

1 HOUSE BILL NO. 101

2 INTRODUCED BY J. DOOLING

3 BY REQUEST OF THE \*\*\*\*

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO BROWNFIELDS; CREATING THE  
6 "MONTANA BROWNFIELDS REVITALIZATION ACT" AND THE "MONTANA BROWNFIELDS REVOLVING  
7 LOAN FUND ACT "; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING A  
8 STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502 AND 75-11-309, MCA; AND REPEALING  
9 SECTIONS 75-11-401, 75-11-402, 75-11-403, 75-11-407, 75-11-408, AND 75-11-409, MCA."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12  
13 NEW SECTION. Section 1. Short title. [Sections 1 through 7] may be cited as the "Montana  
14 Brownfields Revitalization Act".

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16 NEW SECTION. Section 2. Findings and intent -- purposes. The legislature finds that:

17 (1) real properties exist across the state where the stigma of hazardous substance and petroleum  
18 contamination hinders the development or best use of the property. These hazardous substance- and  
19 petroleum-contaminated properties may be eligible for brownfields funding.

20 (2) the cleanup of hazardous substance and petroleum brownfields sites should be encouraged and  
21 facilitated to reduce threats to human health and the environment, prepare properties for reuse and  
22 redevelopment, and return property to local tax rolls;

23 (3) the petroleum tank release cleanup fund established in 75-11-313 does not immediately address  
24 all petroleum tank release sites in Montana in a timely and comprehensive manner; and

25 (4) the department should encourage the use of federal brownfields funding obtained by grant  
26 recipients for assessment and remediation at eligible hazardous substance and petroleum brownfields sites and  
27 to leverage federal funds and limit costs imposed on Montana citizens.

28

1            NEW SECTION. Section 3. Definitions. As used in [sections 1 through 7], unless the context clearly  
2 indicates otherwise, the following definitions apply:

3            (1) "Brownfield" means a property, the expansion, redevelopment, or reuse of which may be  
4 complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

5            (2) "Department" means the department of environmental quality provided for in 2-15-3501.

6            (3) "Grant recipient" means a city, town, county, consolidated city-county, tribal government,  
7 economic development organization, nonprofit organization, or state agency that has received federal  
8 brownfields funding from the environmental protection agency.

9            (4) "Hazardous substance" means a hazardous substance as defined in 75-10-602(4).

10           (5) "Person" means an individual, firm, trust, estate, partnership, company, association, joint-stock  
11 company, syndicate, consortium, commercial entity, corporation, state government agency, or local  
12 government.

13           (6) "Petroleum tank release site" means a site where there has been a release from a petroleum  
14 storage tank and assessment, remediation, or both are being pursued in accordance with Title 75, chapter 11,  
15 part 3.

16           (7) "Potentially liable person" means a person who:

17           (a) for a petroleum brownfields site;

18           (i) dispensed or disposed of, or owned the site when others dispensed or disposed of, petroleum or  
19 petroleum product contamination at the site;

20           (ii) exacerbated existing petroleum contamination at the site; or

21           (iii) failed to take reasonable steps with regard to petroleum contamination at the site; or

22           (b) for a hazardous substance brownfields site;

23           (i) owns or operates, or formerly owned or operated, a site at the time of release of hazardous  
24 substances; or

25           (ii) arranged for, or contributed to, the release or treatment of hazardous substances on the site.

26           (8) "Reasonable steps" means, as appropriate, stopping continuing releases, preventing threatened  
27 future releases, or preventing or limiting human, environmental, or natural resource exposure to earlier  
28 petroleum or petroleum product releases. The term may include limiting access to the property, monitoring

1 known contaminants, and complying with state, local, or both state and local requirements.

2 (9) "Relatively low risk" refers to a petroleum tank release site that the department is not actively  
3 assessing, investigating, or cleaning up using funds from the federal leaking underground storage tank trust  
4 fund and is not subject to a response under the federal Oil Pollution Act.

5 (10) "Responsible party" means:

6 (a) a person responsible for conducting the assessment, investigation, and cleanup at a petroleum  
7 tank release site as determined through:

8 (i) a judgment rendered in a court of law or an administrative order;

9 (ii) an enforcement action by federal authorities or the department; or

10 (iii) a citizen suit, contribution action, or other third-party claim brought against the current owner of a  
11 petroleum tank release site; or

12 (b) a current owner of a petroleum tank release site who:

13 (i) dispensed or disposed of petroleum or petroleum product contamination at the site;

14 (ii) exacerbated existing petroleum contamination at the site;

15 (iii) owned the site when any dispensing or disposal of petroleum by others took place; or

16 (iv) failed to take reasonable steps with regard to petroleum contamination at the site.

