

1 SENATE BILL NO. 49

2 INTRODUCED BY J. COHENOUR

3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LOCATION OF WATER MEASUREMENT FOR AN
6 APPROPRIATION RIGHT THAT RETAINS ORIGINAL BENEFICIAL USES IN A CHANGE OF APPROPRIATION
7 RIGHT FOR AQUIFER RECHARGE OR MITIGATION; AND AMENDING SECTION 85-2-420, MCA."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 **Section 1.** Section 85-2-420, MCA, is amended to read:

12 **"85-2-420. Change in appropriation right for aquifer recharge or mitigation -- marketing.** (1) Subject
13 to 85-2-402 and this section, an appropriator may apply for a change in appropriation right for the purpose of
14 aquifer recharge or mitigation or for the purpose of marketing water for aquifer recharge or mitigation.

15 (2) During the completion period authorized by the department for a change pursuant to this section, the
16 appropriator may continue to use the appropriation right for any authorized beneficial use provided that
17 proportionate amounts of the appropriation right are retired as the mitigation or aquifer recharge beneficial use
18 is perfected.

19 (3) (a) If the full amount of the appropriation right is not sold or marketed as mitigation or aquifer recharge
20 prior to the completion date, the water right retains the beneficial uses authorized prior to the change approved
21 pursuant to this section.

22 (b) For an appropriation right that retains the original beneficial uses pursuant to this section, the flow
23 rate and volume of water allowed at the point of diversion to be retained for the original beneficial uses must be
24 equal to the flow rate and volume allowed under the initial original beneficial uses minus the amount that was sold
25 or marketed for mitigation or aquifer recharge.

26 (4) As part of a change in appropriation right approved pursuant to this section, the department shall:

27 (a) determine a period for the change in appropriation right to be completed that does not exceed 20
28 years;

29 (b) determine an appropriate location for measuring the amount of water that continues to be
30 appropriated for the original beneficial uses; and

