and preparation of feasibility studies of EVALUATING THE EXTENT OF CONTAMINATION AND
21 FORMULATING FINAL REMEDIATION ALTERNATIVES FOR releases at facilities for which a state agency may be liable
22 under Title 75, chapter 10, part 7, THE KALISPELL POLE AND TIMBER, RELIANCE REFINERY COMPANY, AND YALE OIL
23 CORPORATION FACILITY COMPLEX. IF THE DEPARTMENT SPENDS LESS THAN \$1.5 MILLION FOR THOSE PURPOSES, THE
24 REMAINING FUNDS MUST BE SPENT FOR REMEDIATION OF THE FACILITY COMPLEX. THE DEPARTMENT MAY NOT SEEK
25 RECOVERY OF THE \$1.5 MILLION FROM POTENTIALLY LIABLE PERSONS.

26 (b) The money spent pursuant to subsection (10)(a) must be credited against the amount owed by the
27 state agency in a judgment or settlement agreement for payment of the remedial action costs at the facility for
28 which the money was spent.

29 (B) THE DEPARTMENT SHALL CONSULT WITH THE NOTICED POTENTIALLY LIABLE PERSONS REGARDING
30 CONTRACTOR SELECTION AND DETERMINATION OF THE SCOPE OF THE WORK FOR CONTRACT TASKS. THE DEPARTMENT

1 TO THE ENVIRONMENTAL QUALITY COUNCIL COPIES OF INVESTIGATIONS AND REPORTS COMPLETED PURSUANT TO
 2 SUBSECTION (10)(A) (10)(C).

3 ~~_____ (11)(A) SUBJECT TO SUBSECTIONS (11)(B) AND (11)(C), FOR THE BIENNIUM BEGINNING JULY 1, 2005, FUNDS~~
 4 ~~FROM THE ORPHAN SHARE ACCOUNT MAY BE USED BY THE DEPARTMENT TO PAY REMEDIATION COSTS AT FACILITIES AT~~
 5 ~~WHICH THERE HAVE BEEN RELEASES AND FOR WHICH:~~

6 ~~_____ (i) THERE ARE NO POTENTIALLY LIABLE PERSONS; OR~~

7 ~~_____ (ii) (A) THE DEPARTMENT DETERMINES THAT SOME OR ALL OF THE POTENTIALLY LIABLE PERSONS DO NOT HAVE~~
 8 ~~SUFFICIENT FINANCIAL RESOURCES TO PAY THE COSTS OF REMEDIATION; AND~~

9 ~~_____ (B) THE DEPARTMENT ENTERS INTO A COST-SHARE AGREEMENT WITH ALL POTENTIALLY LIABLE PERSONS WHOM~~
 10 ~~THE DEPARTMENT DETERMINES HAVE THE FINANCIAL ABILITY TO CONTRIBUTE TO THE REMEDIATION. THE COST-SHARE~~
 11 ~~AGREEMENT MUST PROVIDE THAT THOSE PERSONS WILL PAY A PROPORTIONATE SHARE OF THE REMEDIATION COSTS, AS~~
 12 ~~DETERMINED BY THE DEPARTMENT, TAKING INTO ACCOUNT THEIR ABILITY TO PAY.~~

13 ~~_____ (B) TO BE ELIGIBLE FOR FUNDING UNDER SUBSECTION (11)(A), A FACILITY THAT IS AN ABANDONED MINE SITE~~
 14 ~~MUST HAVE BEEN IDENTIFIED AS A PRIORITY SITE ON THE DEPARTMENT'S PRIORITY MINE SITES LIST.~~

15 ~~_____ (C) THE DEPARTMENT MAY USE FUNDS PROVIDED IN SUBSECTION (11)(A) ONLY IF THE USE:~~

16 ~~_____ (i) WOULD NOT PRECLUDE THE USE OF THE FUNDS UNDER SUBSECTION (1); AND~~

17 ~~_____ (ii) WOULD LEAVE THE ORPHAN SHARE FUND WITH A BALANCE AT THE END OF THE BIENNIUM BEGINNING JULY 1,~~
 18 ~~2005, THAT, WITH ANTICIPATED DEPOSITS, IS ADEQUATE TO FUND THE ANTICIPATED ORPHAN SHARES IN THE ALLOCATION~~
 19 ~~PROCESSES FOR WHICH A PETITION WAS FILED PURSUANT TO 75-10-745 PRIOR TO [THE EFFECTIVE DATE OF THIS ACT]~~
 20 ~~AND ALL FUTURE TRANSFERS AND EXPENDITURES THAT ARE REQUIRED BY LAWS EXISTING ON [THE EFFECTIVE DATE OF~~
 21 ~~THIS ACT]."~~

22
 23 NEW SECTION. Section 4. Effective date. [This act] is effective July 1, 2005.

24 - END -

April 18, 2005

Jennifer Kirby, Secretary

Phone: 444-4440

(Time) (Date)

4-18

(For the Secretary of Senate)

[Handwritten signature]

(For the Committee)

[Handwritten signature]

SB 489

Room 422. Bills to be heard are:

The SENATE FREE CONFERENCE COMMITTEE will meet on Tuesday, April 19, 2005 at 9:00 am in

NOTICE OF COMMITTEE MEETING

COMMITTEE FILE COPY

Gebrhardt
Burlington → spill
w/ hazardous waste
PLPs in different
state
Lind → Withdrawal
Sonju → Move Amend
1.25

Lind → substitute
MOTION
SBOH8A04. A1K
House side
UNANIMOUS

Lind → move SBOH8906
Sonju → families of dits
Oppes → W/ PLPs
Gebrhardt → No Difference
Dickens → consensus
brought forward
Gebrhardt → ?

Tie in House
Reject in Senate

Wheat-Nowe
as Amendment

Ajowen → 10:13

House Senate
~~Wheat~~ Lind
Ripley (Y)
Sonju