17 (11) "Viable responsible party" means a responsible party determined by the department in  
18 accordance with [section 4] to have the financial capability to conduct the assessment, investigation, or cleanup  
19 activities at a petroleum tank release site.

20  
21 **NEW SECTION. Section 4. Viability.** (1) For the purpose of determining the viability of a responsible  
22 party, the department shall presume that:

23 (a) ongoing businesses or companies and government entities are viable unless there is information  
24 suggesting that the presumption is not appropriate and the department determines the information is sufficient  
25 to rebut the presumption in a particular case; and

26 (b) individuals and defunct or insolvent companies are not viable unless there is information  
27 suggesting that the presumption is not appropriate and the department determines the information is sufficient  
28 to rebut the presumption in a particular case.

1 (2) The department may not determine that a responsible party is viable based solely on the fact that  
2 the owner or operator of a petroleum tank release site is eligible to be reimbursed by the petroleum tank  
3 release compensation board established in 2-15-2108 from the petroleum tank release cleanup fund  
4 established in 75-11-313.

5 (3) It is a grant recipient's responsibility to provide the department with sufficient financial information  
6 about a responsible party identified in a petroleum brownfields site eligibility application to determine whether  
7 the responsible party is a viable responsible party.

8  
9 **NEW SECTION. Section 5. Brownfields site eligibility for petroleum tank release sites --**

10 **determinations -- limitations.** (1) Before a grant recipient may expend federal brownfields funds at a  
11 petroleum tank release site, either the department or the United States environmental protection agency shall  
12 make a written determination that:

13 (a) the petroleum tank release site is of relatively low risk compared to other petroleum-contaminated  
14 sites;

15 (b) there is no viable responsible party for the petroleum tank release site;

16 (c) the petroleum tank release site will not be assessed, investigated, or cleaned up by a potentially  
17 liable person; and

18 (d) the petroleum tank release site is not subject to an order under section 9003(h) of the federal Solid  
19 Waste Disposal Act, 42 U.S.C. 6991b(h), or Title 75, chapter 11.

20 (2) After the department or the United States environmental protection agency determines that a  
21 petroleum tank release site is eligible for federal brownfields funding, the department shall encourage and may  
22 not limit the use of a grant recipient's federal petroleum brownfields funding at the site even if the site owner or  
23 operator, as defined in 75-11-302, is eligible for funding from the petroleum tank release cleanup fund  
24 established in 75-11-313.

25 (3) The department may not limit the use of money from the petroleum tank release cleanup fund  
26 established in 75-11-313 when used as a commitment to a federal brownfields loan made by a grant recipient  
27 for remediation at a petroleum tank release site.

28 (4) (a) Except as provided in subsection (4)(b), a determination made by the department or the

1 United States environmental protection agency that a petroleum tank release site is eligible for federal  
2 brownfields funding does not limit or alter the owner's or operator's responsibility to assess or remediate the  
3 petroleum tank release site in accordance with Title 75, chapter 11.

4 (b) If the department determines that a grant recipient has proposed to conduct a timely and  
5 comprehensive remediation using federal brownfields funding at a petroleum tank release site that has been  
6 determined by the department or the United States environmental protection agency to be eligible for petroleum  
7 brownfields funding and the proposed remediation plan is expected to meet or exceed remediation standards  
8 required by the department and financial commitments required by the petroleum tank release compensation  
9 board pursuant to Title 75, chapter 11, the department shall approve the comprehensive remediation plan and  
10 allow for the use of federal brownfields funding at the petroleum tank release site.

11  
12 **NEW SECTION. Section 6. Use of brownfields funding acquired by state -- limitations.** Prior to  
13 expending federal funds awarded to the state for the purpose of assessing or cleaning up hazardous substance  
14 and petroleum tank release sites that are eligible for brownfields funding from the United States environmental  
15 protection agency under the Brownfields Utilization, Investment, and Local Development Act of 2018, 42 U.S.C.  
16 9601, et seq., the department shall make a reasonable effort to coordinate with a grant recipient who may  
17 intend to expend federal brownfields funding to assess or remediate eligible brownfields sites in the grant  
18 recipient's brownfields target area and to ensure that the grant recipient is not intending to expend brownfields  
19 funding at the same eligible brownfields sites.

20  
21 **NEW SECTION. Section 7. Site access.** The department, upon presentation of proper credentials,  
22 may enter any building, property, premises, place, or facility where brownfield activities are being, or have been  
23 performed for the purpose of making an inspection to ascertain compliance by any person with the provisions of  
24 this part, or the rules promulgated pursuant to this part.

