

Amendments to Senate Bill No. 20
1st Reading Copy

Requested by Senator Chas Vincent

For the Senate Finance and Claims Committee

Prepared by Jason Mohr
March 27, 2015 (9:50am)

1. Title, page 1, line 6.

Strike: "TO THE ENVIRONMENTAL QUALITY PROTECTION FUND"**Following:** "FUND;"**Insert:** "PROVIDING A TRANSFER OF FUNDS TO THE ENVIRONMENTAL
QUALITY PROTECTION FUND;"

2. Title, page 1, line 7.

Strike: "7-6-2225, 7-6-2226,"**Strike:** "20-9-231, AND"**Following:** "75-10-704,"**Insert:** "AND 75-10-743,"

3. Title, page 1, line 8.

Strike: "AND A TERMINATION DATE"

4. Page 1, line 12 through page 2, line 19.

Strike: sections 1 and 2 in their entirety**Renumber:** subsequent sections

5. Page 2, line 25.

Strike: "10%"**Insert:** "47%"

6. Page 3, line 1.

Following: "and"**Insert:** "and"

7. Page 3, line 2 through line 3.

Strike: subsection (e) in its entirety**Renumber:** subsequent subsections

8. Page 3, line 8.

Strike: "25%"**Insert:** "35%"

9. Page 3, line 11.

Strike: "(1)(f)(i)"**Insert:** "(1)(e)(i)"

10. Page 3, line 20.

Strike: "(1)(f)"

Insert: "(1)(e)"

11. Page 3, line 23.

Strike: both instances of "(1)(f)"

Insert: "(1)(e)" after each

12. Page 3, line 26 through page 4, line 5.

Strike: section 4 in its entirety

Renumber: subsequent sections

13. Page 5, line 3 through line 6.

Strike: subsection (i) in its entirety

14. Page 5, line 6.

Following: line 6

Insert: "(i) funds transferred from the orphan share account pursuant to 75-10-743(10). The full amount of these funds must be dedicated each fiscal year as follows:

(i) 50% to the state's contribution for cleanup and long-term operation and maintenance costs at the Libby asbestos superfund site; and

(ii) 50% to metal mine reclamation projects at abandoned mine sites, as provided in 82-4-371. This subsection (4)(i)(ii) does not apply to exploration or mining work performed after March 9, 1971. Projects funded under this subsection (4)(i)(ii) are not subject to the requirements of Title 75, chapter 10, part 7."

15. Page 6.

Following: line 19

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

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

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

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

(b) funds received from the distribution of oil and natural gas production taxes pursuant to 15-36-331;

(c) unencumbered funds remaining in the abandoned mines state special revenue account;

- (d) interest income on the account;
- (e) funds received from settlements pursuant to 75-10-719(7); and
- (f) funds received from reimbursement of the department's orphan share defense costs pursuant to subsection (6).

(3) If the orphan share fund contains sufficient money, valid claims must be reimbursed subsequently in the order in which they were received by the department. If the orphan share fund does not contain sufficient money to reimburse claims for completed remedial actions, a reimbursement may not be made and the orphan share fund, the department, and the state are not liable for making any reimbursement for the costs. The department and the state are not liable for any penalties if the orphan share fund does not contain sufficient money to reimburse claims, and interest may not accrue on outstanding claims.

(4) Except as provided in subsections (6) and (7), claims may not be submitted and remedial action costs may not be reimbursed from the orphan share fund until all remedial actions, except for operation and maintenance, are completed at a facility.

(5) Except as provided in subsection (6), reimbursement from the orphan share fund must be limited to actual documented remedial action costs incurred after the date of a petition provided for in 75-10-745. Reimbursement may not be made for attorney fees, legal costs, or operation and maintenance costs.

(6) (a) The department's costs incurred in defending the orphan share must be paid by the persons participating in the allocation under 75-10-742 through 75-10-751 in proportion to their allocated shares. The orphan share fund is responsible for a portion of the department's costs incurred in defending the orphan share in proportion to the orphan share's allocated share, as follows:

(i) If sufficient funds are available in the orphan share fund, the department's costs incurred in defending the orphan share must be paid from the orphan share fund in proportion to the share of liability allocated to the orphan share.

(ii) If sufficient funds are not available in the orphan share fund, persons participating in the allocation under 75-10-742 through 75-10-751 shall pay all the orphan share's allocated share of the department's costs incurred in defending the orphan share in proportion to each person's allocated share of liability.

(b) A person who pays the orphan share's proportional share of costs has a claim against the orphan share fund and must be reimbursed as provided in subsection (3).

(c) A state agency that is liable for remedial action costs incurred has a claim against the orphan share fund and must be reimbursed as provided in subsection (3). The agency may submit a claim before or after remedial action is complete. Reimbursement may not be made for attorney fees, legal costs, or operation and maintenance costs. The agency may be reimbursed only after:

(i) its liability has been determined pursuant to 75-10-742 through 75-10-751 or by a court of competent jurisdiction;

(ii) it has received a notice letter pursuant to 75-10-711; and

(iii) the department has approved the costs.

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

(b) The department may reimburse claims from a lead liable person upon completion and department approval of a report evaluating the nature and extent of contamination and a report formulating and evaluating final remediation alternatives. This early reimbursement is limited to those eligible costs incurred by the lead liable person for the preparation of the reports.

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

(9) (a) For the biennium beginning July 1, 2005, up to \$1.25 million may be used by the department to pay the costs incurred by the department in contracting for evaluating the extent of contamination and formulating final remediation alternatives for releases at the Kalispell pole and timber, reliance refinery company, and Yale oil corporation facility complex. If the department spends less than \$1.25 million for those purposes, the remaining funds must be spent for remediation of the facility complex. The department may not seek recovery of the \$1.25 million from potentially liable persons.

(b) The money spent pursuant to subsection (9)(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.

(10) (a) The department shall transfer from the orphan share account to the long-term or perpetual water treatment permanent trust fund provided for in 82-4-367 \$1.2 million in each fiscal year until the board of investments makes the certification pursuant to subsection (10)(b) of this section.

(b) (i) The board of investments shall monitor the long-term or perpetual water treatment permanent trust fund provided for in 82-4-367 to determine when the amount of money in the long-term or perpetual water treatment permanent trust fund will be sufficient, with future earnings, to provide a fund

balance of \$19.3 million on January 1, 2018.

(ii) When the board of investments makes the determination pursuant to subsection (10)(b)(i), the board of investments shall notify the department and certify to the department the amount of money, if any, that must be transferred during the fiscal year in which the board of investments makes its determination pursuant to subsection (10)(b)(i) in order to provide a fund balance of \$19.3 million on January 1, 2018.

(iii) In the fiscal year that the board of investments makes its determination and notifies the department, the department shall transfer only the amount certified by the board of investments, if any, and may not make additional transfers during subsequent fiscal years.

(c) After July 1, 2018, the department shall transfer \$1.2 million in each fiscal year from the orphan share state special revenue account to the environmental quality protection fund provided in 75-10-704.

(11) The orphan share account is subject to legislative fund transfers."

{ Internal References to 75-10-743:

15-36-331x	15-36-331x	75-10-701x *	75-10-701x
75-10-715x *	75-10-719x *	75-10-719x *	75-10-719x *
75-10-719x *	75-10-719x	75-10-720x	75-10-742x *
75-10-743x *	75-10-743x *	75-10-743x *	75-10-743x *
75-10-744x *	75-10-744x *	75-10-744x *	75-10-745x *
75-10-749x	75-10-750x	82-4-367x }	

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Renumber: subsequent sections

16. Page 6, line 23.

Strike: section 7 in its entirety

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