25  
26 **NEW SECTION. Section 8. Short title.** [Sections 8 through 11] may be cited as the "Montana  
27 Brownfields Revolving Loan Fund Act".

28

1            **NEW SECTION. Section 9. Definitions.** As used in [sections 8 through 11], unless the context  
2 clearly indicates otherwise, the following definitions apply:

3            (1) "Administrative costs" means costs incurred by the department in the administration of the  
4 program, including but not limited to:

- 5            (a) costs of servicing loans and issuing debt;
- 6            (b) program startup costs;
- 7            (c) financial, management, and legal consulting fees; and
- 8            (d) reimbursement costs for support services from other state agencies.

9            (2) "Department" means the department of environmental quality provided for in 2-15-3501.

10           (3) "Federal act" means the Brownfields Utilization, Investment, and Local Development Act of 2018,  
11 42 U.S.C. 9601, et seq.

12           (4) "Loan" means a loan of money from the revolving fund.

13           (5) "Revolving fund" means the Montana brownfields revolving loan fund established in [section 11].  
14

15           **NEW SECTION. Section 10. Rulemaking authority.** The department may adopt rules to implement  
16 the provisions of [sections 8 through 11] and to:

- 17           (1) prescribe the form and content of applications for loans and technical assistance;
  - 18           (2) govern the application of the criteria for awarding loans and technical assistance;
  - 19           (3) establish additional terms and conditions for the making of loans and the security instruments and  
20 other necessary agreements;
  - 21           (4) establish ceilings on the amount of individual loans to be made if considered appropriate and  
22 necessary for the successful administration of the program;
  - 23           (5) ensure compliance of the program with the provisions of the federal act and rules promulgated  
24 under the federal act, unless these matters are specifically governed by [sections 8 through 11]; and
  - 25           (6) maintain the financial integrity of the program.
- 26

27           **NEW SECTION. Section 11. Revolving fund -- statutory appropriation.** (1) There is established in  
28 the state treasury a separate account designated as the Montana brownfields revolving loan fund. The corpus

1 of the fund must be available in perpetuity for providing assistance under this part. There is established within  
2 the revolving fund a federal allocation account, a state allocation account, and an administration account.

3 (2) There must be credited to the federal allocation account all amounts received by the state  
4 pursuant to the federal act for a state revolving fund to provide loans or other assistance, as authorized under  
5 this part;

6 (b) There must be credited to the state allocation account:

7 (i) all amounts received by the state from borrowers of the revolving loan fund;

8 (ii) money appropriated by the legislature; and

9 (iii) other available qualifying funds;

10 (3) The department shall fund and disperse loans pursuant to [sections 8 through 11] from the federal  
11 allocation account, the state allocation account, or both. Amounts received in payment of principal or interest on  
12 a loan are credited to the revolving fund.

13 (4) The department may establish additional accounts and subaccounts within the revolving fund that  
14 are necessary to account for the program money and to ensure compliance with the federal act and [sections 8  
15 through 11].

16 (5) The department may solicit assistance in the development and operation of the program from  
17 individuals familiar with financial services and persons knowledgeable in revolving funds.

18 (6) The application for revolving loan funds may contain agreements that:

19 (a) allow the department access to a site receiving revolving loan funds in the event of an emergency,  
20 or default of a loan agreement;

21 (b) allow the department access to a site receiving revolving loan funds in the event of  
22 nonperformance under a subgrant;

23 (c) provide the department with any other remedy necessary to ensure compliance with the terms of a  
24 loan agreement.

25 (7) Money in the revolving fund is statutorily appropriated, as provided in 17-7-502, for the purposes  
26 of providing financial assistance to revolving loan fund borrowers.

27

28 **Section 12.** Section 17-7-502, MCA, is amended to read:

1           **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
2 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without  
3 the need for a biennial legislative appropriation or budget amendment.

4           (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with  
5 both of the following provisions:

6           (a) The law containing the statutory authority must be listed in subsection (3).

7           (b) The law or portion of the law making a statutory appropriation must specifically state that a  
8 statutory appropriation is made as provided in this section.

9           (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-  
10 407; 5-13-403; 5-13-404; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310;  
11 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-31-1004; 15-31-1005; 15-35-108;  
12 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-  
13 106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410;  
14 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-  
15 107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-  
16 105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-  
17 503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-  
18 108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-  
19 214; 75-11-313; section 11; 75-26-308; 76-13-151; 76-13-150; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-  
20 2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-  
21 526; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

22           (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
23 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
24 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of  
25 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined  
26 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have  
27 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the  
28 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement



1 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410  
2 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental  
3 benefit provided by 19-6-709; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion  
4 of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115  
5 terminates June 30, 2021; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on  
6 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117  
7 terminates June 30, 2025; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates  
8 December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023;  
9 pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to  
10 sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L.  
11 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the  
12 inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017,  
13 the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-  
14 103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-209 terminates  
15 September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029;  
16 pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027;  
17 pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; and pursuant to sec. 5,  
18 Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023.)"

19

20 **Section 13.** Section 75-11-309, MCA, is amended to read:

21 **"75-11-309. Procedures for reimbursement of eligible costs -- corrective action plans.** (1) An  
22 owner or operator seeking reimbursement for eligible costs and the department shall comply with the following  
23 procedures:

24 (a) If an owner or operator discovers or is provided evidence that a release may have occurred from  
25 the owner's or operator's petroleum storage tank, the owner or operator shall immediately notify the department  
26 of the release and conduct an initial response to the release in accordance with state and federal laws and  
27 rules to protect the public health and safety and the environment.

28 (b) Except for a tank for which a permit is sought under 75-11-308(1)(b)(iii) and that is closed within

1 120 days of discovery of the release, following discovery of the release, the petroleum storage tank must  
2 remain in compliance with applicable state and federal laws and rules that the board determines pertain to  
3 prevention and mitigation of petroleum releases.

4 (c) The owner or operator shall conduct a thorough investigation of the release, report the findings to  
5 the department, and, as determined necessary by the department, prepare and submit for approval by the  
6 department a corrective action plan that conforms with state, tribal (when applicable), and federal corrective  
7 action requirements.

8 (d) (i) The department shall review the corrective action plan and forward a copy to a local  
9 government office and, when applicable, a tribal government office with jurisdiction over a corrective action for  
10 the release. The local or tribal government office shall inform the department if it wants any modification of the  
11 proposed plan.

12 (ii) Based on its own review and comments received from a local government, tribal government, or  
13 other source, the department, subject to ~~75-11-408(4)(b)~~ section 5(4)(b), may approve the proposed corrective  
14 action plan, make or request the owner or operator to modify the proposed plan, or prepare its own plan for  
15 compliance by the owner or operator. A plan finally approved by the department through any process provided  
16 in this subsection (1)(d) is the approved corrective action plan.

17 (iii) After the department approves a corrective action plan, a local government or tribal government  
18 may not impose different corrective action requirements on the owner or operator.

19 (e) A corrective action plan prepared by the owner, operator, or department for any petroleum storage  
20 tank release may include the establishment of a petroleum mixing zone as defined in 75-11-503.

21 (f) The department shall notify the owner or operator of its approval of a corrective action plan and  
22 shall promptly submit a copy of the approved corrective action plan to the board. Upon review, the board may  
23 request that the corrective action plan be amended pursuant to 75-11-508 to include a petroleum mixing zone.  
24 If the department finds that the conditions for establishment of a petroleum mixing zone in 75-11-508 are  
25 satisfied, the corrective action plan must be amended to include a petroleum mixing zone.

26 (g) The owner or operator shall implement the corrective action plan or plans approved by the  
27 department until the release is resolved. The department may oversee the implementation of the plan, require  
28 reports and monitoring from the owner or operator, undertake inspections, and otherwise exercise its authority

1 concerning corrective action under Title 75, chapter 10, part 7, Title 75, chapter 11, part 5, and other applicable  
2 law and rules.

3 (h) (i) The owner or operator shall document in the manner required by the board all expenses  
4 incurred in preparing and implementing the corrective action plan. The owner or operator shall submit claims  
5 and substantiating documents to the board in the form and manner required by the board.

6 (ii) The board shall review each claim and determine if the claims are actual, reasonable, and  
7 necessary costs of responding to the release and implementing the corrective action plan.

8 (iii) If the board requires additional information to determine if a claimed cost is actual, reasonable, and  
9 necessary, the board may request comment from the department and the owner or operator.

10 (iv) If the department determines that an owner or operator is failing to properly implement a corrective  
11 action plan, it shall notify the board.

12 (i) The owner or operator shall document, in the manner required by the board, any payments to a  
13 third party for bodily injury or property damage caused by a release. The owner or operator shall submit claims  
14 and substantiating documents to the board in the form and manner required by the board.

15 (j) In addition to the documentation in subsections (1)(h) and (1)(i), when the release is claimed to  
16 have originated from a properly designed and installed double-walled tank system, the owner or operator shall  
17 document, in the manner required by the board, the following:

18 (i) the date that the release was discovered; and

19 (ii) that the originating tank was part of a properly designed and installed double-walled tank system.

20 (2) If an owner or operator is issued an administrative order for failure to comply with requirements  
21 imposed by or pursuant to Title 75, chapter 11, part 5, or rules adopted pursuant to Title 75, chapter 11, part 5,  
22 all reimbursement of claims submitted after the date of the order must be suspended. Upon a written  
23 determination by the department that the owner or operator has returned to compliance with the requirements  
24 of Title 75, chapter 11, part 5, or rules adopted pursuant to Title 75, chapter 11, part 5, suspended and future  
25 claims may be reimbursed according to criteria established by the board. In establishing the criteria, the board  
26 shall consider the effect and duration of the noncompliance.

27 (3) The board shall review each claim received under subsections (1)(h) and (1)(i), make the  
28 determination required by this subsection, inform the owner or operator of its determination, and, as

1 appropriate, reimburse the owner or operator from the fund. Before approving a reimbursement, the board shall  
2 affirmatively determine that:

3 (a) the expenses for which reimbursement is claimed:

4 (i) are eligible costs; and

5 (ii) were actually, necessarily, and reasonably incurred for the preparation or implementation of a  
6 corrective action plan approved by the department or for payments to a third party for bodily injury or property  
7 damage; and

8 (b) the owner or operator:

9 (i) is eligible for reimbursement under 75-11-308; and

10 (ii) has complied with this section and any rules adopted pursuant to this section. Upon a determination  
11 by the board that the owner or operator has not complied with this section or rules adopted pursuant to this  
12 section, all reimbursement of pending and future claims must be suspended. Upon a determination by the  
13 board that the owner or operator has returned to compliance with this section or rules adopted pursuant to this  
14 section, suspended and future claims may be reimbursed according to criteria established by the board. In  
15 establishing the criteria, the board shall consider the effect and duration of the noncompliance.

16 (4) (a) If an owner or operator disagrees with a board determination under subsection (3), the owner  
17 or operator may submit a written request for a hearing before the board.

18 (b) A written request for a hearing must be received by the board within 120 days after notice of the  
19 board's determination is served on the owner or operator by certified mail. The notice of determination must  
20 advise the owner or operator of the 120-day time limit for submitting a written request for a hearing to the board.  
21 Not less than 50 days or more than 60 days after the board serves the notice of determination, the board shall  
22 serve on the owner or operator a second notice by certified mail advising the owner or operator of the deadline  
23 for requesting a hearing. Service by certified mail is complete on the date shown on the certified mail receipt.

24 (c) If a written request is received within 120 days, the hearing must be held at a meeting of the board  
25 or as otherwise permitted under the Montana Administrative Procedure Act no later than 120 days following  
26 receipt of the request or at a time mutually agreed to by the board and the owner or operator.

27 (d) If a written request is not received within 120 days, the determination of the board is final.

28 (5) The board shall obligate money for reimbursement of eligible costs of owners and operators in the

1 order that the costs are finally approved by the board.

2 (6) (a) The board may, at the request of an owner or operator, guarantee in writing the  
3 reimbursement of eligible costs that have been approved by the board but for which money is not currently  
4 available from the fund for reimbursement.

5 (b) The board may, at the request of an owner or operator, guarantee in writing reimbursement of  
6 eligible costs not yet approved by the board, including estimated costs not yet incurred. A guarantee for  
7 payment under this subsection (6)(b) does not affect the order in which money in the fund is obligated under  
8 subsection (5).

9 (c) When considering a request for a guarantee of payment, the board may require pertinent  
10 information or documentation from the owner or operator. The board may grant or deny, in whole or in part, any  
11 request for a guarantee."

12  
13 **NEW SECTION. Section 14. Repealer.** The following sections of the Montana Code Annotated are  
14 repealed:

- 15 75-11-401. Short title.  
16 75-11-402. Findings and intent -- purposes.  
17 75-11-403. Definitions -- application.  
18 75-11-407. Viability.  
19 75-11-408. Brownfields site eligibility at petroleum tank release sites -- determinations and limitations.  
20 75-11-409. Use of petroleum brownfields funding acquired by state -- limitations.

21  
22 **NEW SECTION. Section 15. Codification instruction.** [Sections 1 through 11] are intended to be  
23 codified as an integral part of Title 75, and the provisions of Title 75 apply to [sections 1 through 11].

24 - END -